

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

13TH FEBRUARY, 1997
(adj to 25th February 1997,
17th March 1997 and
1st April 1997)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fifth Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly Chamber on Thursday the 13th February, 1997, at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism, Commercial
Affairs and the Port
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Building and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon Miss K Dawson - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

ABSENT:

The Hon Miss M I Montegriffo

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 25th November 1996, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

HON H A CORBY:

The Hon the Minister for Social Affairs laid on the table the accounts of the John Mackintosh Homes for the year ending the 31st December 1993.

Ordered to lie.

HON CHIEF MINISTER:

Mr Speaker, on a point of order, there is a motion of which notice has been given by the Leader of the Opposition in relation to the matter of the closure of the shiprepair yard at Kvaerner. Ordinarily, because that is Opposition business, that motion would not be taken until the end of this meeting which would certainly not be today and indeed may not be this week. I therefore move that Standing Orders be suspended and that under Order 7(3) the order of business be altered so that the Leader of the Opposition's motion is taken at 2.30 this afternoon.

Question put. Agreed to.

ANSWERS TO QUESTIONS

HON J J BOSSANO:

Mr Speaker, Miss Montegriffo is not able to be present due to a serious illness in the family and Mr Baldachino will be asking the questions on her behalf.

The House recessed at 11.55 am.

The House resumed at 2.30 pm.

MR SPEAKER:

Early this morning the Standing Orders of the House were suspended to enable a motion, notice which had been given by the Leader of the Opposition, to take it at 2.30 pm. It is 2.30 pm.

PRIVATE MEMBERS' MOTION

HON J J BOSSANO:

Mr Speaker, I beg to move the motion of which I have given notice, namely that, "This House is deeply concerned by the decision of Kvaerner to cease operating the Gibraltar shiprepair facilities because it has been unable to obtain the agreement of TGWU to new working conditions for its industrial employees.

It considers that the continuation of shiprepairing is an essential element in Gibraltar's economic development and calls on both sides of the industry to spare no effort during the consultation period to avoid the intended redundancies.

It further considers that both sides of this House should use their good offices and work towards ensuring there continues to be a shiprepair facility at the Gibraltar dockyard."

Mr Speaker, the shipyard which is now operated by Kvaerner started off life as a commercial activity with the closure of the naval dockyard. The changes that it has been subjected to have no parallel in any other industry in Gibraltar. Initially, it started off with a management agreement with A&P Appledore and I think it is worth recording, that when the decision was being taken on the creation of a commercial facility, a study that was commissioned prior to this decision had in its elements suggesting that for Gibraltar to operate competitively in the world shiprepair market drastic reductions in the pay and conditions in the yard as compared to the MOD had to be brought about to bring the cost of labour in line with competing yards. Fifteen years have gone by since that study was commissioned and in that period a number of factors have affected the market which, if anything, have militated against its liability. There has been a position within shiprepairing of greater competition, of yard closures in the Mediterranean and elsewhere and of hidden subsidies in many countries in the European Union and we still have a situation where at the moment there appears to be over capacity in the industry.

Initially, the yard was promised RFA work which never materialised. It had a cash subsidy from the ODA which was used up partly in the purchase of equipment and partly in covering losses. In 1988 the Appledore contract was terminated and the yard was run by local people. One of the things that was obvious in that transition was the difficulty of obtaining work as an isolated union not part of a greater group. It was quite obvious by then that the basis upon which Appledore initially had persuaded the Government of the day of

their proposals were not attainable. They had promised a yard that would do £30 million of work and employ 2,000 people. We finished with a yard that was doing £8 million of work and employing 500 and even that was not a sustainable position. When GSL closed down in 1991 prior to the entry of Kvaerner it still had about 400 people directly or indirectly earning their living off ship-repairing, and the initial preferred option of Kvaerner, which was not acceptable, was in fact to have a miniscule hard core of permanent workers and a support of sub-contractors that would only be paid when there was work. One can understand that from the point of view of the company that maximises its profit potential, it only incurs labour costs when there is work available. Essentially, the proposals of the company produced in January were in a way seeking to achieve that same scenario. Up to January this year the company had been operating a contract with the Union and the workforce under which there was a bank for industrial workers of 150 hours a year which was not popular. People did not like it and in fact when that was brought in it was brought in on the basis that the company was saying that unless that was accepted they would go. At one stage when we were faced with the possibility of Kvaerner withdrawing, we offered them as an incentive to stay, EU assistance for training, which they have and the suspension of their £100,000 rental. That plus the acceptance by the work force of the bank of hours persuaded them to stay. The bank of hours was designed to work on the basis that when people worked extra hours they would get paid for the premium on the overtime rate and bank a maximum of up to 150 hours a year which they would then be required to take as time in lieu. I must say that it is quite extraordinary to have a situation where having a position in which there is a bank of 150 hours, which is not popular with the employees, the alternative that should be offered should be in fact a bank of 1,900 hours. That is what was proposed and the agreement which finalised on the 31st January 1997, was not the subject of a negotiation because there were proposals to improve it, the employer put proposals to replace it and to replace it by something that was inferior to what was being removed. During the limited period in which negotiations took place, because Kvaerner took the step very early in that process to write to each individual basically saying this is not negotiable, it is either you accept what we want, because we consider that the yard needs these conditions to survive, or we will go. I have no doubt that those industrial workers that accepted that, accepted that not because they particularly liked what they were being offered but because they thought they had no choice. In the timescale that they had to respond, which was a matter of weeks, the original conditions had been ameliorated, not

sufficiently, to get the support of those who had rejected the original proposals. The process of negotiation succeeded in reducing for example a requirement by the company that people should work 14 days on a stretch to not being required to work more than six days as is laid down in the Community Directive on working hours. It introduced the requirement that the average number of working hours could not exceed 48 over a four-month period which was not there initially. In the initial proposal there was a requirement that when there was no work available and people were at home they should be contactable at virtually any time and if they were not contactable that in itself was treated as absenteeism and subject to disciplinary proceedings and possible dismissal. A set of conditions, the like of which I have never experienced in any other field of employment in Gibraltar, and I have to say that if we look at those original proposals I have great difficulty in believing that the rest of Europe operates like that. It may well be that the company started off by going over the top in the expectation that they would then finish up with what they wanted. But all those conditions had to be seen in the context of how the people in the yard that have been subjected to innumerable changes since 1984 have seen as far as they are concerned a scenario where each time they are asked to accept greater changes, a situation which seems to be peculiar only to them in the whole of the economy, nobody else has gone through that experience in Gibraltar and each time hoping that what they reluctantly accept would be the end of the road only to find that it is not the end of the road.

Certainly the output of the yard with the manual workforce that it has of just under 100 is the highest that it has ever had in terms of output per man hours. Last year was the most successful year the yard has had since it re-opened in 1992 so there is no indication of a worsening commercial situation for the company. On the contrary, we believe that shiprepairing is an essential element in Gibraltar's economic development because quite apart from the number of people it employs and of course it is a fraction of what used to be the case previously, it is of course an industry that earns export earnings for Gibraltar. It is not unlike other sectors of the economy dependent on the goodwill of our neighbour and it is not dependent on the purchasing power from within the economy, it brings in money from outside. It is difficult to see how else the assets that were transferred to the Government by the MOD in 1984 how else those assets could be used to produce more than what they can produce by repairing ships. Part of the transition to the Kvaerner facility was accompanied by a reduction of the land area and the creation of the industrial park to retain what was enough to keep ship-repairing as an

activity. There is little more of the land space available that can be used for other activities once the industrial park was introduced. Keeping shiprepairing in Gibraltar cannot be on any other basis than being able to obtain work in the market at the price the market dictates. Certainly the difficulties that have been experienced in obtaining work in the last 18 months has not been because of lack of commitment on the part of the employees or because they failed to do work of the quality required by the customer or because they failed to deliver ships on time, it has not been for any of those reasons, it has been because to obtain work that did not lose money it was difficult to get work. The hourly rate dropped to as low as £10 an hour in the market having been as high as £20. One of the things that we had in the initial Appledore contract was that because the managers of the yard were paid on a commission basis based on the number of ships they did, it did not really matter at what price they were buying work and it did not really matter to what extent they were losing money. I remember one particular example of one particular vessel on which alone £500,000 was lost but the managers still got paid for doing a job that cost the yard £500,000. In the case of Kvaerner since the nature of the agreement is that they have to make the work profitable they have had a situation where they have not accepted work because they could not get the work at a sufficiently attractive price. Of course, that means that in the context of an agreement some elements of which appeared inoperable and some elements of which just did not make any kind of sense at all which again were changed, there was a particular clause for example in which employees would get £218 a week if they were sick before they had done the 1,900 hours and £258 a week if they were sick after doing the 1,900 hours. It is quite obvious that you cannot do 1,900 hours in the first few months of the year because there are not enough hours in the day, so effectively, if you were unlucky enough to go ill in January you got paid one rate but if you were lucky enough to go ill in December you got paid a different rate. That was corrected and that was replaced by a clause in which people get paid the higher rate on completing the 1,900 hours whether before or after the period of sickness. Those improvements were improvements to peripheral elements in the basic condition and the basic condition was that although it was presented as people being paid when there was no work without having to go to work, they were not really being paid at all. They were being advanced their wages but they were in debt to the company for the hours that those wages represented and could be required to do those hours subsequently unpaid. If that were the only way to keep shiprepairing in Gibraltar then in my judgement we would not be able to keep it. I do not think that is a

sustainable permanent system of working and I believe that if it is introduced, then it creates a precedent as to how work is organised which will be difficult to resist in other areas. Of course, the extent to which those conditions are draconian or not in practice will depend on the pattern of work.

The motion calls on the two sides to seek during the consultation period to avoid the intended redundancies. That is a requirement, the purpose of the consultation period laid down in the law is to explore ways of mitigating the effects or avoiding them and therefore we believe that the company having complied with the requirements of the law in the notification they sent to the Union on the 11th has to seek now ways which will meet what it wants and still be acceptable to people. One particular route which was proposed by the Government was that the workers should accept for a trial period of one year the system that the company wanted to introduce. I think the company moved to the extent that they were prepared to see it happening for one year whereas before they were adamant that it had to be three years. Certainly that is one option which ought still to be there during the consultation period. If it is not possible to move forward on that option, then there are alternatives which are not too difficult to devise and which can be packaged and financed in a way where at the end the cost of the lean period is not entirely borne by the company. That is the only argument that there is if there is commercial logic in the position of the company in saying that they need to have that level of flexibility. That presumes that Kvaerner is still sufficiently interested in being in Gibraltar and of course there is a difference between being willing to stay and wanting to stay. The position of a company the size of Kvaerner with 55,000 employees is one which having a subsidiary in Gibraltar that employs 138 is only of interest if it does not become too problematical. That is a feature of multi-national operations with which we have had no previous experience in Gibraltar. They tend to look at it not in the light of what is acceptable practice in Gibraltar but what is acceptable practice in the Group and therefore we are looking at a situation from two different worlds. We are convinced that shiprepairing can continue even with conditions that are not the ones that Kvaerner considers or claims to be essential. The fact that there has been perhaps 50 per cent of the changes proposed incorporated shows that the original conditions were not so important that nothing could be changed, but that is the first thing that needs to be established. We ourselves suggested that the way forward would be to keep on working with the 1996 contract and the company said they were not prepared to do that. We suggested a three-month period which

coincides with the 90-day advance notice of redundancies. The workforce, that had rejected those conditions even though initially they had been hoping to do away with the 150 hour bank, were prepared to keep the 150 hour bank for another year. If we find in fact that Kvaerner does not want to stay either because it has decided to go and is not willing to change its mind or because really at the end of the day this facility is such a minute part of its entire empire that it cannot be bothered with it, then the period between now and the 12th April should be devoted to seeing who we can bring in their place so that in fact shiprepairing does not end on the 12th April but continues beyond that date. I believe it is possible to bring in an alternate operator of the yard and in my view a purely domestic government-owned and government-run yard will have great difficulty in obtaining a regular flow of work so that we need an outside partner. But with the different ways in which we have attempted to run that yard in the past, with the use of companies linked to the yard which did not have their workforce 52 weeks a year on shiprepairing we believe that it is possible to come up with a formula that can be more acceptable than the version of the revised agreement that was rejected by the workforce the last time they voted them in or with the proposal they had previously rejected which would be moving to the terms the company wants and then seeing how they can be changed subsequently. Clearly, finding that out is the first thing that needs to be done. Supporting an alternative to that, which is a more difficult task but not an impossible one, is something that needs to be explored without delay and I imagine that the Government is already doing that and we are certainly aware that there are possibilities in that direction.

Let me say that when I gave notice of the motion for this House, it was on the basis of reflecting our assessment of what it was possible to do to keep shiprepairing in Gibraltar on the principle that there was nobody that did not want shiprepairing to continue. The decision that the Government took to publish the contents of telephone conversations which they think substantiate the judgement that they have made that the GSLP does not want shiprepairing to continue in Gibraltar because of the problems that that would create for the Government of Gibraltar, well, it would not create problems for the Government of Gibraltar, it would create problems for all of us and there is absolutely no logic in that position. That does not mean that we do not have to contend with a situation that has developed in the political life of the community where from adversarial politics we have moved to bitter politics and from bitter politics we are heading for tribal warfare. If that is how we are going to finish up, and we never run away from fights, then the

job that we all have to do, whatever differences we may have, to make sure that there is something to argue over at the end of the day will be made all that more difficult. It is quite obvious to me that we have a situation today in Gibraltar where the Government seems to think that every time it faces a problem it is being engineered by somebody who is a staunch supporter of the GSLP. There are innumerable instances of people who are staunch supporters of the GSLP who feel that they are being fingered and got at precisely because they are supporters of the GSLP and that is on the increase and it can only lead to one end, an end that is not good for anybody. I do not know what we can do to unwind that position and I do not know whether the political will exists to do it but I know that there are many people who support the GSLP and many people who support the GSD who are increasingly at each others throat. We could spend a long time in this House finding faults with the way things are done by one side or the other. Certainly, we have a situation where some people demonstrate with placards and make accusations against Kvaerner and Kvaerner's lawyers send a threatening letter to the Union saying that this is incitement to violence and producing a long list of alleged criminal offences. The fact that those recipients and some of the people that accepted the proposals of the company then do a counter-demonstration and produce placards and insult other people, which of course will not produce any letters from any lawyers from the GSLP seeking to prevent them from doing that, is quite extraordinary. It seems that in Gibraltar it is a crime to shout at a Norwegian but it is perfectly permissible to shout at a fellow Gibraltarian. Going down that route of either litigation or accusations or abuse is not going to produce a shiprepairing facility that will be able to give income to our economy. It is, if anything, going to make it more difficult for that to happen and there is certainly no excuse for the people that hold those views and express them strongly, and perhaps the fact that they express them in private and not in public, is an indication that really in public they know that those views are not sustainable or defensible. But we have had constant incidents, the worse of which has been the situation that has developed following the decision of Kvaerner to withdraw from Gibraltar. We have had an incident at the airport where because somebody's name is published in the newspaper and because he is being held responsible for Kvaerner's decision to pull out of Gibraltar, and it is not the first time, they tried to do it when we were there, he gets told when he steps off the aeroplane, "You had better not get sick because if you fall in my hands, as a nurse in the hospital, you are not going to make it". What are we going to do now? Have GSLP wards and GSD wards? It seems to me that there is a dangerous facet to

the divisions between us which is getting beyond control and which is going to get worse before it gets better. We are very clear that the conditions that Kvaerner produced are conditions that should not have been accepted. If the people had decided by a majority to accept them then that would have been their choice. We have no doubt that those that accepted it, accepted it only for the reason that they were sent letters at home telling them, "Either you accept this or you have not got a job." If we think that that is the proper way in which to conduct the employer/employee relationship, then it is not just proper for a Norwegian, it is proper for everybody and that will bring a lot of problems in its trail. The company started off from the position which anybody that has spent time in the trade union movement would have found anathema, and the Union has with great difficulty having on the one hand people whose view was expressed in meetings, whether they really meant it or not, that if that was the option then let them close, to seeking to improve what was available. I can tell the House that the advice I gave to the shop stewards that came to see me on the improvements they should seek to obtain, some of which were accepted and some of which were rejected, were on the basis that although they did not like the basic system, they thought maybe if the basic system could be improved at least in some of its worse aspects, then there might be enough people willing to support it but in fact it was consistently rejected. I think the rejection came because of the fundamental concept which is totally alien of sending people home and not paying them because all they are doing is lending them their wages. Whether this turns out in practice, because I am confident that a solution can be found, to be something that people can live with is not something that is in the hands of the workforce or in the hands of Kvaerner. It is in the hands of the market because if one has a situation whether there is no work in three or four months then the only way that one can pay the company back is by working the three or four months which one has not worked during the remaining eight months minus annual leave and minus public holidays and in that remaining period one has to put in a lot of hours to catch up with what one has not done before. One of the improvements that was done was the fact that the hours cannot exceed an average of 48 over a four months period. But of course that can mean nothing one month and an awful lot in the next month and then nothing another month. Another of the improvements was to limit the working days to a maximum of 11 hours and to require breaks to take place. Whether the agreement with those changes proves to be something that does not generate industrial unrest depends essentially on whether the work is available in reasonably regular streams. The agreement that Kvaerner offered in fact could only be

seen as a good agreement on the premise that there was no work although in the initial proposal it was not spelt out, in the final draft the company agreed to include a clause which said that if there was no work they would still get paid the 1,900 hours. The company was not willing to give a guarantee of no closure if it was accepted. There was a guarantee that they would close if it was not accepted but they would not give a guarantee that for the length of the agreement the company would commit itself to protect those jobs and they have said publicly that these conditions exist in Scotland. Well, in Scotland at the moment, if it is true that these conditions exist, they are facing possible 500 redundancies out of a workforce of 1,400. It seems to me that if one side is being asked to commit themselves to an agreement they are perfectly entitled to expect the other side to honour the continuity of employment at least for the life of the agreement. If one were to sign an agreement for a year now, one would expect that there would be a guarantee of no redundancy within that year. The narrowing of the gap between the two sides, which produced something that at the end of the day the shop stewards and the Union recommended to its members, took place over a period of three or four days. I am confident that if the period had been longer that would have been easier but in fact since the negotiations had not been opened by the Union asking for more things but opened by the employer asking to change things, there was really nothing that the Union could do other than respond to the initiative that was the employer's initiative. Today the position, as we understand it, is that the legal requirement for the consultation period has been opened but we are not aware whether there has been any consultation or whether there has been any indication from Kvaerner that in fact the decision can be rescinded between now and the 12th April if a satisfactory alternative can be put together. Therefore it is important to know whether that possibility continues to be there which in our view is implicit in the legal requirement to hold the consultation period. If nothing that is discussed and nothing that is proposed and no formula that is devised is going to make any difference to the consultation period, then the consultation period is totally meaningless. The fact that they did not actually take the step of announcing the redundancies until the 11th and that now that they have announced it they have said the redundancies take place on the 12th April must be assumed, unless there is information to the contrary, to leave that door potentially open, and if the door is potentially open then I think it is important that it should not be closed again. We are bringing the motion to the House on the basis of offering whatever we can contribute to making the finding of a solution that has necessarily to meet a departure from the position

where there is only one way to do it and that is the way the company has devised. We believe that it is possible to produce a quantified commercial package which produces the kind of flexibility that they are looking for without the cost of that flexibility having to be borne by the company and therefore if the Government is able to ascertain from Kvaerner that they are still open to seeking a way of avoiding those redundancies then there is no reason why we should think that the facility has to close on the 12th April.

I commend the motion to the House.

HON CHIEF MINISTER:

Mr Speaker, I have to confess that I can barely believe what my ears have just been subjected to. The Leader of the Opposition has said, amongst many other things, that people are having their fingers pointed to by the Government because they are supporters of the GSLP, presumably meaning to imply that they are therefore being victimised. Mr Speaker, this Government does not, has not and will not victimise anybody and I would urge the Leader of the Opposition not to confuse my Government of now with his Government of the last eight years.

[Interruption from Public Gallery]

MR SPEAKER:

Let me make it quite clear, people in the Public Gallery are not allowed to applaud or otherwise. They are merely here to listen. Members of the House can.

HON CHIEF MINISTER:

The Leader of the Opposition would have us believe that there are nurses in this community who for political reasons would withhold medical treatment from patients. I have never heard such irresponsible garbage in all my days but if anybody has politicised the hospital historically in Gibraltar everybody knows who it is and they do not sit nor are they related to anybody on this side of the House. I am astonished, astonished, to hear the Leader of the Opposition say, "For goodness sake let us leave something to fight over." Well, it is not a member of my Executive, it is not my campaign manager that has described the closure of the yard as a blessing if it were to occur. Of course I do not want to throw out the baby with the bath water, I just wish that everybody else agreed with me when I said that. He says that if we go down the road of abuse there is no way forward and sit here patiently asking myself where the Leader of the Opposition has been for the last two weeks.

If the road of abuse is not the way forward why did he not say that to his Executive Member, Mr Robba, when he said to him, "Y donde le estoy dando el calenton es para que el viernes, el viernes, si mañana, con el Chairman, este que viene esta noche no se arregla nada, el viernes que marchen todo para abajo que se vayan al ETB, se pongan en el ETB y se carguen en los muertos de Netto."(1) Is not that the strategy of abuse? Why did he not then say to Mr Robba that the road of abuse was not the way forward and if that omission was an oversight on his part, why did he not take the second opportunity to tell Mr Robba that the road of abuse was not the way forward when Mr Robba said that what he intended to do, indeed what he had told the men to do.... "ustedes el viernes marchais por toda la bateria, se vay alli, cerrais todo, parar todos los coches, y le formais el escandalo grande alli a Netto."(2) Is not that the road of abuse? I am glad that now at least the hon Member is converted to the view that the road of abuse is not good for Gibraltar. I simply wish that his conversation had been three weeks' earlier because if it had, Kvaerner might still be in Gibraltar today.

This Government will simply not tolerate, not tolerate, a return to the abuse and the manipulation of industrial relations in Gibraltar for the personal political ambitions of politicians in this community in a way which can only bring Gibraltar to its economic and therefore to its political knees, in a way in which Gibraltar has known in the past. We will not tolerate a Gibraltar in which industrial relations are regarded as a weapon to be used on the road to No 6 Convent Place. The issues that we are discussing today, the issue of Kvaerner and everything that has happened in Gibraltar in the last week or two, raise many issues and of course amongst the issues that it raises, of course amongst the issues that it raises, is the ethical question of whether it is right or wrong for Government to publish tapes of secretly recorded telephone conversations. If anybody thinks that the Government are comfortable putting such information in the public domain, they are mistaken. If the Government were not willing to make a decision and then take the consequences in defence of the public interest of Gibraltar as the Government sees it, it would have been very easy for the Government to pass the tapes on to a newspaper or to pass the tapes on to a television station and say, "No, no, you leak it, you put it in the public domain so that nobody will criticise my lilywhite hands." The Government consciously took the decision that because the only justification for putting these tapes in the public domain were the defence of the vital interest of Gibraltar if anybody was going to do it, it would be the Government and nobody else. I have no doubt, and if ever I am faced with the same decision

again it will be the same decision that if we are faced with a balance of the ethical moral questions of the use of recorded conversations and the Government sitting on information which would allow people to bring Gibraltar to its economic knees, know ye everybody in this House that as far as this Government are concerned the decision is barely a contest. I know of no public interest which has priority to the survival of this community, economically and politically and if I have to dirty my hands with questions of putting into the public domain secretly-recorded telephone conversations in order to save Gibraltar from economic and political catastrophe, I will live with dirty hands for the next four, eight or twelve years, how long as it takes.

Mr Speaker, it is certainly not fair on the families in Kvaerner, on the workers and their families in the other areas of Gibraltar's economy where presumably this tactic would have been deployed time and time and time again during the next four years. We already know that it was in people's minds to do it to the nurses and with Gibtel, that much we know, what we do not know is where else they are doing it or will do it or have done it since May 16th because goodness only knows there has been a sudden resurgence of industrial unrest in Gibraltar since May. I can only describe the conduct of Mr Charles Robba as irresponsible in the extreme. Not irresponsible because it might have eventually have succeeded in bringing down my Government, the political longevity of my Government is a relatively insignificant matter. If Gibraltar does not have this Government it will have another Government. There is no shortage of governments for Gibraltar but we do not get too many chances to make a success of our economy and it is not the political longevity of the GSD Government that Mr Robba should worry about but the political and economic longevity of the entire community of Gibraltar. I was dumbfounded to hear the explanations proffered yesterday on television by the Leader of the Opposition for Mr Robba's conduct, an exaggeration, he did not mean it, he would not have done it, will we ever know? The Leader of the Opposition said much yesterday on television about the behaviour of Mr Robba but he was extraordinarily silent about his own. Some have commented that the Leader of the Opposition's failures in this matter are by omission rather than by commission. Well there are certainly sins of omission in that he failed repeatedly throughout those conversations to say to Mr Robba, "Don't be an exaggerating fool, don't you dare do to Mr Netto what you are describing, don't you dare think that it would be a blessing." Not one word to discourage Mr Robba and I fear that Mr Robba was entitled to interpret the Leader of the Opposition's silence in the face of the behaviour that he was planning, to be positive encouragement to it. The Leader

of the Opposition's conduct has not been, contrary to what some have said, simple sins of omission. In response to Mr Robba stating that he had created difficulty for Mr Montiel, the Leader of the Opposition did not say, "Why on earth are you doing that to a man who is trying his best to solve the dispute?". No, in response to Mr Robba stating that he had created difficulty for Mr Montiel the Leader of the Opposition's answer, "Good." In response to Mr Robba stating that he was going to create difficulty, the Leader of the Opposition answered, "Yep." Instead of explaining to Mr Robba the economic realities of a shipyard needing to survive in the international market which he appears to recognise now since he has given us a lecture about it this afternoon, no, what the Leader of the Opposition says is that since the yard is now earning money now is the time when the workers should get tough. Who says the yard is earning money? The yard is not earning money and how can urging the workers to get tough be a constructive contribution to the solution of any industrial relations problem. In response to Mr Robba stating that it was necessary to cause difficulty for the Government on the basis of, "An eye for an eye compadre", the Leader of the Opposition's reaction was "yep", not "nope", "yep". Therefore, I simply do not accept and the Government does not accept that the Leader of the Opposition's conduct has been only by omission as opposed to by commission.

Mr Speaker, I said before that the Government were not willing to tolerate a return to the politics of the early 1980s, where somehow or other the industrial relations situation in Gibraltar always seemed to benefit the Opposition. We have the statements by the Leader of the Opposition to Mr Robba saying you get the guys to get Mr Montiel, who is the District Officer, out of the way of the conduct of this dispute, which is the most serious industrial relations crisis that Gibraltar has had in nearly a decade. The Leader of the Opposition's advice to the workforce, through Mr Robba, was that they should machinate that the District Officer should be swept to one side so that the dispute can be conducted by the Branch Officer "... y ustedes". "Ustedes" being Mr Robba and who else we do not know and this was in the Government's opinion a plain attempt by the Opposition and its satellites to gain control of the conduct of an industrial relations dispute so that they could manipulate it and milk it for their own political advantage. Of that the Government have absolutely no doubt.

Mr Speaker, the Leader of the Opposition had the temerity, in the knowledge that he had had these conversations with Mr Robba, to appear on GBC television and tell this community that he could categorically and

unambiguously deny that any GSLP activist was agitating at Kvaerner and that I was lying. It is not in my style to call anybody a liar but people will be able to judge for themselves about who was lying in this matter. I just do not see how the Leader of the Opposition could assert that no GSLP activist was agitating when he had had conversations with Mr Robba in which Mr Robba explained to him what he was proposing, what he had already done, about what he was urging the men to do to Mr Netto, about the blessing, about an eye for an eye, about causing problems to them as we had supposedly done to them.

I do not remember bringing any employer of 138 people to its knees simply as a way of doing down the political fortunes of the Leader of the Opposition when he was in my job. The Leader of the Opposition's motion speaks about how both sides should use their good offices and work together for the resolution of this dispute. The Government cannot, in the circumstances, as they have been proved to have occurred, cannot and does not accept, that the Opposition has used good offices in this matter and if these are the good offices of the Opposition, God help us when they are not using their good offices. I will therefore move an amendment to the Leader of the Opposition's motion.

Mr Speaker, the amendments that I seek to move are the following:

The motion of the Leader of the Opposition reads that, "This House is deeply concerned by the decision of Kvaerner to cease operating the Gibraltar shiprepair facility because it has been unable to obtain the agreement of the TGWU to new working conditions or industrial employees."

Mr Speaker, I seek to delete the initials TGWU and replace it with the words "a section of the workforce", so that it should read: "because it has been unable to obtain the agreement of a section of the workforce to working conditions for its industrial employees". The fact of the matter is that the Transport and General Workers' Union agreed but the advice of it was not accepted by a section of the workers. The Government have no amendments to the second paragraph of the Leader of the Opposition's motion which reads: "It considers that the continuation of shiprepairing is an essential element in Gibraltar's economic development and calls on both sides of the industry to spare no effort during the consultation period to avoid the intended redundancies."

The Government move to delete the third paragraph altogether, which reads:

"It further considers that both sides of this House should use their good offices and work towards ensuring that there continues to be a shiprepair facility at the Gibraltar Dockyard", and to replace that with the paragraph, which is the third paragraph in the reprinted version of the motion which you all now have before you: "It further considers that all interested parties should work towards ensuring that there continues to be a ship repair facility at the Gibraltar Dockyard."

The reason for that amendment is simply that the Government are not willing to support a motion that suggests that the Opposition had deployed good offices in this matter. Then I seek to add to the remainder of that motion, as so amended, the following paragraphs:

It notes that in the taped telephone conversations published by the Government:-

(1) In response to Mr Robba stating that he had created difficulty for Mr Montiel, the Leader of the Opposition, answered, "good";

(2) In response to Mr Robba stating that he was going to create difficulty, the Leader of the Opposition answered "yep";

(3) Mr Bossano says that since the yard is now earning money now is when the workers should get tough; and

(4) In response to Mr Robba stating that it was necessary to cause difficulty for the Government on the basis of "an eye for an eye", Mr Bossano answered "yep".

It condemns the actions of the leading GSLP activist and member of the GSLP executive in seeking to agitate the situation at Kvaerner in order to cause problems to the Government.

It notes that the Leader of the Opposition made no attempt to dissuade Mr Robba from this course of action and that his omission to do so could be construed as encouragement.

It notes that last week and notwithstanding that he had had these conversations with Mr Robba, Mr Bossano nevertheless "categorically and unambiguously" denied that the Government's assertion of agitation were true and said that they were a lie.

It considers that in these circumstances the bringing of this motion by the Leader of the Opposition is hypocritical and an attempt to portray the Opposition

party's role in this matter as constructive when the recordings show otherwise.

It notes and applauds the efforts made by the District Officer of the TGWU to resolve this matter in very difficult circumstances.

It notes and supports the Government's efforts to contribute to the saving of the yard by engaging both the workforce and the management in dialogue to seek formulas for agreement and by offering to contribute financial resources and political support to ensure viability."

Mr Speaker, the nature of this dispute is indeed complex. The company, the Government has no doubt, offered the workforce working conditions which contained a principle which was not negotiable. The company was willing to negotiate the details. The Government have little doubt that in so far as it concerns the basic principle of flexibility of hours in the discretion of the company, the Government believes, as the men have always believed, that that was a non-negotiable pre-condition and that to that extent the workers were negotiating with a pistol to their heads. The Government's view is, and we have said this publicly and in private to the workers themselves, that the Government have sympathy for the fears and concerns and indeed anger of the workers given that they feel, rightly, that over the last three or four years they have been making more and more concessions in terms of their working conditions to the supposed viability of the yard but that although the Government acknowledged and accepted their concerns and their fears and their anxieties about these conditions, the way forward was not to bring about the closure of the yard. It is a matter of regret to the Government that that advice was not taken. The Government believed and advised the workers that the way to proceed in the greater interests of Gibraltar was for the workers to accept a trial period for a year to see if their worst fears and anxieties about these conditions were real, and that if after a year, during which the Government would help them secure improvements in those conditions, if during the year they found, at the end of it, that their conditions, or to put it another way, that their fears had been realised and that their conditions really were everything that they had been afraid of, that we would then be in a position a year from now that we are today and that the workers would have given it a try. This we were recommending as advice because the Government were being told by both the Norwegian and the Gibraltar management at Kvaerner that these conditions were not unique to Gibraltar. That these were conditions which prevailed in some cases even more strictly in shiprepairing and shipbuilding yards in the United Kingdom, specifically in Scotland and in

Northern Ireland, but also in Appledore shiprepair yards in England. The Government had also been told that when these conditions were first introduced into these yards elsewhere, the workforce were equally reluctant but that after a passage of time, the workforce in those yards grew to accept the conditions as both necessary and not as draconian in their practice as they certainly look in print. In the hope that the Gibraltar workers' experience would be the same as the experience to workers elsewhere in the United Kingdom the Government pursued the line of recommending that course of action. The position of the company is, was and as I have known it, has always been that they were not willing to stay in Gibraltar. It was not a question of money, the Government offered subsidies, the Government offered financial assistance in various shapes and forms but it was not a question of money. The company felt that they could not in the modern shiprepairing industry, operate a shiprepairing facility in Gibraltar unless the workers understood what it was to be a shiprepair worker, in this day and age, even in Europe, and if not happy, resigned, to being such a worker. That is why the company, they tell me, were insisting on an acceptance of the principle. There is nothing that the Government can do to force Kvaerner to stay in Gibraltar. If the problem was money, then within reason of course the Government can put money on the table. There are other things that the Government could put on the table and indeed offered. The only thing that the Government could not deliver was the issue that was at the root of this problem which was not, contrary to what the Leader of the Opposition said on television and what he has repeated today, money but a battle over principles. The workers were taking the position that they could not stop being masters of their own lives, that they sell their time for 39 hours a week and that if they want to work overtime they can and if they do not want to work overtime they do not have to. In other words a basic working week with overtime discretionary on the part of the workers. The company was taking the precise opposite point of principle. The company was saying, "No, to be a shiprepair yard in Gibraltar I need a workforce that understands, that because ships come in on a Friday and have to go on a Monday at three o'clock in the morning, the workforce has got to be available to me when I need them." Therefore it is not overtime discretionary on the part of the workforce it is overtime and even basic hours discretionary in terms of when they are worked at the discretion of management. Much as the Government tried to find formulas to bring the parties together, in the end we could not because Government simply did not have anything to contribute to that conflict of principles between the position of the company and the position of the workers. The Government's position was not to say to

the workers, "Accept these conditions because we think they are fair." It was not, "Accept those conditions because we agree with them." It was "Please accept the conditions because whilst the yard is still open we can fight for better terms, better 138 jobs with conditions that none of us like and that we can all work together to improve, than no yard and 138 people without work." That was the Government's position in the face of the workers' understandable anxieties about the terms and conditions and irritation at the way that the issue was suddenly brought to such a head. The Government of course was also mindful of the rights of other works. It is not for me to say that people should be willing or should not be willing to work on a particular set of terms but if there are people in Gibraltar that are willing to work on terms that others find unacceptable the Government was saying, "Please get out yourselves and leave it to the people who are willing to work on those terms and do not close the yard for everybody." The Union, the labour force, on the advice I suppose of their Union, and on their own basis, took the view that that is not a principle that could be put into practice and that the right was to establish what they thought were acceptable working conditions for everybody and not just for themselves.

Mr Speaker, you will see that my amendment pays tribute to the District Officer of the Transport and General Workers' Union and I do that because I can speak to the enormous internal battle that the District Officer of the Transport and General Workers' Union has tried to struggle with between wanting to support what he thought was a legitimate aspiration of 64 of his members on the one hand with the equally strong desire to do what he thought was in broadest terms in the greatest economic and political interest of Gibraltar. It is not an easy tightrope to walk. The District Officer has attempted to walk it but he has failed but I think he should be recognised in his efforts.

Mr Speaker, the very latest position in relation to this matter is the following: Last night, as has already been put into the public domain, the shop stewards representing the 64 Kvaerner workers in question, of whom there are 10 or 12 shop stewards, asked to come to see me and we met at five-thirty or six o'clock in the afternoon. At that meeting it became possible, given what has happened, given assistance that the Government had been willing to provide, which apparently had not been properly explained to the workers, it became possible for the workers, the 64 workers in question, to accept the Government's proposal of last week or the week before, namely that they would go back to work for a year on Kvaerner's terms to try it out, that the Government would provide financial support, during that period, to

enable the company to pay an unsociable working conditions allowance and that to address another of the men's conditions, namely that they felt that if they went back on these circumstances the local management would feel strengthened and subject the men to intimidation or bullying or recriminations of any sort, that the Government would deploy permanently at Kvaerner an industrial relations officer to supervise and monitor the conduct of industrial relations at the yard.

At a meeting this morning that proposal was put to the 64 men with the recommendation of the shop stewards. After some discussion it was put to a vote and the workers voted to accept it. That was just before one o'clock today. Regrettably, I have communicated this situation to the management at Kvaerner and the position of Kvaerner's parent in Norway, is that it is too late, that their decision to close the yard has now been transmitted throughout the international shiprepairing market and that they are now unwilling to reconsider their decision to withdraw from Gibraltar. The Government will, of course, now deploy all resources at its disposal to find an alternative operator for the yard. Already there has been a number of companies and individuals that have shown interest, albeit not specific and very preliminary, in operating the yard. The Government will leave no stone unturned in replacing these jobs, all 138 of them for all of them as soon as is possible. The Government had a difficult employment task in Gibraltar before this fiasco. Now it has an even harder one. The Government accepts the challenge to solve this problem but people in this community will have to judge for themselves the extent to which GSLP activists have contributed to increasing the Government's difficulty. I commend my amendments to the House.

HON J GABAY:

Mr Speaker, I would like to go back to the dramatic speech that was given by the Chief Minister, in particular when he came to the point of referring to the recorded telephone conversations. I notice that in his dramatic performance it came up into a crescendo of passion, obviously to veil the nastiness of what has been done. I think that when the debate subsides on the interpretation of these calls, their content, one thing will remain as permanent shame on our community and that is the publication of private, confidential telephone calls. One always felt that this was the domain of the gutter press but for a Chief Minister to claim that some extremely noble citizen felt honour-bound to come to him for the salvation of the community and that he, with his overpowering love for Gibraltar felt it his duty to do this. The Chief Minister underestimates the common sense

of many people. It is an insult to the community and will affect the social fabric of this community and political life because it is an obvious ploy to gain political advantage. It is a party gimmick and no amount of claiming and monopoly over morality and ethics and being the answer to everybody, will ever stop the fact that you will be known as the juggler of inconsistencies on every field, wanting to be everything to everybody. I do not want to continue with this personal attack otherwise I might enjoy it as much as the Chief Minister enjoyed his performance but it makes me recall Lady Macbeth's injunction, "Look like the innocent flower and be the serpent under it."

HON P C MONTEGRIFFO:

Mr Speaker, I want to limit my brief comments to the employment aspects that arise as a result of this issue. The Chief Minister has already raised the difficult job environment in which we find ourselves and I find it without being in a position to make judgements as to where fault lies in different percentage terms in all the participants in this episode, I think it is extraordinary that Gibraltar, within this calamitous employment situation we are facing, has thrown away a source of employment, a source of revenue which is going to be extremely difficult to replace in the immediate term. It may be recalled in the context of the MOD rundown and in the context of the Deloitte and Touche Report that the figures there are significant. However they finally materialise but they are significant. One of the comments made by the consultants is that even if jobs are replaced from activity that was previously MOD, that those jobs will not create or at least are unlikely to create employment at the salary levels and on the terms which MOD workers have previously enjoyed. It is therefore a reality which this Kvaerner situation has again brought to the forefront that Gibraltar, when we talk about economic transition, Gibraltar is going through a transition in employment terms also and therefore it is wrong for the Leader of the Opposition, quite wrong of him to say that the workers in Kvaerner were the only ones being asked to make a change in their conditions. True, the changes were perhaps particularly acute in their case. True the change has been one which has come over a period of years but how many private sector firms out in the economy have had to adjust to the realities of ever more difficult conditions. How many people in the public sector as well are indeed coming under pressure now to provide value for money. This economy has to perform and that means that even though it is painful and the Government have expressed its high degree of sympathy with the conditions that were being demanded of workers at Kvaerner, this economy has to be

able to adjust at every level to the sort of commercial expectations which customers make of Gibraltar. The advice therefore given by the Leader of the Opposition is I think erroneous, quite apart from the political machination, quite apart from the whole question of the manipulation of which enough has already been said this afternoon, just on the advice given empirically that he would advise workers today not to accept those conditions, that is bad advice, bad for the workers, bad for Gibraltar. The workers themselves have indeed taken a different view today, a view which they say under protest because they would rather not work under those conditions but a view they have taken because when they have seen eventually that there is no other alternative, that they would rather have had a job than no job at all.

I think it is important therefore in looking at the jobs that we can create in this economy, in looking at the commercial activity we can attract, for people to have a real level of expectation as to what Gibraltar can produce. Gibraltar is fully in the competitive market in every area, be it the financial services, be it in tourism, be it in shiprepair and it is simply not enough to think that we can harp back to the conditions of before because that will not get us out of the deep predicament in which we find ourselves. Mr Bossano said in his contribution that the company, in return for the deal that the men were being asked, would give no guarantees about remaining open for that period of time. Well, there are no guarantees. There are no guarantees now in 1997 with regard to any commercial venture that is using Gibraltar. Therefore we have to make sure that those in public life, those in the political arena, those that are involved with the trade unions, those involved with the commercial entities, the Chamber of Commerce and others, act responsibly and in accordance with that basic tenet of commercial life. It is quite wrong to transmit a message to our community that there are guarantees, that terms can be negotiated over and above the terms that exist in Belfast, in the Scottish yards or elsewhere in the tourism industry in what would be our natural competitive area. So my contribution today apart from lamenting what has happened and adding support to what the Chief Minister has said is to simply make clear that from where I sit, from the point of view of trying to create economic activity and generate jobs, that we have to come to terms with a completely new scenario. A scenario that requires flexibility, requires us to accept terms that we would rather not have to live with but which Gibraltar is going to have to adapt to if we are going to survive economically and that it is irresponsible for that process of transition to become the subject of the political machination which, frankly, over the last week we have seen it capable of becoming.

I think workers deserve better, their families deserve better and Gibraltar will not survive that manipulation. Gibraltar commercially is dead in the water if we transmit an image of a community not prepared to be flexible in the way that we adjust to economic realities and not prepared, frankly, to put politics to one side when it has to be put and to work responsibly for the better of our community. I think this week has been a sad week in the way that the Opposition, elements within the Opposition, have behaved. I think the message it sends internationally will be damaging but I remain hopeful that with the efforts of the trade unions, that have behaved on-side with common sense, that we will be able to create activity, an activity which will require the workers understanding that we want to help them to get the best conditions possible but that those conditions are dictated not by our desires but by the demands of the market and by the need to remain viable in all conditions as they develop. Thank you.

HON A ISOLA:

Mr Speaker, it has indeed been a traumatic and sad week for Gibraltar not just for the loss of the 138 jobs, which we certainly will support the Government in any moves they make to recover those jobs, either with Kvaerner, another operator or maybe even in a potential diversification of the yard. Those are all options that the Government have at its disposal and we would certainly support. The role in the Assembly of the Government and the Opposition is one that I think people will be asking themselves. What is the role of Government? What is the role of Opposition? In my view it is simply to give leadership and to offer the community, a very, very small community, every possible chance of success. That has been in my view and the last speaker the hon Minister for Trade and Industry mentioned the words "the message", well, what message are we sending out to people when in the words of the Chief Minister secretly recorded telephone conversations are published. What does that do to the confidence of the people that work in Gibraltar in the financial services sector? In every other sector in Gibraltar? What is the confidence? They spoke before the elections on how Big Brother is watching you. Well, now he is not just watching you, he is listening to you. The Chief Minister himself said, "The ethical and moral problem that he saw himself with and it was no contest." Well, I am sorry, I cannot agree, I think it is no context the other way because if the Chief Minister was genuine in his concern for what was happening he could have called the Opposition and said, "Look, I have these tapes, this is the evidence I have, is it true?" But the clinical method in which those tapes have been used for political

profit is not something that we can accede to, it is forgetting the problem of the people who are standing outside without jobs. They are the problem, not to spend time, effort and, in my view, causing potentially huge problems to us by releasing these private and confidential tapes. The problem is the 138 people who are out there without jobs. They have mortgages, they have families and they have their own lives to look forward to and that is where the effort should be put into. The motion which the Leader of the Opposition put forward is dated the 6th February, there is no change of heart, that was put before the tapes were published. The 6th February, before the tapes were published the Leader of the Opposition put forward a motion calling for all parties to work together, for both sides of the House to work together, to resolve the problem for the people that are suffering, those are the people that are outside. The response to that motion has been the publication of tapes, which has been cold and calculated, for political profit and nothing else. Unfortunately, that is the reality. The Chief Minister will say, "I felt it was in the public interest". I ask the question, in whose real interest was it? The people which is the public or the GSD? That is the question I ask and I ask each Government Member to examine that in their own minds and see what response they come up with. The statements of Mr Robba of course were wrong. They are indefensible and unjustifiable, of course they are wrong and he has accepted that they were wrong. He has resigned from the Executive and he himself has sought to explain as far as is possible why it occurred. Those and some of you who have worked in the past with the union, those of you that know him, know the kind of character he is. I certainly do. The man has not an inch of malice. He may be a fool. [Laughter] Some people obviously find it amusing, Mr Speaker. The statements by Mr Robba are indefensible, they are unjustifiable and I would not even try or pretend to seek to defend him, they were wrong, but I think what has to be put into perspective is that what Mr Robba said on those tapes, and the Chief Minister has referred to it repeatedly today, and what happened, are two different things. The Government came out saying that it was caused by activists. Well, I do not know how many signatures there were, I think there were about 70 signatures on a piece of paper saying that they had not been manipulated, and what you have to do is to put yourself in the position of the man that is about to lose his job. How bad must that job be for him to consider sacrificing his job, possibly losing his house, not having money to pay his mortgage, how bad must that job have to be for him to have to do that? Clearly it is very bad, it is no consolation to him for you to say, "It is the same as in Scotland". Well, fine, it may be but I

ask you would you do those jobs on those conditions? I certainly would not, Mr Speaker.

HON P MONTEGRIFFO:

If the hon Member will give way, I certainly would, if it was between putting food on my children's plate or not having a job, I would have no hesitation. That does not mean that I find them attractive or appealing but I certainly know where my responsibilities lie there and that I think explains the final decision, albeit the decision taken now at over the eleventh hour to accept those terms, not willingly, under protest, but out of a sense of resignation as to the realities as they currently now are.

HON A ISOLA:

Yes, Mr Speaker, of course, there are other realities but that does not detract from the fact that you are asking a man to be on call 24 hours a day. As one of the men said in a television interview, "This is a catastrophe for the whole of Gibraltar, so why does not the whole of Gibraltar help us with what we have to do?" I think in part that is to give credit to what the Government is doing, it is seeking to shoulder some of the responsibility, financially and politically and I think that is absolutely right. But ask yourself that question, how bad must the job be for a man to have to consider giving it up with no prospect of a job in that industry unless another operator comes along stream. I ask the question, Mr Speaker, do the ends justify the means? In my view the publication of the tapes do not, because the knock to our democracy, the knock to our confidence to have people listening in to your telephone conversations and not just listening but recording them as well and maybe worse than that publishing them, and what the Government has done in one blow it has said to the people, "Yes, you can go out and listen to other people's conversations, yes, you can go and record other people's conversations and yes, if you want to sell them, sell them". The political profit may be different but the profit is still there and in my view what the Government has done is to send a signal out saying, "Yes, you can do it." That is what I think is the saddest of all events that have happened in these past three days. On the amendment to the motion the Opposition will certainly be supporting the first three paragraphs of the motion and the last two paragraphs of the motion. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I reject outright the views expressed by the Hon Mr Gabay when he says, "That nothing justifies the publication of these tapes". "That when all this is over", a long hard wish for him, "all that people will remember was that the Government has published the tapes". Well, I do not accept that there is a right to privately conspire to bring about the economic downfall of Gibraltar, and if there is a right to privacy which certainly the law does not respect, if there is a right to privacy of telephone conversations, it certainly does not supersede the vital interest of this community, the fifth columnists, people willing to bring the economy to its knees for their own selfish political ends, should be allowed to quietly beaver away rather than expose them through the cardinal sin of recorded telephone conversations. I am happy to disagree with the hon Opposition Member on that point, and I am unhappy that he should ever find himself in Government because the natural consequence of what he has said is, that Mr Robba's right not to have his conversations eavesdropped, not by the Government, that Mr Robba's right to have his telephone conversations eavesdropped are so sacrosanct to him that when he is in Government he will sit idly by and watch.....

HON J GABAY:

On a point of order. The point of order is, that I did not justify the contents of the telephone conversations, but this remarkable Chief Minister of ours builds this tremendous superstructure of catastrophe which is really riddled with lies.

MR SPEAKER:

That is no longer a point of order. It was at the beginning.

HON CHIEF MINISTER:

Mr Speaker, it follows that Mr Gabay's view is, that having received the information, the Government should have sat on it and let Mr Robba and his accomplices beaver away for the next four years, putting obstacle after obstacle after obstacle in the path of the Government's realisation of its economic policy. It is very comfortable for Mr Gabay to recommend that course of action hoping in three and half years' time to be the political beneficiary of the sabotage. A reference has been made to the clinical method in which the tapes have been used. Yes, the Government have carefully considered

the publication or non-publication of these tapes and we believe that the clinical method in which these tapes have been used have saved Gibraltar during the next three and a half years because we have no doubt, as many people in Gibraltar even before have no doubt, now even fewer have doubts, that we would have been faced with dispute after dispute or if you prefer the words of Mr Robba, "follon, tras follon, tras follon, day in, day out".(3) I have never prided myself on my surgery but to the extent that this surgery has been clinical it has been effective and to the extent that it has been effective it has saved Gibraltar and I consider to have done Gibraltar a public service.

The motion may have been put down before the publication of the tapes but it was put down after I had come out making the allegation of political manipulation and that I had evidence and perhaps it was put out because the conversation suddenly flurried to the mind. Finally the hon Mr Isola hopefully reminds me of the difference between what was said and what was happening as if to suggest that there has been no agitation because none of what Mr Robba said actually happened. Well, he is mistaken. Most of what Mr Robba said happened. Mr Robba says on the tapes that he was going to dispatch the men to abuse the Minister for Employment and indeed they did. Mr Robba says in the tapes, "Because tomorrow I do not want there to be any agreement, me comprende? yo no quiero que manana haya ningun acuerdo, me comprende? entiende?"(4) The sad reality of it is that there has been no agreement and the yard has closed so that there is a crushingly damaging coincidence between what Mr Robba says on the tapes he would do and what has happened in fact. Events which justify, in the Government's opinion, its decision to publish the tapes.

Question proposed.

HON J J BOSSANO:

Mr Speaker, my colleague Mr Isola said we were in favour of the first three paragraphs and the last two but if it is not put separately then we cannot do anything other than vote against.

MR SPEAKER:

He did not put it as an amendment to an amendment, he said how he was going to vote.

HON J J BOSSANO:

No, no, we are not seeking to amend. What we are saying is we are in favour of part of it and not the whole of

it. Unless we have a separate vote on different parts then we have to vote against the whole.

MR SPEAKER:

No, you cannot at this stage.

Question put. The House divided.

For the Ayes: The Hon K Azopardi
The Hon Lt Col E M Britto
The Hon P R Caruana
The Hon H A Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon Miss K Dawson
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon R Mor
The Hon J C Perez

Absent: The Hon Miss M I Montegriffo

The amendment was carried.

MR SPEAKER:

Now we go back to the motion. Before I call on Mr Bossano to answer, any contribution on the motion as a whole as amended, from one side or the other?

HON J J BOSSANO:

Mr Speaker, I think the news that Kvaerner says it is too late is of course extremely bad news but it is an indication of the way the company has approached the changes in conditions from day one. I have to say that I do not agree with Mr Montegriffo when he says that, "We are required because of the changes in our economy now to do what we have not been required to do since the yard closed in 1984". In fact there may have been adaptation of businesses in the private sector to a changing market situation but there has certainly not been an adaptation of conditions of work in the private sector which have been on the basis of each change replacing something for the worse. That has not happened in the private sector so that is what makes Kvaerner different.

HON P C MONTEGRIFFO:

If the hon Member will give way, I do not agree. I think there has been a fundamental change in the private sector, not perhaps in many of the formal terms of conditions but whilst a job in Barclays Bank 15 years ago was a job for life, a job in Barclays Bank today like a job in Banque Indosuez or a job in ABN is not a job for life. Therefore there has been a fundamental shift in the way people perceive job security, in the way people perceive the need to have to earn their way every single day and I think, whilst I accept that the position in Kvaerner is more acute and we have sympathised with the workforce, frankly it is a form of adjustment which this economy has been undergoing over the last decade and a half and which is probably going to go some good way further before we become sufficiently adaptable to really compete in the open market. That is what I meant.

HON J J BOSSANO:

I agree that the changes in the market have created a greater degree of job insecurity now than there has ever been before and that that is not peculiar to Gibraltar, and that that was certainly happening periodically in the last few years and looks like being a permanent feature for the private sector economy here and everywhere else. But we cannot in the same breath say that we understand and sympathise with the rejection of people who have a pistol put to their head and then seem to be saying we are all going to have to live for the rest of our lives with the pistol pointed to our heads. In fact I do not think that that degree of change that is required necessarily has to go as far as having pistols put to our heads. I do not accept that in the private sector, in any business, any company in Gibraltar would have said to the Government, "It is not a question of money." Of course it is a question of money, but apparently Kvaerner says it is not a question of money, it is a question of almost who runs the show. And who runs the show, there was a letter in the Chronicle from somebody, because in fact within the regrettable division that took place amongst the workforce and I think it is bad for them that they divided, that some as it were, capitulated because the pistol was at their heads. There were both people who are in the GSD and people who are in the GSLP, in both groups, in those who accepted and those who rejected and people who are in nowhere. But it is a question of where people are prepared to make a stand and I think they were right to make the stand in saying no and I think that it was possible and should have been possible to achieve an agreement. What Kvaerner said yes to, two or three days ago, they are saying no to today. Well, it seems to me that if we took the view that workers had

said yes to Kvaerner three days ago and now turned it down, people would be saying to them that they are an irresponsible lot and yet this is the company that is required by law to hold a period of consultation to avoid the redundancies. Having now been faced at the beginning of the consultation period with acceptance of what was not acceptable two or three days ago to the employees but acceptable to the company, now the company says it will not accept it. I can only assume from that, that the company has come to the conclusion that what it wants to be able to do with the workforce is not going to be deliverable, but they may not be able actually even if people accept it under duress to get the commitment that they are looking for. That is in fact one of the crucial elements about putting pistols to people's heads. You may get them to say what you want when you have got the pistol but when you take the pistol away you get a different answer.

I believe that it is not true that the only way the yard can be run is from the proposals that Kvaerner is putting. Therefore it is important now that we prove them wrong, that the yard does not close on the 12th that we find an alternative operator for it, that we do a package which now need not be the exact replica of what was there because now we do not have pistols and that therefore we will finish up with a workforce which will be more committed to the operation because they will not have been dragooned into a system they did not want to operate. Part of Kvaerner's reaction must be a recognition that it has been said that their experience in Govan and in Northern Ireland, I was not aware that they had a yard in Northern Ireland, is that where these conditions have been introduced people have resisted them and then subsequently accepted. First of all if we are talking about shipbuilding then the fluctuations in workloads are totally different, it is a different business. If you are building a ship it is not the same as having to say to people, "You stand by on call at home and I will tell you when a ship comes in to be repaired." Once you get the order you have got 15 months in which to complete that order and therefore people have got at least for big chunks of the working year, predictable work patterns. The most difficult thing for people to swallow in the Kvaerner proposal was the disruption and the unpredictability and they did not need any agitating not to swallow that. But of course, we have seen in this House that when somebody says, "Charlie Robba has no malice", and there is a burst of laughter, what is the message that we are getting? That there are people in this House, both in the audience and in the Government who believe that Charlie Robba has malice and I can tell them there are many people in the GSLP who believe they are loaded with venom on the other side. If every time

somebody questions the legitimacy of that impression we all laugh cynically, and it is so obvious that we all want to shoot each other, well then let us get on with the civil war and then at the end of the day, hopefully, there will be a lot of dead bodies and one victor and then there will be no industrial problems, no agitation, no telephone tapping and there may not be anything else in the process. We are all susceptible to it. We can all be told by people that it is happening. I spent eight years hearing it. I had Mr Netto occupying 6 Convent Place, I had plenty of people who came to me saying they had been manipulated. Whether there was manipulation or not manipulation, I did not act on the basis that there was. But I am sure that if we had been around with friendly members of the public taping things for us we would have had an ample amount of tapes between 1988 and 1996. We have to accept that there are bitterly entrenched positions which are getting more bitter and that is happening and it started a long time ago, it did not start on the 17th May. It has been getting progressively worse and we tend to have people in our ranks primarily who perhaps express themselves in particularly graphic language which other people in other spheres of society may not do, but I have seen in this House maliciousness before which I have criticised and at the end of the day we have to live with the consequences of that. But I can tell the House quite honestly that whatever Mr Robba may have said on this occasion or on the twenty thousand other times that he calls me, it might be easier if I put a recording machine on for him and pass the tapes on to the other side, they would save themselves a lot of trouble, the reality is that we all know him as do some members of the Government and they all know what he is like when there is a dispute. They all know that in fact he makes a lot of noise about doing this and doing that and the people that have been to see the Chief Minister told him so, so why are they lying? Because at the end of the day they are not lying, they are telling the truth, the pistol was being put to their heads and they did not need any encouragement and agitating. Whether they got it or not, they did not need it and it did not make any difference, it did not alter the result and the result was not that Mr Robba persuaded Kvaerner to offer 1,900 hours and put a pistol to people's heads so that they could then subsequently agitate them about the result. The thing was landed on us and landed on us by a company that has been saying that the possibility of leaving Gibraltar, before it happened in 1994, and we had great difficulty in persuading them. I feel that part of the difficulty lies in that with these multinational companies you have not got any more the kind of access to the people who are the owners of the business where you can appeal to any sentiment other than what is going to contribute to the

bottom line. That is why I think it is amazing that a company should say it is not a question of money. At the end of the day if it is not a question of money why do they want to have people coming and going and not paying them. If a different way of payment had been found right at the beginning then the whole thing could have been made to be totally acceptable. What is unacceptable is that they get sent home without getting paid and I do not see how anybody that has been in the trade union movement can countenance the introduction of that situation and even if it is accepted under duress to see it perpetuated and extended. This is taking us back 50 years and it may have been done in other places, I do not know, and certainly the position today in Europe is that in many many parts of Europe it is true, every time there appears to be collective bargaining it is not to argue a package but to take away. In Gibraltar we have got to resist the introduction of such packages because if we do not resist them they will be spreading throughout and then there will be agitation and then there will be industrial problems and then we will get blamed presumably. It is not the position of the GSLP, the GSD or anybody else, it is the total unacceptability of throwing away what has been achieved by years of collective bargaining and industrial action combined to get benefits in working conditions which did not happen by themselves. They happened because we fought for them and although we may now be in a world which is run by the rules of the market it does not mean we have to abdicate every single principle that we have had in the last 40 years. Therefore it would be in my judgement a good result if we were now in a position to move forward with a better deal, which people would be happy with and with somebody that is prepared to live with it and make it work. Notwithstanding everything that has been said the motion that has been amended says it considers that all interested parties should work towards ensuring their continues to be a shiprepair facility. I declare myself to be an interested party, Mr Speaker, and I am saying that I offer my support and my services and whatever background knowledge I have that can contribute towards getting that shiprepair yard working with a new operator. I will not offer the Government the services of Charlie Robba.

Question put. The House divided.

For the Ayes: The Hon K Azopardi
The Hon Lt Col E M Britto
The Hon P R Caruana
The Hon H A Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo

The Hon J J Netto
The Hon Miss K Dawson
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon R Mor
The Hon J C Perez

Absent: The Hon Miss M I Montegriffo

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

The House recessed at 4.45 pm.

The House resumed at 5.00 pm.

Answers to Questions continued.

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn to Friday 14th February, 1997, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 6.45 pm on Thursday 13th February, 1997.

EDITOR'S TRANSLATION:

(1) And what I am trying to get going is that on Friday, if nothing is agreed with the Chairman who comes tonight, for all the workers to go down to the ETB and give Netto some verbal abuse.

(2) On Friday you all march down the Bateria, you close down everything, stop all the cars and let all hell loose on Netto.

(3) Trouble and more trouble, day in, day out.

(4) I do not want an agreement tomorrow, you understand?

FRIDAY 14TH FEBRUARY, 1997

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism, Commercial
Affairs and the Port
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon Miss K Dawson - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

ABSENT:

The Hon Miss M I Montegriffo

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE COMPANIES (AMENDMENT) ORDINANCE 1997

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the laws of Gibraltar Council Directive 89/666/EEC on the disclosure requirements in respect of branches opened in Member States by certain types of company governed by the law of another Member State be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. The main purpose of this Bill is to implement Council Directive 89/666 commonly known as the Eleventh Companies directive which deals with the disclosure requirements in respect of branches opened in another Member State by certain types of companies governed by the law of another Member State. In this respect it has nothing to do therefore with locally incorporated companies which really will have their disclosure requirements dealt with when the Fourth Company directive comes to be implemented. The amendments to introduce the requirements of the Eleventh Company directive is to be achieved, as Members will see, through amendments to our Companies Ordinance. The Eleventh Company directive deals with disclosures including the disclosure of accounting documents required to be made by branches established in the Member State of limited companies which are incorporated in another Member State or in a non-EU country. These requirements are complemented by the Bank Branches directive which is already in force in Gibraltar which establishes special rules on the disclosure on accounting documents of a branch of a credit or financial institution in a Member State which has its head office outside that state. The branch registration regime created by this legislation complements the existing place of business regime currently set out in Part IX of our Companies Ordinance. Of course, if a company within the scope of the Eleventh Companies directive established their place of business in Gibraltar which is not a branch and has no other branch in Gibraltar then that will continue to be subject to the existing place of business rules in the current regime. The current regime also remains applicable to companies which are outside the scope of the Eleventh Companies directive. The Companies Ordinance is being amended by the insertion of new parts 12 to 14 and new Schedules 11 to 14. The Bill before the House is substantially based on amendments to the UK Companies Act, 1985, which were affected by the Overseas Companies

and Credit Financial Institutions Branch Disclosure Requirements, 1992. Mr Speaker, Gibraltar's implementation of the Eleventh Companies directive has been the subject of enquiries by the European Commission. The Government are therefore keen to proceed with this legislation as soon as possible. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, the Opposition Members support the Bill. It obviously will enable, or rather, bring our laws into line for those companies which have their own rules, in their own Member States, to follow similar rules when practising and operating from Gibraltar. The only comment which is not peculiar to any of the sections of the amended ordinance is concern over the language used which perhaps will be more appropriate for the future and therefore perhaps useful at this stage to mention. In future Bills, as the hon Member has just mentioned, for example the Fourth Company directive, when that comes into place, when following out the UK law or European language within their own directives, I think it is dangerous to fall into the trap of merely transposing directives into existing legislation, particularly in the Companies Ordinance which goes back to 1929.

The language being used in the Ordinance that we have today and the language being used by European legislators and drafters is quite different. Therefore, I think it is important to bear in mind when drafting these Bills the possible problems that that may cause in interpretation more than anything else in the two different approaches in drafting the legislation. In this case I do not think it is particularly of much importance because it is being brought as one package which will specifically apply to companies from other Member States. But certainly in so far as other Bills, which the Government may be contemplating such as the Fourth Company directive, I think it is important that that is borne in mind because it can, and many Government Members who are practitioners, would appreciate the problems that could be caused by any difference in use of language or interpretation.

HON J J BOSSANO:

Mr Speaker, I would like to ask whether in fact there are any or many companies currently with franchise in Gibraltar which would be covered by this. I would also like to know if in the legislation "branches" has the

same meaning as provided in the directive. When we are talking about a branch, since I think a distinction has been made as to a company being here but not having a branch, what exactly then is the difference between whether a presence is here and if we know what a branch means when we are talking about something like credit institution which really means an outlet which may be incorporated anywhere in the European Union and arrives here basically as if it was operating in its home state. But in the context of the company, would we be talking about, say, somebody like Safeways having a branch in Gibraltar which was Safeways UK but which had to produce information on its Gibraltar operation which otherwise would simply be consolidated in the overall accounts of the company, is that the kind of distinction?

HON P C MONTEGRIFFO:

Mr Speaker, if I deal first with Mr Isola's point, the matter he raises has some validity.....

MR SPEAKER:

I think I should ask for other contributions first because you will be the last one to speak.

HON P C MONTEGRIFFO:

Yes, I do beg your pardon.

MR SPEAKER:

No one else wants to speak? All right, carry on.

HON P C MONTEGRIFFO:

Mr Speaker, thank you. Dealing firstly with Mr Isola's point, this is the problem that certainly I have come across in the directives that I have dealt with and the draftsmen bring to my attention, which is the desirability usually of implementing the directives in a stand-alone ordinance where these conflicts of the language that you might have from definitions in the previous ordinance which we are amending, do not arise. The problem is that that sort of transposition takes much more time in drafting terms. To actually have a stand-alone ordinance is more difficult than to bolt on an amendment to an existing ordinance but I take note of the point and I think that the draftsmen will have to remain vigilant and conscious of that.

Dealing with the Leader of the Opposition's points, the rules apply to branches as opposed to, say, subsidiaries but there are cases where a company may have a presence

and I confess that, I do not think there can be many cases, but there are cases where a company can have a presence which is not actually a branch. You might have a company that has a representative office in a jurisdiction which is not a branch and which is not a subsidiary but which is a physical presence. I think the reference to a company having a presence other than a branch is a reference to that. With regard to whether this will apply to many companies, of course I think it probably does apply to a reasonable number of companies. Some companies, we know, have got branch presence here. There are some banks here that are branches rather than subsidiaries but they would fall to be dealt with by the other legislation on bank branch legislation. I am sure that there are private companies of other jurisdictions that have a branch presence in Gibraltar for tax purposes, or for estate planning purposes, so I think it is quite possible that there is a number of companies, not in the public domain, of which there is no public knowledge, which will be affected by these rules. How will the rules work, Mr Speaker? The Leader of the Opposition mentioned Safeways. These rules do not apply to UK-incorporated companies, let me first make that clear. The rules still treat UK-incorporated companies under our own domestic rules, so that, the position of a UK company would as regards accounting disclosure, be dealt with the way a Gibraltar company would be dealt with once the Fourth Company directive is brought into place. This will apply to a Swedish company, or to an Austrian company or to a French company, which will be required in Gibraltar to disclose the same information with regard to accounts and other matters, it is not just limited to accounts, as they disclose in their domestic territory. It is really a replica of the information they have to produce. It does not substitute or exonerate them from having to undertake any disclosure requirements in their home country, in their home Member State, it simply requires them also to do so here if they have a branch presence. I think that covers the points.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

THE INSURANCE COMPANIES (AMENDMENT) ORDINANCE, 1997

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is designed to introduce amendments to the Insurance Ordinance to match UK standards as a step prior to achieving passporting in insurance companies and services. In this respect it is therefore not a Bill that arises from any requirements of EU directives. It is a Bill that arises from the requirements made of Gibraltar to have equivalence in UK standards and therefore to that extent goes beyond the needs of any EU directive. This legislation complements the publication of the Insurance Companies Accounts Directives Regulations, 1997, which are now being gazetted. These Regulations will come into effect once the primary legislation is passed. The Regulations do in fact implement Council Directives, namely Council Directives 91/674 and in so far as they apply to insurance companies, Council Directive 78/660 and 83/349. The enactment of this legislation completes the insurance-based legislation required to be introduced prior to Gibraltar achieving passporting rights.

Two other areas connected with insurance remain outstanding, namely the post BCCI Directive as it affects insurance and the Eighth Company directive, but both are at a very advanced stage and we have assurances that they will not delay the next stage of the passporting timetable. That next stage is the arrival in Gibraltar of the UK audit team which will look at the FSC procedures and systems. The Government are confident and hopeful that a positive audit will allow the UK to confirm that full passporting benefits are available to Gibraltar. Achieving this will represent a major step forward not just in the insurance sector but for the whole financial services industry. We then look forward to speedy progress on passporting in banking and investment services. The Government also have confidence that significant new work is going to be generated by the progress that has been made. Yesterday I referred to a new promotional campaign for captive insurance business and the fact that we have joined forces with a private sector promoter. I repeat, we are keen to encourage the

participation of others in this sector. It is important, in our view, that any marketing be coherent and be coordinated. Promoting financial services, as Opposition Members I am sure are aware, requires great care and the Government have determined to approach the matter in a low key way and in a fashion that will ensure coherence. We would therefore urge other private sector companies to share their marketing plans with us so that the greatest impact can be achieved. I am very hopeful that despite the difficulties that have been put our way the financial services industry will become a success story for Gibraltar. This will create employment, directly in the industry and indirectly as a result of the ancillary services which this activity provides. In ensuring that the greatest number of jobs goes to Gibraltarians I am also very keen to encourage employers in this sector to provide more training opportunities. Some have done so already in the past. I think more have to do so in the future. I would like to repeat that Government is willing to lend support, politically and financially to training schemes for both existing employees and for potential entrants in the sector. The passing of this legislation, the publication of the Regulations I have referred to and the announcement of our promotional campaign signals an important step in Gibraltar's financial services development. We look forward over the next few months to continue to work with the industry, with the FSC, with the European Legislation Unit and with the UK Departments to make sure that we fully exploit the benefits that these developments will bring to Gibraltar. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we support the Bill which is in fact in fulfilment of the commitment that Gibraltar would have equivalent, though not necessarily identical, provisions in its laws to that that the UK has, even where that is not strictly required by Community law, in the case of financial services, but clearly the first stage that we are talking about in the question of passporting is access to the UK market itself. Of course, that access to the UK market has now been pending for something like ten years. There was already the provisions, I think, in primary legislation in the UK Act which provides for Gibraltar to be treated as a separate Member State requiring the necessary rules to be brought in by the Secretary of State and that has been what has prevented Gibraltar, to date, from capturing or attempting to capture a share of the UK business. In the process some of that business has gone elsewhere and indeed to non-EU

locations like Bermuda and the Isle of Man and Guernsey which I think are the three which seem to have benefitted most. We certainly agree with the assessment that this is an area with great potential and capable of bringing in great benefits, particularly taking into account that it is capable of generating as well as direct employment the use of infrastructure, telephones, postal services, and so forth and the taking-up of office space all of which increases the size of the economic cake. Regrettably, the fact that we have been almost there but never quite for so long, has meant that some of the business has gone elsewhere and is no longer available to us. However, it seems to be an expanding market anyway, so the size of the market itself is getting bigger and we certainly support the view that it is an area worth concentrating on because it seems to be the one where Gibraltar can provide something which virtually nobody else can which is the combination of what is available in the Isle of Man or Bermuda or Guernsey but within the boundaries of the European Union. I would like the hon Member to give us an indication, in terms of the matching of the UK standards, of where in fact the difference lies in what the UK requires of its own insurance companies. Obviously the implication of this is, that they will be deemed to be UK companies in other Member States, because if we are going to match UK standards, it can be only because that is the way that the UK requires Gibraltar to operate in order to be treated as if it were UK. It certainly cannot be necessary to enter the UK market because everybody from everywhere else in Europe can enter the UK market without needing to match UK standards. So being treated as another Member State does not require, in our view, that the UK should ask us to have UK lookalike legislation. There is an argument for, say, being treated by third parties as if we were UK. This should be on the basis that the UK and the Gibraltar legislation provide the same systems, but it would be worthwhile to know whether in fact the difference between, the minima laid down by Community requirements and what the UK requires, is in fact all that much or onerous or significant.

HON P C MONTEGRIFFO:

Mr Speaker, firstly, with regard to the UK market itself, I would not envisage that once we achieve a positive audit that any pretext or justification would remain for the UK market itself to be denied to Gibraltar business. I am aware of the difficulties in that area but I do believe that they will fall by the wayside, in that any delays there, will no longer be in any fashion a problem. Dealing with the question of UK equivalence, I am not able to give the Leader of the Opposition an expose on the difference between the requirements in all this area

which of course is hugely complicated and voluminous as to EU requirements and UK requirements. I can say that the Bill does not derive from EU Directives at all, so one can regard everything in the Bill as being not required by EU legislation. I am sure this was the case even before I took responsibility for this area, there must have been areas that when introduced to implement, became a UK equivalence issue rather than an EU compliance issue. My understanding of the position is that the UK's position is that indeed it requires Gibraltar as part of the passporting test we have to go through to match UK standards so that we do suffer, if that is the right term, we do suffer from that lack of flexibility which is that we not only have to transpose EU Directives on a minimal level, we had this problem, for example, with the Money Laundering directives, we do not only have to transpose at a minimum level but in areas which are thought by the UK to have financial services implications and certainly passporting implications, the UK requires UK equivalence in our regulation and in our supervision. That does not mean that everything has to be done exactly the same as the UK. It is possible to achieve equivalence of standards using different language and adopting a regime which is less onerous administratively. This process is a long and detailed process over many weeks and many months, involving many departments, involving many draftsmen. I am not able on my feet and without notice to point Mr Bossano to what particular section, in what particular legislation, might be different to exact UK sections where we have tried, perhaps, to meet equivalence but in a different way. In general terms I am sure that he will recall that we are required to convince the UK that our system is broadly equivalent in regulatory and supervisory terms but making allowance for the size of Gibraltar. Our supervisory regime in insurance consists of two people, or one and a half people and therefore our equivalence in that area has to be tailored by the reality of what a small jurisdiction can produce and of course we have less business anyway so it has to be measured according to our needs and requirements.

HON A ISOLA:

Mr Speaker, is the hon Member satisfied then, that bearing in mind he cannot give differences at this stage on the notice that the requirements for Gibraltar matches UK, it is not any worse or more onerous than the UK requirements, is he satisfied of that?

HON P C MONTEGRIFFO:

I am satisfied that the advice we are being given is that we are going no further than we are required to meet that

minimum condition of UK equivalence. Indeed, in supervisory terms in particular I am always keen to ensure that we do not end up with a system which is unduly onerous as regards to the work that will be attracted. I am satisfied that we have made our best effort to ensure that is the case. I take this opportunity to just mention to hon Members that I will be moving an amendment to this Ordinance. Notice has been given and I will deal with that at Committee Stage.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

THE CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE, 1997

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. The reason for this Bill stems from a prosecution which took place towards the end of last year when a witness in a case failed to appear before the court even though properly summoned and subpoenaed. He did finally appear after a Warrant for his arrest had been issued but this instance highlighted the provisions of Section 66 of the Criminal Procedure Ordinance which provides for the powers of the court with regard to recalcitrant witnesses and enables the court to fine a person the maximum of £50. It is considered that this figure is ridiculously low and therefore the object of this Bill is to increase the maximum amount of the fine which may be imposed by the Supreme Court in such circumstances to level 3 on the standard scale which equates to the sum of £500. Mr Speaker, I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

We are supporting this Bill because it is in line with the kind of changes that have been brought in over the last few years, in many areas, where there were fines which had been there a very long time and forgotten. That was, I think, the occasion when we put in the system of different levels of the standard scale as opposed to a figure so that in future, by changing the level the figure would automatically be changed in all the legislation instead of each and every Bill having to be altered. I note that the hon and Learned Attorney-General has said there has been a case recently. I imagine this is an infrequent thing, it must be relatively rare for witnesses to not want to come forward and have to be forced. Is it indeed the case that the recent case is something that has not happened for a very long time? In any case, on the general principles of the thing, quite apart from anything else, we think that all our fines in all our legislation should be moving to be related to the level of the standard scale, and not to specific figures.

HON ATTORNEY-GENERAL:

Mr Speaker, in answer to the hon Member's question, in my time as Attorney-General this is the first time this has happened. I do not think it happens very often but of course when something happens and someone catches on, it does seem to happen again and again.

Question put. Agreed to.

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

THE GIBRALTAR DEVELOPMENT CORPORATION (AMENDMENT)
ORDINANCE, 1997

HON CHIEF MINISTER:

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

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, as hon Members are aware there are a number of quasi civil service type activities which are presently carried out by companies that are wholly owned by the Government of Gibraltar, namely the Gibraltar Information Bureau Limited and that it is the policy of the Government that this situation should not continue. The Government wants, in so far as is possible and practicable to bring these functions back within the public service in its more traditional and conventional sense. There are, however, problems in that there are members of the staff of Gibraltar Information Bureau Limited employed principally in such areas as the Employment and Training Board, tourism-related functions, citizens advice bureau functions, clamping functions, the GSS, all of these people are actually employees of the Gibraltar Information Bureau Limited, even though the Employment and Training Board already actually is a division of the Gibraltar Development Corporation. All the employees are registered with the Gibraltar Information Bureau Limited. In the case of tourism, they are both employees of the Gibraltar Information Bureau and indeed the function is carried out through the Gibraltar Information Bureau. The Government wishes to bring the functions more within public accountability and control but is not willing to incorporate and absorb all the people presently engaged in these activities as permanent and pensionable civil servants, nor on the other hand is it willing to dispose of that service simply to recruit new civil servants, it would be irrational and illogical. so the dilemma that the Government faced was how to bring these activities to a greater extent within an accountable public service system whilst preserving substantially the same people doing the functions without making those people civil servants. The route that the Government have chosen is to transform the Gibraltar Development Corporation into a vehicle through which relevant activities can be carried out and make the Gibraltar Development Corporation the employer so that, I have already said that the ETB is a division, the employees will become employees of the Gibraltar Development Corporation. The Gibraltar Tourism Board will become a division of the Gibraltar Development Corporation and the employees will become employees of the Gibraltar Development Corporation and so on. Therefore the Government identified a need to improve the public accountability of the Gibraltar Development Corporation given that it was going to become a vehicle, really an extension, of the arm of the civil service, or

the public service or the public administration and the object of this Bill is to do two things. At present the accounts of the Corporation, under section 24 of the Ordinance, the accounts of the Corporation says, "It shall be audited by an auditor to be appointed annually by the Corporation with the approval of the Governor", in other words, an auditor from the private sector possibly. The amendment requires the accounts of the Corporation to be audited by the Principal Auditor, in other words, as if it were a Government Department. The second amendment is introduced through section 25. Section 25 at present requires the Corporation to furnish accounts and information, accounting and financial information and statistics etc, but there is no statutory requirement for the accounts of the Gibraltar Development Corporation to be laid before the House of Assembly. So section 25 is amended by adding a new sub-section 3 requiring the Corporation's reports and accounts to be laid by the Government before the House of Assembly as soon as is reasonably practicable. The principles of this Bill is to increase the statutory and therefore mandatory requirements of accountability by making the accounts auditable, or mandatorily auditable by the Principal Auditor and requiring the Government to lay those accounts before the House of Assembly as soon as reasonably practicable. I therefore commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

The Opposition will vote in favour of the Bill. Let me say that in fact, as far as we are concerned, what the Bill requires the Government to do it can already do without the law being changed but it would have the freedom to do it or not do it. There is nothing to stop the Principal Auditor being appointed because he is an auditor and the accounts I think have been tabled from the first year. Certainly, the Gibraltar Development Corporation, in our view, is a vehicle which has got the potential to give the Government flexibility to undertake different activities and it was designed like that way back in 1988 but in fact very limited use has been made of it in the eight years that it has been in existence. We believe that it does enable the Government perhaps to carry out state-related functions in ways which can be more tailor-made to what it wants to do than if it is using historical structures. That is the purpose of the vehicle being there and if the Government makes greater use of it and produces better results for Gibraltar, then that is something that we will welcome.

HON CHIEF MINISTER:

Yes, Mr Speaker, I am aware that the accounts of the Gibraltar Development Corporation have in fact been laid in the past. I think I am right from memory, although I stand to be corrected, that the last set of accounts laid was 1992/93 and what the Government is now seeking to do is not just to make it mandatory that the accounts should be laid but that they should be laid as soon as reasonably practicable which is certainly not four years later. I accept what the hon Member says of course that the Government can voluntarily do this without changing the Bill. The Government policy and view is that mechanisms for public transparency should not be voluntary acts of the Government of the day. They should be required of the Government of the day by operation of law and therefore that is the reason why the Government enshrines in law what of course it is free to do voluntarily if it wants to.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

THE COMPANIES (AMENDMENT) BILL, 1997

THE INSURANCE COMPANIES (AMENDMENT) BILL, 1997

THE COMPANIES (AMENDMENT) BILL, 1997

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

Clause 2

HON P C MONTEGRIFFO:

Under section 2 there is a typographical error in what will be section 326(1) under Part XIII of the revised Companies Ordinance, that is on page 19. On the second line there is a reference there to Part 1, that should

become a reference to Part XII which hon Members will see is the reference on the last line of that paragraph. The other references are correct.

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

Clause 3, Schedules 11, 12, 13 and 14, were agreed to and stood part of the Bill.

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

THE INSURANCE COMPANIES (AMENDMENT) BILL, 1997,
Clauses 1 to 9 were agreed to and stood part of the Bill.

Clause 10

HON P C MONTEGRIFFO:

Mr Chairman, as I have given notice, in paragraph 10, in the section to be numbered 63A(2)(a) which appears on page 4 of the Bill, there is a need to add the word "or" after "Gibraltar" to make clear that each of those different sections are alternatives. So subsection 63A(2)(a) should read, "whose head office is in Gibraltar; or".

Clause 10, as amended, was agreed to and stood part of the Bill.

Clause 11 was agreed to and stood part of the Bill.

Clause 12

HON P C MONTEGRIFFO:

Mr Chairman, again, as I have given notice, there is a minor amendment to what will be section 75A(1) on the second line replace the word "secure" with the word "ensure". It does not really alter the meaning but it is felt by some that that meaning is best expressed by "ensure" than by "secure".

Clause 12, as amended, was agreed to and stood part of the Bill.

Clauses 13 and 14 were agreed to and stood part of the Bill.

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

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Companies (Amendment) Bill, 1997, and the Insurance Companies (Amendment) Bill, 1997, have been considered in Committee and agreed to, both with amendments, and I now move that they be read a third time and passed.

Question put. The Bills were agreed to and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 25th February 1997 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 11.20 am on Friday 14th February 1997.

TUESDAY 25TH FEBRUARY 1997

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J Netto - Minister for Employment & Training and
Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health

OPPOSITION:

The Hon J L Baldachino
The Hon J C Perez

ABSENT:

The Hon P R Caruana
The Hon P C Montegriffo
The Hon Dr B A Linares
The Hon J J Holliday
The Hon H A Corby
The Hon Miss K Dawson
The Hon T J Bristow
The Hon J J Bossano
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

ADJOURNMENT

The Hon the Minister for Government Services and Sport
moved the adjournment of the House to Monday 17th March
1997 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 10.05 am on
Tuesday 25th February 1997.

MONDAY 17TH MARCH 1997

The House resumed at 10.10 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism, Commercial
Affairs and the Port
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Building and works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon Miss K Dawson - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Chief Minister moved under Standing Order
7(3) to suspend Standing Order 7(1) in order to proceed
with the laying of various documents on the table.

Question put. Agreed to.

The Hon the Chief Minister laid on the table the
following documents:

- (1) The audited accounts of Gibraltar Community Care Ltd
for the years ended 30 June 1994 and 30 June 1995.

- (2) The audited accounts of Gibraltar Community Trust for the years ended 30 June 1994 and 30 June 1995.

Ordered to lie.

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

- (1) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 4 to 6 of 1996/97).
- (2) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 1 of 1996/97).
- (3) Statement of Supplementary estimates No. 1 of 1996/97.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

The Hon the Chief Minister moved under Standing Order 7(3) to suspending Standing Order 7(1) in order to proceed to the First and Second Readings of various Bills.

Question put. Agreed to.

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) (AMENDMENT) ORDINANCE 1997

HON H A CORBY:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996 be read a first time.

Question put. Agreed to.

SECOND READING

HON H A CORBY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the amendments to the Closed Scheme Ordinance are by way of clarification. The definition of the 1955 Ordinance is being amended for the

avoidance of any doubt that the references to the 1955 Ordinance do include subsequent amendments to the Ordinance since it was enacted in 1955. The definition of 'contribution' is also being amended to cover contributions credited under the 1955 Ordinance as distinct from paid or payable in the existing definition. The amendments to the transitional provisions in Sections 6 and 7 clarify the methodology for the payment of benefits to different categories of contributors who are covered by both the closed and open scheme. The power to alter pension rates is removed. The remaining amendments are to tidy up a series of minor omissions in the main Ordinance which was brought to the House last year. Because amendments to the Regulations made under the principal Ordinance are to be amended retrospectively with effect from the 1st October 1996, prior to their making, the amendments are effected by primary legislation in this Bill rather than by amending regulation. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON R MOR:

Speaking on the general principles of the Bill, as the hon Minister has said, the Bill intends to clarify the Ordinance where necessary and looking through the Bill I have come across an amendment which refers to paragraph 13(1) of the original Ordinance of the closed scheme, the amendment is on page 60. In section 13(1) special provisions as to men, paragraph (c) is replaced with the following, and it says, "(c) whom he has married after attaining that age, if the following conditions are satisfied, that is to say." We go on to the actual Ordinance and 13(1) paragraph (c) says, "Whom he has married after attaining that age if the following conditions are satisfied, that is to say...."

HON CHIEF MINISTER:

The hon Member is quite right. We have not yet raised it because it is very much a Committee Stage point but this is an area in the Bill which we are going to correct at Committee Stage. There is not intended any substantive change to this section from the 1955 Ordinance, it is just that in the Closed Scheme Ordinance, as originally legislated and published, one line becomes linked to the one above it where it should have been separated. So this is an error, it is secretarial in nature, the proposed amendment, and the required amendment will be clarified at Committee Stage. The amendment has no effect on the content of the section, it is simply on the secretarial layout of the section as it has been printed

in the Closed Scheme Ordinance, but as it does not raise a matter of principle, we thought we would leave it till the Committee Stage.

HON R MOR:

The amendment also introduces new section 7A which refers to the Transitional Provisions and what seems to me is, that the intention is to apply what is normally applied in the aggregation rules where persons make contributions to different countries under EU aggregation rules and in this case they are making provisions for persons who have contributed to both the old scheme and the new scheme. One of the things that comes to mind is that this may very well bring about differences in the pension payments that will be made to pensioners in future if you consider that although in the old scheme the powers of changing benefits have been withdrawn, it does reappear under the new scheme. Consequently, if benefits are increased under the new scheme and pensioners in future will be apportioned benefits, taking into account the contributions made under the old scheme and the new scheme this would mean in effect that, for example, the younger pensioners who have made more contributions under the new scheme would be getting a higher pension. That is an anomaly that could affect the whole scheme in the future. I have nothing further to add at this stage.

HON J J BOSSANO:

Mr Speaker, what we consider seems to be happening is, that in fact rather than simply a tidying up exercise, we have some changes to the Ordinance which reflect some of the reservations we expressed last September when the Closed Scheme Bill was brought before the House. To take but one example, I raised at the time how it was that under section 38 we were making provision for the Minister to be able to increase benefits, given the fact that the whole purpose of the UK insistence on the closed scheme was that it should be incapable of the benefits being increased because of the liability to them. In fact the position was defended by the Government on the basis that putting the provision there did not mean that the benefits were going to be increased but that the closed scheme would continue to have frozen benefits so that at some hypothetical future date the Government might be able to persuade the British Government to provide additional funds for increasing the benefits for Spanish pensioners. In which case, if and when that happened, since the increasing of the benefits would then have to be subject to a resolution of this House, it would give us an opportunity to debate it and we left it at that. I must say the explanation was not a 100 per cent convincing because it seems to me that if you put a

provision that the possibility of increasing the benefits exist, then you are inviting people to suggest that the benefits should be increased. I was surprised that the UK Government, who seem to be so concerned about the liability they created for themselves and which they wanted to pass on to us, should be happier to go along with that. Therefore, simply to say we are now repealing something that was defended as being worth including as recently as last September, presumably what we are going to get is a more intelligent explanation than simply to say we are repealing it. We know we are repealing it, we read it.

There are a number of other areas where, for example, in the question of the pre-occupational pension payments we questioned whether the way the Bill was drafted in September made sense since it appeared to be generating a liability for the two kinds of payments. I note that now we are deleting the reference to the pre-occupational pensions payment even though at the time we were told that the description of the payments that had to be made should be at the same description and at the same rate as the Ordinance, which I thought was a very clear exposition of what it had to be. We were then told that this was one of the essential clauses on the Bill which had been carefully studied by Mrs Astbury and every expert in the land. Of course, if it is that some of our comments since then have led to a second look being taken and as a consequence of that things in the definitions tightened up so that it is not possible to put different interpretations, then we welcome that that should be happening because that is, as far as we are concerned, the contribution that we have to make to legislation when it is brought to the House to look at it and raise the doubts that it generates in our minds so that they can be looked at if they have not been looked at by other people before.

The question of contributions being paid or credited, which was another issue which we raised in September and presumably, although we raised it in different clauses by extending the definition in the part of the Ordinance that deals with definitions so that contribution includes a credit as well as a contribution that was either paid or payable, I imagine that the effect of that will be that even if in subsequent clauses there is a reference to the contribution being paid because of the definition in the first introductory paragraph of the Ordinance, that will not take care of the proposal we made last September where it seemed to us that the fact that in some clauses there was only a reference to it being paid could affect the way the contributions there could be circulated.

We are not absolutely sure that what is being done in altering the pre-occupational pensions payments as at the 1st October 1996 in terms of how it integrates into the closed term benefit fund does the job in an entirely foolproof manner but presumably, given the fact that the thing has now been in operation since October the changes that are being brought in to put right what appeared to be subject to more than one interpretation in the original version will be curing that. In the area of the new element, which is the transitional provisions, there is a reference to the closed and to the new open scheme just like there is a reference in the open scheme to the closed scheme. That would suggest that really if we look at this and on the Bill that is due to come up before the House, there is now a level of continuity between the two that makes it almost tantamount to restoring what was suspended on the 1st January 1994. We have gone through this whole saga because the UK initially insisted on payments stopping in January 1994 and now have agreed to the restoration of payments from January 1994 but we shall have more to say on that when we come to the open scheme. The fact that the open scheme is mentioned here and that the closed scheme is mentioned there is almost as if there was only one scheme even if it is divided into two parts which is certainly not what was the UK view, which is, that there should be a clear break between the two. It seems to be doing the job in a different way from the way they were saying in 1996 was needed. Given the fact that that is the case it would certainly have been a far less complex thing to have put it all back in as at the 1st January 1994 because in fact the bulk of the provisions are simply what was there already. We are not providing new benefits or additional benefits or anything else, what we are doing is providing what was stopped in 1994.

HON CHIEF MINISTER:

Mr Speaker, the transitional provisions as the hon the Opposition spokesman for Social Affairs has pointed out are there only and I think he himself drew the parallel with the aggregation, international aggregation provisions, they are there only for the purposes of calculating the average, the yearly average, of weekly contributions. In other words, when you are calculating somebody's entitlement to pension under the closed scheme you have got to work out a weekly average contribution as has always been necessary. That person is entitled to have taken into account also contributions that he has made post-31st December 1993 under the new scheme and vice versa. Beneficiaries under the new scheme, when they are having their weekly average contributions calculated, hon Members know that you are not entitled to any level of pension unless that weekly average is a

minimum of 13 and therefore people who have made contributions under the new scheme are also entitled to have any pre-31st December 1993, in other words contributions made under the old scheme taken into consideration for the purposes of working out their average in the other scheme. In other words, for the purposes of working out weekly averages under both schemes, what is taken into account is the contributions that you have made to both schemes together but then of course under each scheme you are only paid the rate of benefit pro rata that you are entitled to. In other words, the transitional provisions in 7A really boil down to the statement that for the purposes of working out your contribution under the closed scheme and hon Members will have noticed that there is an equivalent provision in the proposed open scheme that we will be debating in a moment, so limiting myself just to this Bill, what this says is, that when calculating your weekly average contributions under the closed scheme we will take into arithmetical account contributions made under the new scheme for the purposes of working out the weekly average. It does not as the hon Member himself has correctly identified result in any body obtaining as a matter of the operation of this section any higher or lower pension, except I think the point the hon Member was making was that under the new scheme pensions can be increased and it is certainly true that if any future Government of Gibraltar or any future Minister with responsibility for social affairs decided to invoke its power to increase the rates of pension, then it would certainly be the case that people that were getting pensions under both schemes would end up getting it at a lower rate under the closed scheme and at a higher rate under the new scheme and indeed that people that were only getting their pensions under the open scheme would get a higher pension than people that were only getting it under the closed scheme. All those things are true but of course they are things that will have to be taken into account and addressed somehow if and when a future Government may make the decision. The policy of the Government and the reason why it is in this scheme and indeed the reason why we put it in the closed scheme was that in the Government's view there ought not to be a social security scheme in Gibraltar in which the Government does not have the statutory power to alter rates. Another thing is whether we do or we do not and certainly as I shall be commenting in a moment in respect of the closed scheme the Government has an understanding, an agreement, on the part of the United Kingdom Government, an expectation that the rates will not be increased under the closed scheme. One thing is to have the power to do it and the other thing is to do it or not and I certainly do not accept the principle, although we have acceded to it in respect of the closed scheme at the

United Kingdom's request, I do not accept the principle that Gibraltar Governments cannot be trusted to honour their agreement. The Gibraltar Government have agreed that there will not be an increase in pension rates under the closed scheme, it is not necessary for that agreement to be honoured and the Government should not have the power to do so. If we were minded to use that power to increase rates under the closed scheme, in breach of an agreement, we might just as easily bring amending legislation at some future date to give us that power. So the question of whether we have got power and whether we use it in breach of an agreement with the United Kingdom are two very different things. So certainly what the hon Member has said is true, the power to increase pension rates under the open scheme exist and if it is used it would certainly result in anomalies as between people getting two different rates of pensions under each scheme and people who are only getting pensions under one of the schemes will be getting them at different rates and that will have to be taken into account. The hon Member said that this was not just simply a tidying up exercise. I think that is right and I think it was recognised in the opening address of my colleague the Minister for Social Affairs. The hon Leader of the Opposition is also right when he says that he hopes and expects that the Opposition's comments on legislation are taken seriously and constructively as I hope my or our comments used to be during the last four years when we commented on their legislation. This is the whole purpose of bringing legislation to the House, especially legislation where there is no political controversy to the party then we might in such case argue about the wisdom of the policy underlying the legislation but certainly even then in relation to the technical aspects and certainly in relation to technical legislation the comments made by the Opposition in this Bill and indeed in any other Bill that we might subsequently debate in this House are taken seriously. Certainly the Leader of the Opposition's comments were analysed and those that were found to have merit, either outright merit or to raise ambiguity which might just as easily be dealt with than left in the air, were addressed. The amendment in clause 3(14) of the Bill amending Section 38 to remove the rates of benefit, is an amendment that we bring to the House at the request of the United Kingdom Government who felt more comfortable, let us put it that way, this power not existing. It is in my opinion somewhat academic but still the point is not that important from our point of view but it was worth arguing about. I do not think that there was anything in the agreement that the previous administration entered into with the British Government to the effect that the legislation would not include the power although certainly there was an agreement that the pension rates would be frozen and not

increased. This amendment is not inconsistent with that agreement and therefore if the United Kingdom Government feels strongly, that they are more comfortable without this power, well so be it. The amendment to the rates of benefit, where it previously used to speak of people now being entitled to benefits under this Ordinance of the same description and rate as in the transitional regulations, the hon Member raised the question whether that entitled everybody to a full pension under the new Bill regardless of the allocation between the two given that they were presently receiving the full amount under the transitional rules. That has been considered by the experts. They do not entirely agree that the matter means what the Leader of the Opposition suggested but certainly they accepted that it was open to that interpretation. As it was open to that interpretation, the Government took the view that it should simply be clarified to put it beyond ambiguous doubt and that it ought to be done in the interest of good legislation. That is certainly one of the precautionary amendments that follows from the comments of the Leader of the Opposition when this matter was debated some time ago. The third one that the Leader of the Opposition mentioned, the amendment to the definition of contribution to include paid or credited, falls into both categories. In other words, there are many references throughout the Bill where it says, "paid or payable" and the hon Member asked, "Well, should it not in all cases say 'or credited'?" The answer to that question is no, except in one case. In other words, in all the instances in the Ordinance where it says, "paid or payable", it means paid or payable except in one where indeed it should have said "or credited". This is the amendment introduced to section 3(1) of the Ordinance and I think that is introduced by section 3(3) of the Bill on page 57, which amends section 3(1). In section 3(1) of the original Ordinance as it was legislated reads, "There shall be established a fund called a 'Closed Long-Term Benefits Fund' for the purposes of paying benefits in accordance with the following provisions of this Ordinance to persons who were insured under the 1955 Ordinance and whose entitlement to benefits under this Ordinance derives from contributions paid under the 1955 Ordinance". Clearly, there it should have said "paid or credited" otherwise no payments would be allowed under the entire Bill, "to people who in respect of credited contributions", because it would not have been a charge on the Fund. Certainly, in section 3(1) of the Ordinance there has to be a definition, a reference to credit, and that is introduced specifically by that amendment in section 3(3) to section 3(1) of the Bill. But having reviewed each reference to 'paid or payable' in the Ordinance the technicians have come to the conclusion that there should not be a reference to payable. The

alteration to the definition is of course on a "case may be" basis. The hon Members will I am sure have noticed that the definition of contribution is amended to read, "Contribution means a contribution paid or payable or credited as the case may be". It is certainly not there for the case that every time that there is a reference to contribution in the Bill, it means that it means, "paid, payable or credited" because it is all qualified by the words "as the case may be", and therefore it is still a matter for what reference there is in which section of the Ordinance. But certainly the hon Member is right in saying that all of these points were revisited following the remarks of the Opposition at the previous debate when this matter first came to this House and that is the extent to which it has been considered necessary and/or desirable to introduce amendments to accommodate those points.

It is inevitable that there has to be a connectivity rather than continuity between the two schemes, if only for the reasons that I have just mentioned about calculation of weekly averages. There is continuity only in the sense that the closed scheme is restored. In other words, what was done during the last House was, that during the last administration the SIF 1955 Ordinance was repealed and the scheme established under it therefore wound-down with effect from 31st December 1993. The closed scheme in effect restores the position to what it was before that. There is then continuity, which I think is the word the Leader of the Opposition used, to this extent only, and that is, that the new scheme that we are about to debate later on the agenda, on the Order Paper, is retrospective to the 1st January 1994 and therefore there is continuity in time. There is also continuity, and this is something that we said in the previous debate on the closed scheme was a matter of Government policy, in that the Government had decided at this stage not to review the pensions scheme in Gibraltar, which it could have done I suppose under the open scheme benefit, so there is continuity in the sense that the old scheme which was put back in respect of, up to the period 31st December 1993, also forms the basis of the open scheme which is from the 1st January 1994 onwards into the foreseeable future. The UK Government certainly have insisted on what they call "the clean break". They wanted clear water between the suspended arrangements and the new arrangements. Of course, that clear water does not come in the form of substantive changes to the scheme. Their concern, and of course they have approved this legislation, their concern is that it should be seen to be legalistically a distinct measure. In other words, that this is not a question of recommending the Ordinance which could not be recommenced, we debated this at length in the last House,

which had been repealed. Their definition of "clean break" apparently, and I take the point made by the Leader of the Opposition that it seems somewhat disingenuous, but their definition of "clean break" is that it should be seen to be a premeditated act of re-introduction rather than blurring the fact that the original one was suspended. It is a matter for them, they are satisfied with this legislation. It is a clean break in the sense that it comes in the form of new legislation but of course as hon Members have pointed out, the substantive provisions are very similar and hon Members will notice when they read the Long Title of the open scheme, they will see that it talks of establishing a replacement scheme rather than re-establishing the old scheme or continuing the scheme or something like that and this is the language which is intended to acknowledge the fact that this is a new start, albeit a new start with old schemes. It is frankly rather semantic from where I am sitting but they seem to attach some importance to it so, so be it. I think that is all that I need to say.

The final point that I would like to make is just to give a word of explanation as to why hon Members had received a letter giving notice of amendments to this Bill which suggested that the references in the Bill as published, to amendments to the regulations made under the Ordinance, that that was in error and that it should not have been done in the Bill but done separately. But in fact that was not an error. The explanation which has already been given by my hon Colleague is that there is doubt, this is sort of a legalistic matter, there is doubt about whether in fact you can, in the absence of specific provision in the enabling legislation, whether you can amend regulations retrospectively. In other words if an enabling Ordinance that gives power to make regulations says, for example, "The Minister will have power to make regulations for this, that or the other" and he makes those Regulations and after a period of time he wishes to amend those Regulations, well clearly, he can introduce amendments effective from the date when he introduces them. But there is legalistic doubt as to whether in the absence of a specific power in the enabling legislation to make regulations retrospectively there is doubt whether such retrospective amendment to regulations would be intra or ultra vires. That is why the amendments to the regulations are introduced in the Bill because they are retrospective not because of the content. The content of the regulation could have been made by new regulation if it had been sufficient for them to start from the date of their publication in the Gazette but because they are backdated to the date that they will commence, 1st October 1996, it was thought necessary, and therefore, what was issued in error was

the letter suggesting that it needed an amendment rather than the original inclusion in the Bill.

Question put. Agreed to.

HON H A CORBY:

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

Question put. Agreed to.

THE SOCIAL SECURITY (OPEN LONG-TERM BENEFITS SCHEME) ORDINANCE 1997

HON H A CORBY:

I have the honour to move that a Bill for an Ordinance to establish a replacement scheme to the Social Security (Insurance) Ordinance 1955 for the purpose of providing pecuniary benefits by way of Old Age Pensions, Widows' Benefit, Guardian's Allowance and Widower's Pension in respect of contributions paid by or credited to insured persons after the 31st day of December 1993 and for connected purposes be read a first time.

Question put. Agreed to.

HON H A CORBY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, as I explained in this House on the 4th September 1996, when presenting the Closed Scheme Ordinance, an agreement had been reached between Her Majesty's Government and the previous Government of Gibraltar in February 1996 which addressed the question of existing and future pension arrangements to be put in place in Gibraltar. The Bill now before the House concludes that agreement. It gives legislative effect to the creation of a new pension scheme for current and future contributors backdated to the 1st January 1994. The Bill essentially replicates the relevant provisions under the 1955 Ordinance and is presented in six parts. Part 1 makes general provision for the normal title and interpretation clauses. Part 2 describes the insured persons, the sourcing of funds and makes provision for the payment and collection of contributions. The main innovative feature is section 3 and 3(4) which provides for equalisation of pensionable age as between men and women by not later than the 31st December 2020. I should explain that progressive steps towards equalisation of pensionable age is a EU requirement. The target year of 2020 has been identified in line with the year targeted by the United Kingdom. In the case of Gibraltar the

present aim is to equalise at the age of 60 for both men and women. In the United Kingdom the reverse applies in that equalisation is gradually being introduced not at age 60 but at 65. The Gibraltar Government considers that the right to entitlement of an old age pension should be progressive, not regressive; aim of policy for social improvements. However, the costs involved are not inconsiderable. Equalisation at the age of 60 with immediate effect would cost the Pension Fund an additional £3 million per annum. It is therefore necessary, indeed financially prudent, to make provision for a phased transition. Part 3 establishes the Open Long-Term Benefits Fund. I would only highlight the transitional provisions in respect of the interim arrangements under the (Pre-Occupational Pensions) Levy Regulations 1993. For purely accounting purposes monies standing for the credit of the pre-occupational pension payments fund on the 31st March 1997 will be credited to the new fund. This does not alter the nature of the retrospective provisions of the Bill now before the House. Part 4 describes the benefits payable and conditions applicable to contributors. They basically reproduce the provisions under the 1955 Ordinance, including of course the necessary transitional provisions in moving to a new scheme. The main difference lies in section 12 where provision is made for the calculation of benefits on the basis of a pro rata formula. Part 5 deals with administrative procedures and legal proceedings in keeping with past practices. Tougher provision is made for penalties of offences committed under the new Ordinance. Part 6 miscellaneous, again provides for those additional features of the new pension scheme common to area registration. The provision of a schedule to the Bill are also largely replicating earlier legislation. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON R MOR:

I have taken note of what the hon Minister has said with reference to the equalisation of ages which is something new which has been introduced. Otherwise the scheme as such, as was mentioned before, is very much practically a further re-enactment of the 1955 Ordinance. The last time we debated this issue, when the closed scheme was proposed, there were certain reservations expressed by the Opposition especially as regards any possible infringement on European Union law on the basis of discrimination. During that debate the Chief Minister did say that equalisation must be immediate if a new scheme was brought into effect, I am not sure whether that is the position, at least my understanding at the

time was that. Also differences between the treatment of sexes in other sections of the Bill, which again allows for discrimination of sexes, which has been against European Union law, and as I say, it was my understanding that whilst time could be given to correct this on long standing schemes, that if new schemes were to be introduced, the equalisation should be immediate. Obviously, I will wait for any explanations on this. Otherwise I think most of the clauses contained in the Bill have already been debated during the previous debate given that it is practically the same re-enactment again. I do not think I need to go into all the other clauses as well. We will be reserving our position until we clarify some of the things.

HON J J BOSSANO:

If we just look at the question of the equalisation of retirement, where the Minister has said that the objective would be to equalise at the age of 60 and not at the age of 65 as has been done in the United Kingdom, in fact there is no provision for equalisation in the Closed Long-Term Scheme, and there is a provision for equalisation here. That in itself immediately, I think, creates a contradiction with the calculation of benefits pro rata to the contributions made before 1994 and post-1994, if in one case you are calculating it to the age of 65 and in the other case you are calculating it to the age of 60. Quite independent of that, in September, we were told that in fact the requirement under Community law was that there was time given for existing schemes to phase in the equalisation but that you could not commence a new scheme which did not have from the beginning the equalisation. Certainly, that was the view of the experts before in the United Kingdom and I assume that the experts have once again changed their minds in this as they do with monotonous regularity. Given the fact that there was a certain logic to the view of the experts, that is to say, that in any provision for changes that the Community brings in there is normally a grandfathering provision which allows what is already in place to be altered over time, but the grandfathering provision does not apply to new entities starting on the date after the Directive has introduced those requirements. In fact, the ability to phase in equalisation in this Ordinance lends weight to the argument that the Ordinance is not in fact the creation of a new scheme to replace the old scheme that has been repealed. What we have is a scheme which counts the contributions that have been made since 1955 and pays the benefits that would have been paid since 1955 with the last amendments made which were in 1988 when the United Kingdom made it a condition that benefits had to be frozen otherwise the cost to them would go above the £210

million. Since virtually everything else, other than that, is providing in the new scheme what was in the old scheme and what is in the closed scheme, I would have thought that anybody looking at the three pieces of legislation, the 1955 Ordinance, the 1996 Closed Ordinance and the 1997 Open Ordinance, will be hard put to tell which is which, they all look the same. If of course the Government have been told that the clean break, which was considered to be so essential to protect them from challenge and contingent liabilities is achieved by doing it this way, then I think what we want to put clear is that we are supporting it on the understanding, that if they are wrong, and anybody can challenge this, or they are right, if they believe that they are entitled to claim something, then of course if such a challenge is materialised and proves successful, it will be the UK that will meet the Bill given that it is their advice as has been the case on other occasions in the past in relation to social security that is being taken. Therefore we will support this Bill because, frankly, what this Bill does, as far as we are concerned, is it puts back everything as it was in 1993 before the UK decided that it had to be stopped in 1993. It certainly means that the Government, in our view, should be looking at ways of protecting our own people in the knowledge that anything we do with this is liable to bring with it consequences which the UK may well then argue are our responsibility because we are changing this.

If we look indeed at the Bill, since we are talking on the general principles, it is difficult to understand how one can argue that there is a need to include, for example in part 4, under the benefits, a provision that allows somebody to get a pro rata payment of the frozen benefits in part 2 of the second schedule. So that means that what we are saying in this Ordinance is that an old age pensioner after 1994, who retires not having lived in Gibraltar since 1970, would be entitled to a pro rata payment under this Ordinance on a full pension of 60 pence a week. He can only be entitled to a proportion of the 60 pence a week under this scheme because of the stamps that he has paid since 1994. But how can he have paid stamps since 1994 if he has not lived here since 1970? The only reason why that is there is because it was there in 1955. We are making a provision in the new law simply by copying it from the old law but it is a provision that is incapable of implementation because, if the person has to aggregate his contributions since 1994 in order to get a pro rata payment of the benefit that he would have had only if he left Gibraltar in 1970, how did he make up the contributions since 1994 which are being counted under the rules provided in the Ordinance? I think one of the dangers therefore in simply putting the

thing in wholesale is of course that the circumstantial evidence that this is the 1955 Ordinance in all but name, is very conclusive I would have thought. Frankly, I think if we had restored the position of the 1955 Ordinance, which I think could have been done but then Government Members know that I do not agree with their analysis that it was impossible to do, I think it would have been possible to do that with less complication and protect the position of the UK equally. I was not able to persuade the British Government that there was no need to go down this route in order to protect their position but it seems to me that in any case the manner in which we have gone down this route is as if we had restored the 1955 Ordinance and I have given that particular example because it is one that is self-evident, I would have thought. I am sure that if we actually went through every single clause and did a similar exercise there are bound to be similar provisions in respect of other things and essentially what we are saying is, the contribution record starts when the Ordinance started in 1955. Let me say, that I do not agree that the only way that it can be done is the equivalent of aggregation and apportionment, which the Chief Minister said was the definition that I had used before, in the sense that I believe it is possible to draft rules which say, "The benefit shall be so and so under the closed scheme based on contributions paid up to December 1993 and a different formula for eligibility to benefits based on contributions paid since the 1st January 1994." It is possible to do that and to produce two separate sets of calculations which would not prejudice the position of anybody from what it would have been had the 1955 scheme not come to an end in December 1993. An alternative way is, the way that this Ordinance does it, which is essentially to say hypothetically, "If neither of these two Bills were in existence the person retiring in 1998, having been insured since 1955 and having paid so much into the Social Insurance Fund will get a pension based on having an average of 50 contributions a year since 1955, and pro rata payments if those contributions are less." What we are doing is then saying, "But that hypothetical payment, that hypothetical non-existent situation, is now going to be reflected in a real life situation by apportioning what has happened since 1994 through the creation of the levy and the pre-occupational payments, which were temporary arrangements which will count as if they had been in this Ordinance since 1994 and share out the cost of that pension partly to the closed scheme and partly to the new scheme." That, as we understand it is what this Bill does and that is why there is a mirror provision in the closed scheme and in the open scheme. Where in the closed scheme you hypothetically assume there is no open scheme and then do a pro rata payment and in the open scheme you hypothetically assume there is no closed scheme and do a

pro rata payment. That, plus the other features of the Bill, including the fact that we are under no obligation to equalise until the year 2020 as if the scheme was not new, plus references to provisions in the 1955 Ordinance which are incapable of implementation if the scheme is new, in my view, creates a framework and we are supporting this because clearly, what we are doing is restoring what had to be ended which we did not particularly want to end but which we had to in order to deal with the UK which made them pay the Bill for the Spaniards. Really the comments I am making are not in terms of criticising anything but simply pointing out that these are inherent dangers that we see in this and that again since all this has been cleared by London, our view is, that if London has cleared all this and they are happy that this is not going to be a time bomb ticking away, then that is fine, as long as it is their time bomb, not ours.

HON CHIEF MINISTER:

I recognise that it is just all hypothetical banter because the Leader of the Opposition has himself recognised there is more than one way of skinning a cat and this particular cat has been skinned in this way in terms of the apportionment and pro rata transitional provisions. But that said, I do not agree with the hon Member where he says that it would have been possible to do it yet another way which would have been completely disconnected mathematical formulae creating benefits in the new scheme based on contributions paid after the 31st December 1993 and benefits from the closed scheme based on contributions made prior to the 31st December 1993. The reason why it is not possible to do it that way is the point that I made in answer to a point made by his Colleague the spokesman for Social Affairs that you have to link the entitlements under the two schemes for the purposes of calculating the weekly average. In other words, in calculating the benefit under the open scheme, for example, you have got to reckon with the contributions paid under the closed scheme and vice versa and therefore the moment that you have to lump the contributions of both schemes together for the purposes of computing a weekly average which throws up an entitlement, the moment you lump them together you have then got to subtract, there is no way of arriving at what the pension rate that you are entitled to under either of the two schemes except by a process of subtraction because you have added them together for the purposes of calculating what the hon Member correctly calls the theoretical rate but in any case this is the view of the actuaries and this is the way that they said it could be done but it seems clear to me that the suggestion that it was possible, which I think is what the Leader of the

Opposition said, that you have got to have two completely free standing bits of legislation in which you could calculate your entitlement under the closed scheme by reference only to contributions paid before the 31st December 1993 and that then you can have a completely separate Ordinance in which you could calculate your entitlement to benefits under the open scheme by reference only to contributions paid after the 1st January 1994 the suggestion that that is possible, seems to me to be wrong given that we have got to link it for the purposes of the weekly average unless the hon Member can devise a model which breaks away from the concept of weekly average contributions, with yearly average weekly contributions. I do not know whether he wants to have a word on that.

HON J J BOSSANO:

It is not that it is academic and it is clear that it was not possible to do it once we legislate requiring the opposite. What I am saying is that when we were discussing the matter with London we were discussing it on the premise that that is what was going to be done, that there would be two separate schemes and that in fact the greater the difference between the new one and the old one the better the protective mechanism. In fact, we have finished up with something where the differences are difficult to find. What I am saying is, in our view this is one way to do it but it is not the only way to do it and in our view it is possible to have a way of paying a pension from the 1994 fund and a pension from the 1993 fund. In any scheme that you start from zero one of the things that you have to do is to work out people's entitlement to benefits on the basis that their entitlement to benefits cannot be generated by contributions made prior to the start date because it is not possible to make contributions prior to the start date. This is what had to be done in 1955 when there was no scheme in existence and therefore you then have a formula which takes into account, in arriving at the averages what was possible to pay so that one cannot ask people to have a greater number of contributions into a fund than were possible by the passage of time since the fund started. That is what it does with new funds. Of course, with existing funds that is not done because the averaging out itself changes the amount of contributions one requires, the longer the fund has been in existence. In fact the 1955 fund would not have matured until the year 2000 because there is a working life of 45 years between the age of 20 and the age of 65 and the fund came to an end before it reached maturity. This is not a scheme which is a new scheme which therefore has those characteristics that are inherent in new schemes. Our position therefore is that we do not agree that it is

impossible because in fact when we are working on the premise that that was the way it should be done and that was the way it would be done but it has been done in a way which has satisfied the UK and therefore, that is fine except that it goes contrary to every argument they used in 1996. I think the Member has not addressed why he feels that we are talking about giving people a proportion of 60 pence a week because they have not lived here since 1970 and yet we are counting the contributions they have made since 1994.

HON CHIEF MINISTER:

The hon Member says that they were working on a basis of doing it differently. I have to say that no one in the Government administration has been able to produce any working papers on any drafting. The reality of the matter is that at the time of the election in May 1996 no work had been done in relation to detailed drafting of the pensions legislation, all this is starting from a complete new sheet. No thinking had been done. I know that the hon Member had had one working meeting with Mr Curran but no one had put pen to paper to draft or to devise schemes and the fact of the matter is that when our local pension people in the form of a group that the Government put together to advise the Government on this issue considered the question of the apportionment of entitlement, they quickly reached the conclusion that such formula as the one contained in this Bill would be required and the United Kingdom agreed. I do not know what fears or concerns the United Kingdom had before May. All I can say is that this formula is a formula which is in fact one that they have put up changing the wording of the formula that we had put up. The hon Member may be right in saying that it might have been possible to treat the open scheme as a brand new scheme and then use the sort of entitlement entrance provision that one would in an open scheme but why should one want to do that when there is a historical reality that one can actually use as actual empirical data rather than speculate with formulas that may or may not address every case properly. I think there is no need to dwell on that. I think the only point that the Leader of the Opposition was making was that the Government had chosen to do it one way and that there would have been other ways if we had wanted to do it. But I do not think it has been suggested that this way does not work. The Leader of the Opposition persists with his view that the 1955 Ordinance could be somehow resuscitated. I do not want to engage in a legalistic debate because I recognise the fact that I am a lawyer and he is not, but he must really acknowledge the facts as they are and not perhaps as he thinks that they are but then when the lawyers put his instructions into effect they did something different and did not

explain it to him and he is at cross purposes with what happened. What actually happened in 1993, he may not remember this, but what actually happened was that all the provisions that a Bill came to the House.... or was it done by Regulation? In either case, by Regulation, regulations were published which in effect in layman's language said, "All the sections in the Social Insurance Ordinance....", the 1955 Ordinance, "which deal with old age pensions, widows' pensions....", in other words all the things that we are now concerned with in this new legislation, all those sections are repealed and it clearly says, "are repealed". As a matter of trite parliamentary and legalistic fact, once an Ordinance has been repealed, all the relevant sections in an Ordinance have been repealed, one cannot resuscitate them except by re-legislating because repealing means that they are off the statute books and the only way one can put something back on the statute books which is off the statute book is in effect to start again by new legislation. We could have introduced the new provisions by regulations instead of by legislation but it would still have required a new legislative act. If the hon Member still believes that there was some way that the 1955 Ordinance could quietly have been reactivated, given that he had repealed all the relevant sections in it, then I would urge him to take legal advice because I am certain that the legal advice will be to the effect that it could not be done in any way. In other words, once repealed, legislation has got to be re-introduced and the only way to re-introduce legislation is by a legislative act be it by primary or subsidiary legislation but by a new legislative act and that is for sure.

On this question of equalisation, let me say that the United Kingdom Government's position initially was that we should equalise immediately and I said our position was, "Well, look, why should we equalise immediately, you have not equalised immediately and there is no requirement under EU law to equalise immediately". Before I go to explain what actually the European Union requirements are on equalisation, one of the concerns that one had with equalisation and this is the point that I raised in my discussion with the UK Government officials is, "Look if you force me to equalise under the new scheme now, because it is a new Bill, because it is a new legislative act, and that is the justification for you saying because it is a new legislation, EU law requires, which it does not, but let us say that EU law did require you to equalise simply because it is new legislation and therefore you are required to equalise immediately," I said, "well, look, the closed scheme is equally new legislation so why do you not require me to equalise under the closed scheme but of course if you require me to equalise under the close scheme who is

going to pay the cost of the Spanish pensions to the pre-1969 male 60 to 65? I am not going to equalise by penalising our women. I am going to equalise by benefiting our men and therefore who is going to pay the Spanish pension bill in respect of five years advancement of pension rights to 60 year old pre-1969 Spanish pensions?" I think that that argument was persuasive. The result was that we were able to persuade the United Kingdom Government of two things. Firstly, that the fact that this was a new legislative act, whether an Ordinance or Regulation, was not the test under European Union law as to the requirement for immediate equalisation. What the European Union law requires is Member States to take and I quote, "progressive steps towards equalisation". that is the requirement of the Directive, "progressive steps" and that if there are new schemes in respect of new schemes the equalisation must be from the first day. In other words, in respect of existing schemes there must be progressive steps for equalisation. In respect of new schemes there must be immediate equalisation but of course "new" does not mean newly-introduced by new legislation. "New", and there is legal authority which we found in the European Court of Justice and there have been cases of people that have tried on such claim, "new" means schemes in which there is a substantive material change in the nature and extent of the benefits. Therefore the test of newness is not whether we introduce it on a new green bit of paper called the 1997 Bill as opposed to the 1993 Bill, that is not the test of newness which in turn triggers the obligation to equalise, the test of newness in European Union law is whether there is any real substantive change in the nature, extent and entitlement to the benefit. That is why hon Members will remember when we first brought the closed scheme to the House we said we want there to be as few changes as possible precisely from the 1955 scheme, precisely so that no one could argue or we do not potentially fall foul of the definition of newness. In other words, to the extent that we replicated the 1955 Ordinance there were no grounds to argue that this was a new scheme. Yes, the hon Member may wish to smile, but this is exactly the point that I made, which if he does not recognise clearly, he did not then understand back in the debate of the closed scheme. So therefore whether this is introduced by new legislation or by regulation which would in any case be necessary given that the previous one had been repealed, the danger of having to comply with an immediate equalisation requirement under European law did not arise from the fact that it was new legislation but would have arisen if the scheme had been changed to the point that the Commission could have argued that this is in nature and in substance a different sort of scheme, a new scheme in the sense of creating different rights, different

benefits, of a different nature and of course we have been careful to stay on the right side of that line so that this could be argued within the context of the European definition of newness not to be a new scheme. I think it is implicit in the remarks that the Leader of the Opposition has made so far this morning, that it must be clear to anybody that can read, that this new legislation is in no sense a new scheme in the context of that definition of newness.

HON J J BOSSANO:

All the arguments that he has put about why it should not be a new scheme was about the legislation that he brought last September when it was very important that the closed scheme should not be seen to be a new scheme. Therefore he has just said that he told us in September that they wanted to change as little as possible from the 1955 Ordinance because the closed scheme was important that it should not be a new scheme but he also said that if we look at this one it is quite obvious that this one is not a new scheme so in fact what we have is two old schemes and no new scheme. Then why is it that in this one we have to put a provision for equalising age and not in the other one which is also an old scheme?

HON CHIEF MINISTER:

The principles are in fact the same. In other words, the definition of "newness", from the point of view of the European Commission, is exactly the same for both schemes and therefore it was important that both schemes should not be new as defined by the Commission. Of course, the Commission wants to be satisfied that we are complying with an obligation that everybody in the Community has regardless of those schemes and that is to make progressive steps towards equalisation. The United Kingdom, for example, are making very slow progressive steps. Hon Members know that they are going to equalise by the year 2020. The United Kingdom Government suggested that if we manifested an intention to comply with the universal requirements on equalisation, which is that there should be progressive steps, that the Commission would recognise this as a Bill which was consistent with the law. Of course, it was not necessary to say so because the fact that your legislation does not signify a requirement to equalise by the year 2020 does not mean that one will not in fact equalise progressively but it was thought helpful in obtaining a closure of the infractions fiche in the European Commission that the legislation demonstrated an acknowledgement of the progressive steps to equalisation obligation and an intention on behalf of Gibraltar to honour that obligation at the same rate and with the same latitude of

transitional provisions as any other Government in the Community had. In other words, so long as we were equalising by progressive steps, we were honouring our obligations and we had no intention of not honouring, so it was of course necessary to preserve the non-newness of the new scheme because had the new scheme been..... had the Commission regarded the new scheme or the open scheme, let us call it, had the Commission considered the open scheme to have been a new scheme then we would have been required to equalise immediately and they could only have found it to be a new scheme if it had introduced benefits, new entitlements, in other words if the scheme in its nature had been new and therefore what the hon Member has said is completely right. Both schemes need to be the same as the 1955 in order to be safe from that aspect and it is true that when we debated the closed scheme, I think it was back in September we left open the door, in other words, we indicated that we might consider changes to the open scheme for future years but when we studied the European Union's legal provisions and appreciated the importance at least initially of the open scheme also being the same in substance and nature as the 1995 scheme. We abandoned any notion of introducing changes to the pension scheme which of course can be introduced at some future date by way of amendment. One of the observations that we made as I said earlier to the United Kingdom Government is, what happens if when we equalise under the new scheme, the open scheme, some beneficiary of the closed scheme says discrimination. Why should my neighbour get a pension at 60 and I have to wait until 65? I made it clear that any entitlements acquired through challenge, through legal challenge, by pre-1969 Spanish pensions, any rights acquired by pre-1969 Spanish pensioners as a result of us equalising under the new scheme, any rights acquired by pre-1969 Spanish pensioners under the closed scheme as a result of our equalising under the open scheme would be for the account of the United Kingdom who have agreed to pay the pensions to the pre-1969 Spanish pensioners. But the way that that is likely to be avoided is this, that if we do not equalise and if we say we are going to equalise by the year 2020, well look, by the year 2020 there are no pensioners who have not already reached pensionable age under the closed scheme. There will be nobody, there comes a point which I think we calculated as being the year 2005, Opposition Members should not regard this as factual, but from memory I think it is the year 2005 when the last closed scheme pensioner will have reached pensionable age as presently defined. Provided we do not equalise before then there will be no one who will not himself have already reached pensionable age under the closed scheme and therefore will have nothing to complain about. That is the thinking to protect ourselves from pre-1969 Spaniards challenging in court on discriminatory

grounds the fact that people under the open scheme get a pension at perhaps 60 or 62, whatever it is that the equalisation provision is, 60 probably, but that they have to wait perhaps another year or two until they reach 65 under the closed scheme. It will be by delaying equalisation to a point where the last pensioner under the closed scheme has already reached pensionable age, 60 or 65, depending on whether he is a man or a woman, and then there will be nobody that will be prejudiced by the supposed discrimination. My hon Colleague the Minister for Social Affairs indicated in his address that it was presently the intention to equalise at 60. Of course, I think it is correct to comment that the Government have given absolutely no consideration whatsoever as a matter of policy to any issues relating to equalisation except that I do not conceive that we would equalise, save financial or technical imperative, but to the contrary, but certainly we do not conceive a policy of equalisation at the expense of women which is of course what the United Kingdom is doing. The United Kingdom is gradually raising the pensionable age of women above 60 by one month at a time, not by one year at a time, by one month at a time, until by the year 2020 they have equalised in effect by prejudicing the position of women. As I say, we have not made a policy decision on that matter yet but as a matter of principle at this stage, we do not anticipate that we will be following the example of the United Kingdom in that respect.

Question put. Agreed to.

HON H A CORBY:

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

Question put. Agreed to.

THE CRIMINAL OFFENCES (AMENDMENT) ORDINANCE 1997

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the reason for this Bill was highlighted in a recent case in the Magistrates' Court. The offence of interfering with potential witnesses and

jurors or in fact anyone else involved in the investigation of a case is committed by inferring by unlawful means such as bribery, threat or improper pressure. Under our existing law the only way to deal with this is by charging a potential defendant with the common law offence of attempting to pervert the course of justice and being a common law offence this would be tried in the Supreme Court. In the United Kingdom the offence was made a statutory offence in 1994 thereby allowing for such offences to be tried summarily. The object of this Bill is therefore to amend our existing legislation to convert the offence into a statutory offence and is in addition to and not in derogation of any offence existing as common law. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, if there is a need to bring this into specific legislation for the reasons that the hon and learned Attorney-General has given in order to protect those that are involved in carrying out their duties in the administration of justice from any possible pressure, to interfere with it, then obviously we are in favour. Presumably, such a need was found in 1994 in the UK when they brought it into the Criminal Justice and Public Order Act of 1994 and the provisions are, as far as we can tell, identical and almost word for word. I must say that looking at it, as a non-lawyer, it seemed to me to be a very wide way of defining the offence and I am surprised, that having checked, it is the same as in the UK. I am surprised that an offence could be so broadly described that in fact it can simply be based on assumptions, intentions and motivations without anything actually happening. Presumably there is a need to describe it in such a broad scheme but our only concern would be that somebody should be finding himself accused of something simply on what appears to be a lot of possible hypothetical circumstances and that is without greater difficulty in proving his innocence that somebody has in proving his guilt. Apart from that, of course, on the general principles of the Bill which is to protect those involved from any external and illegitimate pressure we are totally in favour.

HON ATTORNEY-GENERAL:

I just wanted to confirm that this is exactly on the same terms as the UK legislation.

Question put. Agreed to.

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

THE SUPPLEMENTARY APPROPRIATION (1996/97) ORDINANCE 1997

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending on the 31st day of March 1997 be read a first time.

Question put. Agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. This Bill deals with the sums to be appropriated in the current financial year. The Bill proposes the appropriation of a further £5,972,000 in the case of the Consolidated Fund and £1,337,000 in respect of the Improvement and Development Fund. Details of the requirements that have given rise to the need for these further appropriations are set out in the statement of supplementary Estimates previously tabled. Before giving way to the Chief Minister in accordance with established practice, I would like to make three brief points. First, the further appropriations we are seeking over and above the Supplementary funding head of £1 million provided for in the Estimates approved by this House are provisions based on the forecast outturn as established in January of this year. I would stress they are provisions and all the funds may not turn out to be required. Second, should all the £5.9 million of the further Consolidated Fund appropriations be required this will largely be offset by higher revenues than estimated and savings under some other Heads. As the year ends we forecast that the Consolidated Fund will retain a positive balance. Third, we forecast Improvement and Development Fund supplementary will result in a small overall increase in capital spending but not of the order of the further appropriation of £1.3 million being sought. This is largely due to offsetting reductions in spending in some Heads.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON CHIEF MINISTER:

Mr Speaker, hon Members will recall that by the time that the election came in May 1996 the budget for the current financial year had already been laid in the House and that in effect what we did after the election was simply to pass the budget that had been prepared, I suspect in something of a rush, by the hon Members in early 1996 in order to comply with the need to lay before the House was dissolved in February and that in effect the budget, and therefore the Appropriation Bill, as passed by this House after the election, I think it was in early June, was that budget which had been prepared by the previous administration. The fact that we are here asking the House to authorise expenditure of an additional £5,972,000 under the Consolidated Fund and the sum of £1,337,000 under the Improvement and Development Fund, does not of course mean that the new Government has spent nearly £7 million which was not anticipated or not envisaged at the time of the last budget. The vast majority of these sums are monies in respect of which the expenditure is recurring and in respect of which the Estimates in the budget was simply inadequate. For example, Opposition Members wrote in their budget the figure of £80,000 estimated for legal fees in the knowledge that in the last several years the Government have never spent less than four or five times that amount in legal fees. What there was, was in effect, an under provision in the Estimates rather than new expenditure. What there has been is a continuation of the same level of expenditure but of course that continued level of expenditure is in excess of the amount budgeted and therefore there is a need to come to the House. The hon Members may be interested in my reminding them that in all previous years there has been in effect supplementary expenditure to meet recurrent expenditure although it has not always been necessary for the hon Members who used to do their accounting differently, to come to the House on a Supplementary Bill. For example, in the last financial year 1995/96 there was no Supplementary Bill but the Opposition Members in effect had supplementary funding to departmental expenditure from reallocations and subventions of £3.6 million by simply moving things around. So this of course will not be happening in future years because the way that the new Estimates will be struck, when they are laid before the House next month, will make it very clear that the need for this large amount of supplementary funding will disappear and in future years when there is supplementary funding called for, it will be for new expenditure not envisaged at the time of the budget. In other words, a genuine request to the House to come and authorise expenditure, monies for new expenditure, as opposed to simply a way of

remedying what was a mistake or an under-budgeting in the original Estimates.

Going through the items of Supplementary Expenditure, actually relatively little of it is by actual spending decision made by the Government or at least made by the new Government. Certainly, the £70,000 that we are spending additionally on additional supply teachers in the Education Department, that most certainly is new expenditure, because that is a policy decision of the new Government. The second item, electricity, hon Members know that this is a perennial item and that is because there is always uncertainty at budget time of what the fuel cost is going to be and there is always difference between what is budgeted for fuel purchased by the Electricity Generating Station and the actual cost incurred during the year when there may have been raises in the fuel cost. Hon Members will be surprised, as I was, by the sum of money under item 8, Justice and Law. The Government estimates that during the current financial year it will have spent £980,000, that is £20,000 less than a million, on legal fees. Of course, that is not just legal fees in litigation, although it includes civil litigation which the Government is involved, it also includes criminal cases which are put out to the private sector. Notably and most expensively there is one criminal and notorious case now before the Court, which is being prosecuted on behalf of the Crown by a Silk from the United Kingdom, which is consuming large sums of money and it includes not just therefore civil and criminal litigation but it includes also legislation drafting. Hon Members know that much of the directive transposition work, especially in the commercial area, financial services, telecommunications, are done by private draftsmen, not by the ELU and therefore this is expenditure which amounts up and the fourth category of course is commercial advice in particular commercial transactions, for example, GP Telecomms transactions. The Government having now seen the amount of money that is being spent in procuring legal services in the private sector will now consider changing the Government policy on this although of course this is not our policy, this is just a continuation of what has happened in previous years. Frankly, for those sums of money, the Government could much more cost effectively recruit additional legal capacity within the Government service or on contract or directly and have the facilities and services available to it. Of course, that will eliminate a lot of this but not all of this because it is never going to be possible for the Government to provide itself with the necessary breadth of expertise and experience especially in the commercial field and it would not be right for the Government to deprive itself of good advice when we are entering into

important commercial transactions for Gibraltar like satellite fields, or things of this sort. Certainly for the run of the mill drafting work and for the prosecution work, I see absolutely no need for the Government to be spending hundred and hundreds and hundreds of thousands of pounds a year when it may be possible, for a much smaller amount, for the Government to contract the services of perhaps senior counsel or if not senior counsel, senior/junior counsel who can supplement the prosecuting capacity of the Attorney-General's Chambers to the point where it will not be necessary to incur the much higher costs involved in having that done by the private sector. Of course, the other item there under subhead 81 the Vollen Weider expenses, £200,000. That is damages that were agreed to by the previous administration to the gentleman who is alleged, well more than alleged, I think the court found that the Letters of Request issued by the then Attorney-General in Gibraltar had been wrongly issued and although the court found that the Government was liable, the court did not establish the amount of the liability and hon Members will remember they entered into a negotiation with Mr Vollen Weider's lawyers in Gibraltar and agreed by way of settlement to pay him £200,000 in damages. The Government thought it appropriate that that should be distinguished from legal fees because those are not legal fees, those are damages incurred by the Government or by the Attorney-General of the day in the irregular issue of Letters of Request and the Government then settled the quantum of damages in that amount. I have to say, speaking merely for myself, although it is always easy to be wise after the event, if I had been in the hon Members' position at that time I would not have settled for this amount, I think that the court would have given much less by way of damages than £200,000 but still that was the judgement made at the time. The other item that I specifically want to draw to Members' attention, because it is new expenditure, in other words it is the spending decision that we have made is the item at the very bottom of the first page which is Head 32 Port, subhead 16 Shipping Registry, it shows there the sum of £85,000. Ten thousand pounds of those £85,000 is the cost of recruiting, through the Maritime Safety Agency, of recruiting the new maritime administrator which hon Members know is one of the bits of the jigsaw of the new Registry and the new shipping legislation. Of course, that is just by way of deposit. They say they will try to give us some of that back but such is the commercial climate affecting United Kingdom departments at present that they considered it necessary to have the £10,000 from the Government of Gibraltar in advance and did not think that we could be trusted apparently, simply to pay whatever was actually incurred. I have made that comment, it struck me as a little bit odd, but still, such is apparently the credit rating of

the Government in certain UK departments. The other £75,000 needs to be explained and that is this, hon Members know that we complained bitterly after the election, or just before, in November or December 1996, about the fact that just three or four days before polling day an agreement for the privatisation of the shipping registry for 20 years was signed. I think, from memory, on the 10th May, polling being on the 16th. The Opposition Members know that we think that that was something that should not have been done by a caretaker Government, still less by a caretaker Government six days before polling and that quite apart from that, as a matter of policy, this Government is against the privatisation of the shipping registry in particular. We have therefore come to an arrangement with the company in whose favour this 20 year privatisation agreement was signed whereby they have agreed to surrender the agreement back to the Government for exchange for a sum of money which is calculated to compensate them for the expenditure that they have already incurred in creating computer software, purchasing computer hardware, in instructing lawyers, in incurring legal expenditure in negotiating the contracts, in training management, in attending shipping conferences and things of that kind, so this £75,000 is the amount that the Government will pay to, I cannot now remember the name of the company, Maritime Ship Registry Limited or words to that effect, to surrender that contract back to the Government and this amount of money is compensation. The company will transfer to the Government the software that they have devised. They will transfer to the Government the hardware that they have purchased. They will assist the Government in passing on the management techniques and training that they had already prepared to whoever the Government nominates within the service to run the Registry. Therefore this sum is by way of compensation for expenditure already incurred which we thought it right to restore to them and also by way of purchase of software and hardware and training consultancy. In our view hon Members know from statements that we have made in the press that the amount of the share of fees and tonnage taxes that had been given away for a 20 year period in that agreement was excessive quite apart from the fact that we did not like the idea of the shipping registry being privatised at all but certainly privatised it had to be. Then the share of revenue in the form of tonnage taxes and registry fees given away to the operator for 20 years was excessive and the Government considers that £75,000 to recover that agreement for the Government and to acquire the equipment and the software, is £75,000 very well spent. Over the page under Head 17 Reallocations and Subventions, the hon Members will see up there the figure of £3.1 million. Hon Members, I am sure, at least the Leader of the Opposition, knows and

recognises, that does not mean that the Government has spent an additional £3.1 million in the ETB. It simply means that the arrangements for accounting within the ETB have hitherto been such that there has been practically no.... well, hon Members will see that there is a dash under Approved Estimates. This item of expenditure is the amount of Government monies that are paid by way of wage subsidies to trainees and others. Some of that money is retrieved then from the European Union but a larger part of it does not and what the ETB has been doing until now and since it was established was that it has been accounting for that money on an Advance Account basis. In other words, this House has never approved or had the opportunity to disapprove the amount of money that the ETB was spending on wage subsidies. We think that that is wrong. We think that it is a major and significant item of expenditure and that it should be brought within the Appropriation mechanism of the House. It certainly will be in the next year's budget and we thought that this Supplementary Bill was an appropriate opportunity to clean the slate historically and transfer from the Advance Account to the Consolidated Fund, in effect, the accumulated expenditure which has never been approved in a budgetary sense. The other item that I would like to highlight is Head 104 Support Services where hon Members will see that under subhead 7 Community Projects, the hon Members had written into their budget the sum of £900,000. This was the amount from which they paid sundry items some of it for small works but mainly invoices received from SOS 24 Limited for community project work that that company did and the payments for that came mainly out of the item Community Projects. The Government have since changed those arrangements, the arrangements between the Government and SOS 24 have now been discontinued and community project work is now done by a Government-owned company called Gibraltar Community Projects Limited. Those £900,000 will of course now be available, the budgeted £900,000 will be available to be injected into Gibraltar Community Projects to pay for the wages of the men there. But, whilst the SOS arrangement was up and running, invoices for work done was not the only element of Government subsidy to SOS. Government was also subsidising the labour by £81 a week wage subsidy. The revised estimate of £1.7 million by an additional £800,000 does not mean that we have increased the cost of the operation by £800,000, it simply means that a sum of money, although there has been some increase, because of course we have raised the wages, but what it means is that subsidies that were previously being channelled through the ETB to SOS as wage subsidies and not accounted for under the Consolidated Fund is now being accounted for under the Consolidated Fund because the Government now does not pay invoices to its own company. Gibraltar Community Projects has not yet began

and we may not go down that road but the company has not invoiced the Government for work done, the Government has simply defrayed the whole of its wage bill. So this £800,000 does not represent increased cost of the Community Projects operation, it simply is a rechanneling of expenditure that has always been incurred. In other words, before expenditure used to go via wage subsidy to the ETB and by payment of invoices for work done from the company. Now it all goes through this Community Project heads so obviously what we have done is we have retrieved from the ETB the element of wage subsidy and included it in this as the total cost of Community Projects to the Government. So, I just repeat that is not extra spending, it remains to be seen at the end of the year, when overtime has been calculated, although this will be budgeted for next year but of course it has not been budgeted for this year, when overtime to March 1997 in Gibraltar Community Projects has been calculated it remains to be seen whether the overall cost to the Government of the Community Projects exercise has risen or not.

HON J J BOSSANO:

We will be making some comments on the individual items when we come to the Committee Stage. As regards the general principles of the Bill, the Financial and Development Secretary indicated in fact that it would not alter the bottom line. As far as I can see, the only item which produces an automatic increase in revenue because it is an accounting device, is the electricity head where the costs are charged to the expenditure side of the Estimates and to the special fund and then reflected in Revenue as reinvested, as far as I know.

HON CHIEF MINISTER:

I am sorry, did the hon Member say the only additional revenue source?

HON J J BOSSANO:

Generated by this expenditure, that is correct.

HON CHIEF MINISTER:

Yes, I do not think that that is the additional revenue to which the Financial Secretary was referring. I think what the Financial and Development Secretary was referring to was the fact that there had been additional revenue, for example, from income tax and that therefore the overall budgetary position remained in positive territory. In other words, that this additional, in inverted commas, because it is not all additional, this

expenditure over and above the budgeted amounts, whether they are additional expenditure or under-budgeted expenditure, it does not matter, is more than compensated by additional revenue in completely unrelated areas, for example, income tax, things of that sort.

HON J J BOSSANO:

So we can take it then, that the Estimates of Revenue independent of the consequential effect of the reinvestment arising out of extra expenditure on the electricity in fact based on the review that is normally carried out in January are expected to produce a forecast outturn higher than the £72 million in the original Estimate and that this is simply because of a higher level of collection in a number of areas?

HON CHIEF MINISTER:

Yes, indeed, there has been no review of the electricity fund in January of this year. We have not increased the electricity tariff or the fuel cost adjustment.

HON J J BOSSANO:

No, no, I am well aware. The point that I was making is, that under the system that you have got with the expenditure being shown as a head of expenditure and at the same time, the money being charged to the Special Fund and then reimbursed to the Consolidated Fund, the £390,000 of expenditure will appear in the forecast outturn vote as an expenditure and as a revenue item. So that is neutral?

HON CHIEF MINISTER:

Yes, indeed.

HON J J BOSSANO:

That is the only point I was making. I could see nothing else here that will have the effect of producing a higher revenue yield other than that and I take it that the explanation is that irrespective of the additional expenditure the higher revenue is there anyway. The Financial and Development Secretary also said that this was required over and above the amounts provided for reallocation in Head 17, but in fact, in the Statement of Reallocations that have been tabled so far in the House there is very little indication that we have gone anywhere near using the £1 million Supplementary Funding. We have got a number that have been tabled in this House and previous ones but we are talking about sums of four and five and six thousand pounds and therefore it seems

odd, given that we are so close to the end of the financial year, that we should have reallocated £1 million of which we have not had a statement tabled and yet need to increase supplementary funding. I know that the Financial Secretary said that in the supplementary funding that is being provided in particular heads not all of it may be spent by the 31st March and that of course in normal consequence of estimating bills that have to be paid and all they need to do is to arrive one day later and they fall into the next financial year but it seems to me that by the 17th March the Financial and Development Secretary ought to know whether he has reallocated close on to £900,000 from the £1 million or not and if he has reallocated £900,000, then against the context of what is additional expenditure in this supplementary it seems to me that more subheads have been increased than anything that is indicated here, given the fact that the big items have been explained by the Chief Minister as simply being not additional expenditure but expenditure now shown as coming out of the Consolidated Fund which previously did not come out of the Consolidated Fund.

As regards the financing of Community Projects by making payments from the Improvement and Development Fund to the new Government-owned company, I am not sure that the rules of the Improvement and Development Fund allow for what has been said. That is to say, from my recollection the Improvement and Development Fund has to be used for the payment of specific capital costs which have been invoiced. I do not think one can simply say I will give £1 million to a Government-owned company to pay their workers without any record of what is the work that they are engaged on from the Improvement and Development Fund, it can be done in some other way, but to my knowledge it cannot be done from the Improvement and Development Fund. The Improvement and Development Fund actually has to have the money that is spent identified for work that is done which is chargeable to the Fund. Obviously, if we are going to judge whether the way that community Projects are now being carried out is going to be more cost-effective or not, we will have to wait until that has been operating some time to be able to judge it but of course if there is no knowledge of what it is that they are actually doing then it is not possible to pass any kind of judgement at all. I think when we come to the Committee Stage we would like to have some indication of this £3.1 million of the ETB, how much of it in fact is paying for the support of those who are under training and how much of it is for the administration. In fact, if it is the clearance of the running expenses, are we talking about that being the estimated cost for this year or are we talking about the fact that they may have had costs coming into the financial year 1996/97 from

1995/96. The Employment and Training Board of course has in excess of £1 million, I think it is, coming in from the training levy so presumably this would be the difference between its revenue and its expenditure and not in fact the whole of the expenditure. That information, I imagine, can be obtained at the Committee Stage.

HON CHIEF MINISTER:

Mr Speaker, as the hon Member....[Interruption]

MR SPEAKER:

The Chief Minister can speak.

HON CHIEF MINISTER:

Unless, of course, the Leader of the Opposition now wishes to resile from the long-standing tradition that he hopefully introduced in the House that on Appropriation Bill, the Budget, and this is a Supplementary Estimates Bill, the debate is basically between the elected members of the House. When the hon Member for the last eight years presented the Appropriation Bill otherwise known as the Budget, he has always replied without a right to reply technically because he is not the mover of the Bill, the mover of the Bill has always been the Financial and Development Secretary, and he gives way and the Chief Minister of the day presents the Appropriation Bill, the Opposition have their say and then the Chief Minister is treated as the mover. This is what has happened for the last eight years. I think it is an extremely good convention that the hon Member started and I have every intention of continuing it. I am surprised that he should now be taking a different line.

HON J J BOSSANO:

I want to clarify that if the Member cares to go back and look at the record, first of all I did not start it. It was started by the AACR before 1988 and, secondly, it has never been used, in my recollection, in the Supplementary Appropriation Bill and, thirdly, it is not an unwritten law but in fact I think there is a proviso that says that in moving the Estimates of Expenditure there is a statement made by the Financial and Development Secretary and then a statement made by the Chief Minister who then has the right of reply when everybody else has contributed to the Appropriation Bill. To my knowledge it has never happened before under a Supplementary Appropriation Bill.

HON CHIEF MINISTER:

Mr Speaker, as he noted it in principle between an Appropriation Bill and a Supplementary Appropriation Bill, this is in effect a little mini-Budget. This is an amendment to the Appropriation Bill that we passed in June. I see no case for drawing a distinction. At the end of the day the points that need to be made in reply are brief. The £1 million supplementary funding has almost all been used. The hon Members will recall that they wrote into their budget £1 million Supplementary Expenditure. Of that, £807,300 has been used on items that will eventually appear on a Statement of Reallocations by the Financial Secretary. There is a balance then available of £192,700 and of course one might ask, "Why did you not use those £192,700 before coming up now?" In other words, "Why did you not deduct the £192,700 from the £5.5 million that we are now asking for?". The answer is, that we can leave a sum of money available there for the remainder of the financial year and that the head does not expire. Running very quickly, the Leader of the Opposition will of course get the details but basically it breaks down again into Electricity £149,000; Fire Service £68,000; House of Assembly, that is to say the Election expenses, £55,000; Justice and Law, that is Supreme Court salaries and overtime etc £53,000; Police, but not salaries, general police expenditure £45,000; maintenance of prisoners £8,000; Secretariat £78,000; Support Services, mainly overtime, £186,000; Trade and Industry £15,000; Financial and Revenue collection £75,000 and Reallocations and Subventions £72,000. I do not know if the hon Member perhaps thought that the £1 million was substantially intact, the £1 million is not substantially intact, that has been absorbed and what we are now asking for is beyond the £1 million with the exception of the balance, as I say, of £192,700.... I will give way before I sit down, that remains from the £1 million. I will give way to the hon Member.

HON J J BOSSANO:

The point that I was making is in fact that we have got in this House statement of reallocations that have been approved so far and they did not indicate anywhere near that amount of money having already been reallocated and therefore I was surprised that having brought to this House a Statement of Reallocation which shows a very small part of the amount that is being reallocated, the supplementary funding was there, obviously we can expect a future statement giving the figures that have been given now.

HON CHIEF MINISTER:

On the point that the Leader of the Opposition made in relation to the Improvement and Development Fund, and Gibraltar Community Projects Limited, well, of course the work that the money is notionally paid, as against work done, all the work of Community Projects Limited is now specified by Government, it is monitored by Government and it is certified for the Government. The purpose of the new arrangement was not to make it cheaper necessarily. It may or may not turn out to be cheaper. Indeed, it may turn out to be more expensive but the new arrangement, in the Government's opinion, is more transparent. In other words, we can be sure that the cost, the overall cost to the Government, is really the labour cost and that we are not giving out unnecessarily large profit margins to owners of companies on invoiced work. It may or may not turn out to be more cost effective but cost effectiveness was not the initial objective. The initial objective was more transparency and more control over the costs that ultimately are borne out of taxpayers' money now as they were before.

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 later today.

Question put. Agreed to.

The House recessed at 12.40 pm.

The House resumed at 3.00 pm.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

1. THE CRIMINAL PROCEDURE (AMENDMENT) BILL 1997.
2. THE GIBRALTAR DEVELOPMENT CORPORATION (AMENDMENT) BILL 1997.
3. THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) (AMENDMENT) BILL 1997.
4. THE CRIMINAL OFFENCES (AMENDMENT) BILL 1997.

5. THE SUPPLEMENTARY APPROPRIATION (1996/97) BILL 1997.

1. THE CRIMINAL PROCEDURE (AMENDMENT) BILL 1997.

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.

2. THE GIBRALTAR DEVELOPMENT CORPORATION (AMENDMENT) BILL 1997

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

Clause 2

HON CHIEF MINISTER:

Mr Chairman, hon Members have a letter giving notice of amendments to this Bill. I should just say, rather than repeat the explanation on every occasion when there is a consequential amendment, that the principle behind the amendments are to establish common standards of auditing between the Consolidated Fund and the Gibraltar Development Corporation. The obligations and the rights and duties of the Principal Auditor in relation to the Consolidated Fund are established in the Public Finance (Control and Audit) Ordinance and whereas as it presently stands the Gibraltar Development Corporation imposes at Section 24 a list of criteria on the auditor, which it need not have been as it then stood, the Principal Auditor was a private firm of auditors, that has all been amended to simply use exactly the same words as is used in the Public Finance (Control and Audit) Ordinance in respect of the Consolidated Fund. In Section 24 of the Ordinance, as it presently stands, in sub-section 2 it says, "The accounts of the Corporation shall be audited by an auditor to be appointed annually by the Corporation with the approval of the Government". That will now read, "Will be audited by the Principal Auditor" and the amendment which I am now introducing is simply to add the words "and certified" before the word "audited". So it will read "the accounts of the Corporation..... to be audited and certified" which are the words used in the Public Finance (Control & Audit) Ordinance in respect of the Consolidated Fund. All these amendments, in this letter, Mr Chairman, are simply to make the audit standard and the duties and obligations of the Principal Auditor in relation to the accounts of the Gibraltar Development Corporation be exactly as they are under the Public Finance (Control & Audit) Ordinance in respect of the Consolidated Fund. Both will be audited by the same person with the same statutory duties and audit standards.

In sub-section 3 of section 24, by deleting the word "report" and sub-paragraph (a), (b), (c), (d) and (e) and inserting after the word "Corporation", "shall have such powers as set out in part 8 of the Public Finance (Control & Audit) Ordinance". Mr Chairman, it is the same point as I have just made. The letter hopefully recites what the new section will look like after the amendment and after the amendment the new clause will read, "The Principal Auditor shall with reference to the accounts of the Corporation have such powers as set out in part 8 of the Public Finance (Control & Audit) Ordinance". As I say that is the point that I have just explained so that there are equal audit standards for both funds.

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

Clause 3

HON CHIEF MINISTER:

Mr Chairman, I have given notice of amendment to section 25(2) by adding a dash after the word "Government" and a new sub-paragraph (a) with the words, "a copy of the Estimates of Income and Expenditure including capital expenditure no later than 1st day of January in each year" and by moving the words "such financial and statistical return as it may from time to time require". As section 25 now stands in the 1990 Development Corporation Ordinance, the Corporation has to yield to the Government a report dealing with (a) the activities and policy and financial position of the Corporation during that year; (b) a copy of the Corporation's accounts for that year audited in accordance with section 24(3) and then (2) the Corporation shall furnish to the Government such financial and statistical returns as it may from time to time be required. All the other amendments that I have just read out are consequential in a secretarial sense. The essence of the amendment is that the Corporation shall be required to submit an estimate to the Government given that the Corporation will be substantially funded from either the Improvement and Development Fund where that might be appropriate or otherwise from the Consolidated Fund. The Government, common with other Government public monies spending organs, wants the directors of the Gibraltar Development Corporation, which at present are Ministers but may not continue to be so, should submit to the Government estimates of income and expenditure and capital expenditure by the 1st January. This is very probable but a final decision has not been made. These estimates of the Gibraltar Development Corporation, once approved

by the Government, will be included in the Estimates of Revenue and Expenditure of the Consolidated Fund that we lay in this House for indicative purposes. It is a way of putting the financial information in the public domain and giving the hon Members the opportunity, when deciding whether they wish to support subventions to the Gibraltar Development Corporation on the Consolidated Fund, to know how the Gibraltar Development Corporation intends to spend this sum.

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.

3. THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) (AMENDMENT) BILL 1997

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

Clause 3

HON H A CORBY:

Mr Chairman, I propose to move the following amendments. Clause 3(8) of the Bill be deleted and replaced with the following sub-clause. In Section 13(1) (Special Provisions as to men), paragraph (c) is amended by removing from it the words, "if the following conditions are satisfied, that is to say" and realigning those words with the words at the beginning of sub-section (i) so as to make it clear that the conditions contained in (i), (ii) and (iii) apply to all (a), (b) and (c) in sub-section (1).

Once amended, section 13(1) will read as follows:

"13(1) Subject to the provisions of this Ordinance, a man who is over pensionable age shall be entitled to an old age pension by virtue of the insurance of his wife, being a wife:

- (a) to whom he is married at the time when he attains that age; or
- (b) in respect of whose death he was immediately before attaining that age entitled to widower's pension; or
- (c) to whom he has married after attaining that age;

if the following conditions are satisfied, that is to say:

- (i) either she is over pensionable age or she is dead; and
- (ii) she satisfied the relevant contribution conditions; and
- (iii) in a case where he has married the wife after he has attained pensionable age, such further conditions as may be prescribed."

HON CHIEF MINISTER:

If hon Members look at the Bill as it is published, on page 60 in clause (8) and (9), which is the area that we are, hon Members will see in quotes there what (c) already says in the Ordinance as we passed it and it says, "whom he has married after attaining that age", and then it adds the following words, it should not be part of (c), it should be a new paragraph, back to the margin, because it applies to (a), (b) and (c), that is all. so if we compare that to the layout in the letter to Members, the only effect of this amendment becomes immediately obvious. If hon Members look at the second half, or the top half rather of the second page of the amendment letter, they will see that the words, "if the following conditions are satisfied" that is to say, have been divorced from (c) where they had inadvertently been typed because the following conditions that is to say apply, conditions (1), (2) and (3) apply not just to (c) as would have been the meaning if those words had been attached but they also apply to (a) and (b). It is an entirely secretarial amendment and indeed hon Members may like to know that as amended, as set out in the letter of amendment, as it would read following the amendment, is exactly how it reads in the 1955 Ordinance. There are no words changed, all of this is caused by the need to move those eight words away from (c) to a place where it is clear that they relate to (a), (b) and (c) and not just to (c). It is exactly the same in relation to the subsequent amendment which is the same provision in the Ordinance applying to women rather than to men.

HON H A CORBY:

I also propose the following amendment, clause 3(9) of the Bill be deleted and replaced with the following sub-clause: "in section 14(1) (special provisions as to women), paragraph (c) is amended by removing from it the words "if the following conditions are satisfied, that is to say...." and realigning those same words with the words at the beginning of sub-section (i) so as to make

it clear that the conditions contained in (i), (ii) and (iii) apply to all of (a), (b) and (c) in sub-section (1).

Once amended section 14(1) will read as follows:-

"14(1) Subject to the provisions of this Ordinance, a woman who is over pensionable age shall be entitled to an old age pension by virtue of the insurance of her husband, being a husband:

(a) to whom she is married at the time when she attains that age; or

(b) in respect of whose death she was immediately before attaining that age entitled to widow's benefit; or

(c) whom she has married after attaining that age,

if the following conditions are satisfied, that is to say:-

(i) either he is over pensionable age or that he is dead; and

(ii) he satisfies the relevant contribution conditions; and

(iii) in a case where she has married the husband after she has attained pensionable age such further conditions as may be prescribed."

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

Clauses 4 and 5 were agreed to and stood part of the Bill.

Clause 6

HON H A CORBY:

In page 63, Section 6(1) delete the word "regulation" and insert "section".

Clause 6, as amended, was agreed to and stood part of the Bill.

Clause 7

HON H A CORBY:

Again, it says "regulation" and it should be "section" in page 64 7(1)

HON J J BOSSANO:

Is clause 7 amending the Schedule or do we have a separate section that says "the Schedule shall be amended"? Because we have got 7(1) and 7(2) and then it says "Schedule 1".

HON CHIEF MINISTER:

No, no, there is no schedule to the Social Security (Closed Long-Term Benefits)(Questions and Appeals) Regulations. Where it says "schedule" that is the continuation of the Bill and that is the schedule that is referred to in clause 4 of the Bill, if the hon Member will turn to page 61. Unfortunately, these Schedules were printed with mistakes in the headings, not with mistakes in the tables themselves. If he looks at sub-clause 4 on page 61 he will see in Schedule 1 to the Regulations the tables in parts 2, 3, 4 and 6 are replaced with the corresponding tables in part 1 of Schedule 1 to this Ordinance. So the Schedule that he has just referred to, on page 64, is the Schedule to this Ordinance and it is the new Schedule that will go in place of the schedules which are printed in the Closed Long-Term Benefits Regulations. The numbers in the actual tables themselves is not the problem. If the hon Member checks and compares the tables there on pages 64 and 65 with the pages in the Ordinance itself as legislated back in September, he will see that there is no difference in the amounts. The differences are in the top section where it says, "the weekly rate of benefit". It has been badly printed so that, for example, in that first table that appears in Part 2.....

HON J J BOSSANO:

Mr Chairman, that is exactly what we are trying to discover. If I look at the table on page 64 and I look at the table on page 829 of the Gibraltar Gazette Thursday 26th September, there is no difference in anything, in the letters or.....

HON CHIEF MINISTER:

If the hon Member remains seated for another six seconds, that is exactly the point that I am trying to explain. There is no difference in the numbers, but there is a lot of difference in the heading so that, for example, where in the green paper on page 64 it says "full weekly rates

of benefits payable", in the Bill as printed it says, "only full weekly rate of". Then there is a heading being missed out altogether where it says on page 829, "£2" and "£1.50", it should read and it does read in the green paper at page 64 there should be a new heading to the columns of figures there called "reduced weekly rate of benefits payable" and that has been excluded altogether from page 829. That is why I say that the tables themselves, that is to say, the numbers do not change. It is not that we have amended or that there was a mistake in the rates of benefit or in the weekly averages it is that the tables were not properly headed when they went to the House. For example, in that one that he has used as an example, the one on page 829, if he compares that to the table at page 64 which is the one that we seek to replace it with, he will see that the words "benefit payable" have been added under columns 2 and 3 and then underneath the figures "£2" and "£1.50" there is a new heading "reduced weekly rate of benefits payable" which is the heading for all the figures underneath it and all the errors in the tables are of that nature in all of them. In none of them, except in one, which I will point out later, is there any change to the content of the table, the numerical content of the table itself. We will come to the amendment in a moment, but the table in question, there is one table in which no figure is changed but one figure is removed and as I cannot now lay my hands on it I will raise the hon Member's attention to it when we come to it in the ordinary course of this meeting. The Ordinance as passed, if he turns to page 43, the third figure "£6.90" on the extreme right hand side will be removed when we come to it..... in fact the moment has passed, it was in (xv), in the previous clause that has already gone through but just whilst we are discussing tables, if he looks at page 61 of the Bill the last amendment to the Ordinance itself, to the Schedule of the Ordinance and in (xv) he will see that in part 1 of Schedule 1, the figure "£6.90" set out in the fourth column "Widow's Pension" is omitted. We have passed the page but that is the only alteration to the figures in any case.

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

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

4. THE CRIMINAL OFFENCES (AMENDMENT) BILL 1997

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.

5. THE SUPPLEMENTARY APPROPRIATION (1996/97) BILL 1997

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

Clause 2

Heads 2 to 10 were agreed to and stood part of the Bill.

Head 13

HON J J BOSSANO:

Mr Chairman, we do not agree with the provisions in 13(1)(a) which is the new post of private secretary. I think there are three considerations. First of all we question the need for this additional post. Secondly, in terms of the grading of the post, it is graded as a senior officer which is what is the grading of Heads of Department in other parts of the Government administration and that is based on analoguing. Of course, the individual happened to be in that grade because he had attended a promotion board for a vacancy of Postmaster. If one was using somebody with a particular grade retained on personal-to-holder capacity in occupying a post of a different grade, then that is always done to protect the individual. But, in fact, what we have is a new post equated to the equivalent of Accountant-General or Principal Auditor or Head of Customs and in arguing if there was a case for such a post and the content of the post was such that it justified that level of grading by comparison with the other equivalent Senior Officers throughout the service, then it is a post that should have been in its own right advertised. There might have been people who were not interested in applying when the vacancy was for Postmaster and who might be interested in applying for this particular vacancy. We have got three reasons why we do not agree with that. Of course, this has nothing to do with the individual who happens to be doing the job or with the fact that he is earning that money because he obtained the right to earn that money when he applied for the vacancy that existed. But for those reasons we do not support it and therefore we want to take a separate vote on that item because we will not vote in favour.

HON CHIEF MINISTER:

Mr Chairman, I should say that historically the office of Chief Minister has had attached to it many more senior officers than this. I am sure the hon Member can remember in the good old days the number of senior officers that there were attached to the Secretariat but in effect working for the Chief Minister. The hon Member

also knows that it is the policy of this Government to be aware of the difference between a Minister and an administrator and to put those differences into practice. For that reason it is necessary for this Government to have available to it additional amounts of administrative support, than the hon Members felt they needed, because of course they did most of the senior administration themselves. That is not the style of this Government and I should say that if he does not support the creation of this post of Private Secretary at this level on this occasion, he is unlikely, when we come to debate the Estimates for the forthcoming year, support either the additional posts that will be created at senior level, although not necessarily senior offices, in support of the Chief Minister and his office.

HON J J BOSSANO:

Obviously, Mr Chairman, we will reserve our judgement on that when we see what it is but at this point in time the judgement that we are making is on the information that we have got at this point in time.

Question put.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon Miss K Dawson
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Head 13 stood part of the Bill.

Head 16

HON J J BOSSANO:

Mr Chairman, can I ask in subhead 1(4), are these studies and reports that have already taken place or are we asked to be making provision for something that is intended should happen?

HON P C MONTEGRIFFO:

Mr Chairman, if I understand the position, the figure relates to reports that fall into both categories. One of the reports is the Deloitte and Touche Report on the MOD rundown which has been completed and there is a possibility of further work by these consultants but there is no figure to take account of that possibility at this stage. The other major expense is the consultancy arrangement we have with Mr Richard Wells, that is effectively halfway through its tenure. There are then two other minor reports which are currently being worked through, one is in respect of urban renewal and one is in respect of captive insurance promotion where the first stage of the report has been completed. It is on the basis of that first report that the Government has made its announcement in respect of the efforts that are being made to promote that industry in the context of passporting.

Head 16 was agreed to.

Head 17.

HON J J BOSSANO:

I asked in the general principles whether it would be possible to give us some additional information on the £3.1 million. I do not know whether the information is now available?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think it falls to me to answer that. Essentially, at the end of the last financial year, as I understand it, there was a deficit on the advance account that the ETB had with the Treasury which is the £0.5 million and that had come down from a balance from the year before, a positive balance of about £2.2 million. So the funds generally available to the ETB had been declining over the years and the £3.1 million represents the difference between the money they have expended this year plus the deficit from the end of the financial year and takes into account the money that we expect to receive in from the European Social Fund and so, the carry forward, if our forecasts are right into the next financial year, will be a zero balance. It will offset all the deficit funding of the ETB.

HON J J BOSSANO:

I also asked for confirmation, that in fact, I think it is implicit in the answer Mr Chairman that this is the

gap between the income of the ETB from the levy and the actual expenditure. Presumably the income that the ETB gets from the £2 weekly levy per employee it retains as its own funding and can expend and I take it therefore that this in fact reflects the shortfall between the income and the expenditure?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, that is correct but I perhaps should just clarify that in addition to the training levy there would also be the funds coming from the European Social Fund as part of the income as well.

Head 17 was agreed to.

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

Clause 3,

Heads 102 to 104 were agreed to.

Head 106

HON J J BOSSANO:

Can I ask, Mr Chairman, the explanation in the margin says "matching EU fund" on Objective 2 Projects. The figure of £3 million in the Estimates was of course a round figure on the expenditure side which included the matching EU funds on the revenue side. As I see it what we are doing here is voting that in the current financial year Objective 2 Projects will use up £75,000 more than the £3 million already provided in the Estimates. That would suggest therefore that the £3 million is already gone and I do not see how the matching EU funds enter in the equation because, of course, on the revenue side is where the matching EU funds appear in the Estimates and one would expect that something like £1.2 million of the £3 million would be matching EU funds?

HON CHIEF MINISTER:

That is not entirely right, Mr Chairman, because this Supplementary Bill is not as may have been the case in the past coming to the House after the event to seek for the approval of expenditure that has already been incurred. It is an attempt to correct the situation in advance of the requirement so that all of these Supplementary Estimates, both for the Consolidated Fund and for the Improvement and Development Fund, are forward projections to the end of the financial year. It is not true, for example, to say that the hon Member assumes that the fact that we are asking for £75,000 more means

that the £3 million that we had has already been spent. It does not mean that at all. It means that we think that until the 31st March there will have been spent £3,075,000. We presently only have authority for £3 million, we therefore want authority for an extra £75,000 but it may not be spent. In other words, it is not that the £3 million necessarily has already been spent. This is not a correction of the situation that has already happened. It is looking forward to the 31st March, which admittedly is only a fortnight away. There are road projects in progress, there are beautification projects in progress. I cannot tell you, in the absence of the Minister for Trade and Industry, exactly at what stage those projects are but the calculation is that the whole £3,075,000 will be required by way of appropriation authority by the 31st March.

HON J J BOSSANO:

I must say, Mr Chairman, that still implies that if there is a risk that the expenditure by the end of this month is going to be more than £3 million we must be very close to the £3 million already, since there is only two weeks left. The only explanation given is matching EU funds which is no explanation at all. Everything there has got matching EU funds. The EU is presumably contributing 45 per cent of the £3 million and will contribute 45 per cent of the £3,075,000 and if they had put £100,000 instead of the £75,000 it would have contributed.... the matching EU funds has nothing to do with it. It can only mean, from the explanation we have just been given that in fact the rate at which the £3 million is being spent, which was thought at the beginning of the year to be a figure unlikely to be used up, it must have accelerated to a stage where it is now thought to be unlikely to be sufficient.

HON CHIEF MINISTER:

Everything which the hon Member says on this occasion is logical.

HON J J BOSSANO:

We are not against Objective 2 Projects being spent, in fact it is a good thing to be able to spend the money since most Member States have a problem of underspending and then having to give money back. It is not something we want to encourage here.

HON J C PEREZ:

Mr Chairman, it also presupposes that the projects themselves which are to be paid or are being paid by

these funds are near completion given that they are at the stage where £3 million of work have been done already and that does not seem to be the case from the information that has already been made public on the Projects 2 by the Government in the press,

HON CHIEF MINISTER:

I will look through my papers to see if I can give the hon Members more explanations than I already have but the Opposition Members should not assume that this amount of money will be spent, indeed may not already have been spent because of course there will have been inter-departmental virement. If the hon Members are suggesting that they do not think that £3 million worth of capital projects expenditure may have been incurred from the beginning of the financial year to date, I think that they are probably not right. I am just, as I speak, trying to see if I can give them exact details of the expenditure in progress.... no, I do not have that information to hand, Mr Chairman, but they should assume that if the Department has put in the bid for the supplementary it is that they think that they are going to spend it and spend it in accordance with what the hon Opposition Member has said between now and the end of the financial year because he is entirely right, if the expenditure is not actually made this financial year it will fall into the next and it is no good to them to have it now. So this must be expenditure that the Department of Trade and Industry wishes to incur and pay for before the 31st March and certainly they have enough projects in hand to justify this expenditure but if they want details of which projects they are, we shall need notice of that question.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, could I just add a point in clarification to what the Chief Minister has just said. It may be helpful but although it is supplementary provision, if voted for, will give a total of £3,075,000. Of course there will be also the opportunity possibly of virement within that particular Head and so the actual outturn expenditure for Objective 2 Projects may in fact be even higher at the end of the year but as the Chief Minister said we will be happy to supply a list of the projects and the spending.

HON J J BOSSANO:

In fact, Mr Chairman, the original £3 million was as I said a round figure, and each specific utilisation of a part of that £3 million would require the authority of the Financial and Development Secretary to go ahead. I would have thought that if they need £75,000 between now

and the end of the year, given the fact that this is not a vote that Departments can simply spend because the monies provided at the beginning of the year they can simply start using it until it runs out, it could only mean that they are committed on a number of fronts to a degree that they expect to overrun the £3 million allocation. That is the only logical explanation that one can think of. It is just that it does not seem to be consistent with the reality of past experience of capital projects which more frequently tend to be delayed than advanced beyond their original projection date for obvious reasons. Things happen sometimes during the life of the project which are delaying factors and it is hardly ever anything happens during the life of a project that is an accelerating factor.

HON CHIEF MINISTER:

Mr Chairman, there are projects which we have wanted to start before the beginning of the financial year, particularly the beautification projects of Winston Churchill Avenue, Harbour Promenade, that is the new park in the west side reclamation area in Casemates, and that will be included in the £3 million now increased to £3,075,000 and then of course there is the question of the Main Street beautification which is now being wholly funded by Government and the European Union and no longer being funded by the traders in Main Street. So it is not necessarily that work has been accelerated but rather than expenditure is being absorbed in those £3 million which were not going to be absorbed in those £3 million before because private businessmen were going to be asked to contribute. But, as I say, if the hon Members want the information of the projects which have been carried out through the year and which are in the process, as we speak, of incurring expenditure between now and the end of the financial year, then that information will certainly be provided to him.

HON J J BOSSANO:

I am grateful for the offer of additional information. Just for the record let me say that the explanation that has just been given cannot be in fact accurate because the cost of the project is shown 100 per cent on the expenditure side and if the business community contribute or do not contribute that appears on the revenue side of the equation. So if the cost of the Main Street project is £1 million and the businessmen do not contribute £0.5 million it does not make the project cost £1.5 million because it will still cost £1 million. It is just that on the revenue side of the estimates where we have receipts and it shows in the receipts payments that are contribution made in respect of commercial projects, then

that contribution is not there. The other thing is of course, I think that the Chief Minister has just said, that instead of it being funded by the Community and the businessmen and the Government, it is now only the Community and the Government. Well, from my recollection in fact the Community was not involved in the Main Street project. If it is indeed now part of the Objective 2 Project then that is a different position. Initially it was intended that it should be the business community and the European Union and when it looked as if it would not be accepted as an Objective 2 Project, the Government said they would pick up the part of the European Union. But if it is now in the Objective 2 Project, then I do not think that was there initially for the reasons that I have explained.

HON CHIEF MINISTER:

I am sure the hon Member has recently driven along Casemates Square and seen an enormous billboard there that says that this project is partly financed by the European Union.

HON P C MONTEGRIFFO:

Can I just add, further to the Chief Minister's point, which he made beforehand, and the Leader of the Opposition's answer, that as trustee of the Main Street Beautification Trust on behalf of the Government we have seen the expenditure of the project rising slightly. So while I do not have the information in front of me with regard to that particular head, the House should be aware that the expenditure of the project has been rising slightly in relation to various slight technical delays, matters in the archaeological works, and that may account for that slight virement.

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

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

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Criminal Procedure (Amendment) Bill, 1997; the Gibraltar Development Corporation (Amendment) Bill, 1997; the Social Security (Closed Long-Term Benefits and Scheme) (Amendment) Bill, 1997; the Criminal Offences (Amendment) Bill, 1997; and the Supplementary Appropriation (1996/97) Bill, 1997, have been considered in Committee and agreed to with or without amendments and I now move that they be read a third time and passed.

Question put. Agreed to.

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn to Tuesday 1st April 1997 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 4.15 pm on Monday 17th March 1997.

TUESDAY 1ST APRIL, 1997

The House resumed at 10.05 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for Government Services and Sport
The Hon J J Holliday - Minister for Tourism, Commercial Affairs and the Port
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training and Buildings and Works
The Hon K Azopardi - Minister for the Environment and Health
The Hon Miss K Dawson - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

MR SPEAKER:

The Leader of the Opposition has written to me asking me in effect to give a ruling from the Chair. I willingly comply, that is why I am here. The hon Leader of the Opposition submits that the procedure followed at the last meeting of the House in relation to the Supplementary Appropriation Bill was wrong and contrary to Standing Orders. With due respect I disagree with his views for the following reasons:

Under the Standing Orders there are rules governing ordinary Bills and rules for the Appropriation Bills. Standing Order 32A(2) and (3) speak of the annual Appropriation Bill. Everyone knows what appropriation means. The word "annual" in the Oxford Concise Dictionary is given as, "of, or belonging to, or reckoned by the year; yearly". It does not mean once a year in the present context. I have come to the conclusion that the Annual Appropriation Bill means the appropriation for the whole year and that the Supplementary Appropriation Bill is just part and parcel of the same yearly appropriation. It is really a Supplementary Annual Appropriation Bill. In the Standing Orders the word "Bill" is in the singular but under the rules of legal interpretation a singular sometimes includes the plural. I find and rule that the correct procedure was used at the last meeting of the House regardless of whether the same procedure had been used or not on previous occasions.

The Hon K Azopardi has given notice that he wishes to make a statement and I will now call on the Minister for the Environment and Health.

MINISTERIAL STATEMENT

HON K AZOPARDI:

Mr Speaker, the Government has since August 1996 through the Minister for the Environment and Health been discussing with the Defence Secondary Care Agency of the MOD issues surrounding the secondary care needs of the MOD in Gibraltar.

I have answered questions in this House on two occasions on this subject. In November 1996 I indicated that discussions were at a very preliminary stage. In February 1997 I mentioned that discussions had advanced somewhat but that I envisaged we were still some months from a final agreement if a common position was to be reached in due course.

The essence of the discussions that are taking place between the Government and the MOD concern the possible assimilation by the Gibraltar Health Authority of the secondary care requirements of the MOD.

Apart from the meetings that have been held at which I have been present, medical, nursing and managerial staff of the Gibraltar Health Authority have conducted technical discussions with their counterparts at RNH to discuss the feasibility of such assimilation.

Whilst no final agreement has been reached, the Government has agreed to treat MOD patients requiring secondary care for a nine-month trial period commencing on the 1st May 1997. I have personally briefed the Unions on this matter.

This trial period does not indicate that there will be final agreement, as any party may take the view at the conclusion of such a period, that it does not wish to continue such arrangements.

The Government is conscious of the need to protect the interests of the present employees of RNH and has obtained an assurance from MOD that no compulsory redundancies will be caused or arise from the nine month trial period. In fact the entering into of this understanding has enabled the withdrawal of redundancy notices to employees that would otherwise have been made redundant.

The basic terms of the trial period are that Government will be paid for the delivery of such services to MOD patients and that certain medical staff will be seconded by MOD to GHA to assist in the delivery of care. Additionally, the GHA will have the use of the RNH theatre. These interim arrangements will not detrimentally affect GHA parties or staff in any way. Indeed, the Government is confident that these interim arrangements are in the interests of the GHA and the community at large. Close monitoring of the trial period will take place via a liaison committee set up under the auspices of GHA and MOD.

It is emphasised that as no final agreement has been reached, negotiations will continue with MOD to evaluate this trial period and the possibility of entering into a more permanent arrangement on mutually acceptable terms. Until the outcome of these discussions become clearer it would be premature to expand on these. The purpose of this statement is to inform the House of the current position. Further statements will be made as and when appropriate.

MR SPEAKER:

Under the rules there is no debate but the Leader of the Opposition is perfectly entitled to ask questions and if the Minister wants to reply he can reply and that is the end of it.

HON J J BOSSANO:

Mr Speaker, can the Minister say whether the proposed cottage hospital facility is going to be proceeded with by the MOD during the course of this nine month trial period?

MR SPEAKER:

Are there any more questions?

HON J J BOSSANO:

Yes, Mr Speaker, I have some more questions.

MR SPEAKER:

More questions?

HON J J BOSSANO:

Yes, but I would like to get an answer.....

MR SPEAKER:

When the hon Minister replies, that is the end. It is not a questioning process.....

HON J J BOSSANO:

Mr Speaker, I accept your ruling but all I can tell you is that I am being guided by previous experience. I think the last time was in 1984 that there was a ministerial statement. Any Member of the House could ask any number of questions as long as they were to seek clarification of a statement that had been made.

MR SPEAKER:

No, only the Leader of the Opposition is entitled to ask questions and then the Minister replies to the questions and that is the end. So if you have got more than one question, I think you should have all the questions together.

HON J J BOSSANO:

Could I also ask the hon Minister to say, this staff that is going to be seconded, what are the numbers, the different grades of the staff and whether they continue to be paid by the MOD or by the GHA during the period of secondment? I would also like to ask whether the payment the MOD is going to be making to the Health Authority is going to be an agreed sum of money or on the basis of usage, that is, so much per patient whenever a patient makes use of them and whether there is any offsetting involved because of the use of the facilities in the RNH?

HON K AZOPARDI:

If I can take the questions in the order that the Leader of the Opposition has raised them. I understand that for the period of the trial period that they will not be proceeding with the cottage hospital project while that, of course, remains a factor in the long term negotiations. If there is no permanent arrangements, no doubt they will seek to proceed with it. The seconded staff, if I remember rightly, we are talking about five midwives, a theatre team, a consultant surgeon and an anaesthetist. The terms of the secondment are, that for the period that they are seconded to GHA, they will be under the day-to-day direction of whoever is in charge of a particular aspect of the facility, in other words, if there is a Sister in charge they will obviously come under the instructions of the Sister. For the period of the secondment they will continue to be paid by the MOD so there will be no extra expense to GHA. The cost formula that is being used is not on a patient usage basis. The cost formula that has been arrived at for the purposes of this trial period, is relating it to GPMS contributions. We have ascertained the heads of families, the nominal contributors, in accordance with the proportion of medical population that the MOD are talking about, we have multiplied that by the GPMS contributions as any other Gibraltar would pay for that service. We are using the same equation to have them have access to the medical facilities as any other person, any other taxpayer in Gibraltar would use. There will be no offset as against that contribution of any other matter, any other use of any facility which is

being made available to us, such as the RNH theatre or indeed the cost of the salaries of the seconded staff will not be offset as against this GPMS contribution either.

MR SPEAKER:

There is another statement by the Minister of Trade and Industry of which late notice was given but I allowed him to make the statement, the same procedure is to be followed.

MINISTERIAL STATEMENT

HON P C MONTEGRIFFO:

I am grateful, Mr Speaker. Mr Speaker, as the House is aware the Government have been waiting for some months for the Ministry of Defence to announce detailed figures of the proposed job losses following the 1993 Review. I am able to confirm this morning that an announcement is being made today by the MOD. It is therefore appropriate that I should inform the House of the details of this announcement.

The House will recall that the 1993 Review indicated that the number of locally employed civilians, a total of 1,400 in July 1994, would have to be reduced by half, that is to 700, by the end of the century. This would cause 700 direct civilian job losses. The Deloitte and Touche Report completed last year further indicated the very serious knock-on effects that would be brought about by such a high level of job losses. In the period since coming into office and in particular following the completion of the Deloitte and Touche Report, the Government have been urging the Ministry of Defence to reduce the impact of cuts on civilian employment.

The figures announced today by the MOD will confirm that the projected civilian job losses will be significantly reduced to 300, 100 jobs already having gone through natural wastage since 1994. Of the remaining 1,000 civilian jobs, 350 posts will still be subject to competing for quality.

Whilst obviously regretting the fact that Gibraltar is to suffer major job losses as a result of the MOD rundown, the Government are encouraged by the significant reduction in numbers to be announced today by the MOD. This reduction has followed an in-depth analysis by the

MOD of its requirements and has involved close consultation with the Government and the Trade Unions. It is gratifying to note that the lower number of job losses has particularly been due to the great civilianisation and localisation of MOD posts.

Mr Speaker, in our discussions with the Ministry of Defence we have also consistently argued for an improved Early Retirement package. The Government have felt that this was particularly important in order to give options for early retirement for staff over 50. The Government therefore welcomes the news that a package is being finalised with the Unions to cover such early retirement during the period of the drawbacks.

Although the reduced job losses makes the MOD rundown more manageable for the Gibraltar economy, it does not change the general analysis made by the Government with regard to new economic activity. There continues to be a need to expand the private sector and thereby increase the prospects of employment. This involves continuing progress towards the service economy in tourism, financial services, telecommunications and port related facilities and the highest level of customer care.

The Government are, of course, aware that these reduced cuts will still cause considerable anxiety to many families in Gibraltar. We are hopeful, however, that a combination of voluntary redundancies and retirement will absorb most of the job losses over the next four years. The much lower job losses should be seized by everyone in Gibraltar as an opportunity. It is also a vote of confidence in Gibraltar and a testimony to the positive and constructive relationship that the Government, MOD and Unions have brought to bear in these discussions. It is very important that this constructive dialogue between Government, MOD and Unions should continue. In this respect a reactivation of the Joint Economic Forum is now appropriate. It is possible that there may be delay in arranging an early meeting due to the elections in the United Kingdom but subject thereto, the Government are keen to bring about an early meeting.

There are still difficult issues to tackle in the rundown process. The Government, however, feels that today's announcement and the success that has been achieved in significantly reducing civilian job losses augurs well for Gibraltar's prospects of successfully managing these reductions.

MR SPEAKER:

I am perfectly conscious that this is part of your motion on the adjournment, so you can either ask questions now

and continue with the motion or you can ask no questions now and raise it all in the motion or do whatever you like, but your motion is there.

HON J J BOSSANO:

Mr Speaker, the motion was directed at the immediate effect over the next twelve months in the financial year that starts today. I will deal with that side of it, which has not been specifically mentioned, when I come to the motion, because it is a follow-up to two questions in two previous meetings of the House specifically on 1997 and 1998. Can the Minister say, in relation to the information that he has provided today, whether in fact the retirement package is now finalised to the extent that before any redundancies are proceeded with there will be a troll of people to see how many volunteers there are or retirements given that as he himself has indicated in a statement, natural wastage and retirement may avoid the need for compulsory redundancies. If it is not yet finalised, can he confirm that in fact as I have suggested in previous questions in the House, it is logical for the MOD to determine first the retirements before they commence the redundancies? Since the greater the retirements the lesser the redundancies, it does not make sense to start the second leg unless there is a need for it because there are insufficient volunteers for the first and that therefore we can expect that the actual selection for redundancy will follow the retirements and not happen straightaway.

HON P C MONTEGRIFFO:

Mr Speaker, the retirement package is not yet entirely finalised. My understanding is that significant progress has been made in that direction but the Ministry of Defence and the Unions have not yet concluded their discussions on this matter. What the Leader of the Opposition states seems logical to the Government and the point that was raised in the same vein following an earlier question in the meeting, is one that the Government took on board but I cannot permit the MOD obviously or the Unions to acceptance of that formula. It seems logical to the Government that that procedure should be followed and we hope that progress towards finalising the retirement package will be swift and will be concluded in the very near future.

DOCUMENTS LAID

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of various documents on the table.

Question put. Agreed to.

The Hon the Chief Minister laid on the table the accounts in respect of the year 1995 of the following companies.

1. Gibraltar Residential Property Company Limited.
2. Gibraltar European Investment Trust Limited.
3. Gibraltar Industrial Cleaners Limited.
4. Gibraltar Information Bureau Limited.
5. Brympton Co-Ownership Company Limited.
6. Westside One Co-Ownership Company Limited.
7. Westside Two Co-Ownership Company Limited.
8. Gibraltar Joinery and Building Services Limited.
9. Gibraltar Land (Holdings) Limited.
10. Gibraltar Commercial Property Company Limited.
11. RPLI Company Limited.
12. Venture Enterprise Capital Company Limited.
13. Gibraltar Investments (Holdings) Limited.

Ordered to lie.

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

- (1) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 7 to 9 of 1996/97).
- (2) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 2 of 1996/97).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

The Hon the Minister for the Environment and Health moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Reading of various Bills.

Question put. Agreed to.

THE NATURE PROTECTION ORDINANCE (AMENDMENT) ORDINANCE 1997

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance for the purpose of further transposing into the Law of Gibraltar Council Directive 92/43 EEC on the conservation of natural habitats and the wild fauna and flora be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a short Bill and I will be quite brief. This Bill seeks to further transpose the Habitats Directive which was enacted into Gibraltar law back in 1995. I understand that the difficulty has arisen, that due to a typographical error, the relevant part of the Habitats Directive that provides for the protection of the Date Mussel was omitted from our regulations and accordingly this bill has been necessary to do that. Now that I am here I think perhaps I should give some background on the Date Mussel. I understand that this is a boring mussel, not boring in a psychological or emotional sense, but rather in a functional, physical sense, it tends to bore through its surrounding area. The hon Members in this House will be glad to know that this is not one of those mussels regularly found on plates at the Sea Wave Restaurant at Catalan Bay, so the transposition of this particular part of the Habitats Directive will not affect our diet. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. Agreed to.

HON K AZOPARDI:

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

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

1. The Nature Protection Ordinance (Amendment) Bill, 1997
2. The Social Security (Open Long-Term Benefits Scheme) Bill, 1997

1. THE NATURE PROTECTION ORDINANCE (AMENDMENT) BILL 1997

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.

2. THE SOCIAL SECURITY (OPEN LONG-TERM BENEFITS SCHEME) BILL, 1997

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

Clause 3

HON J J BOSSANO:

Mr Chairman, I have given notice of a proposed amendment to clause 3(3) which provides for the equalisation of pensionable ages between males and females. Although the intention is to reduce the age of retirement for men to 60, in fact the clause does not say that. It is possible to comply with that clause by doing either and therefore since the intention is to reduce the age of men to the age of women, then I feel that it should be specifically stated and the words added, "by reducing to 60 years the age of men". I am also proposing an amendment to sub-clause 4, do you want me to proceed with that?

MR SPEAKER:

It would be better.

HON J J BOSSANO:

I propose the deletion of sub-clause (4) and the replacement of a new sub-clause which will read, "for the

purpose of sub-section (3) the equalisation date shall be the 1st January 1998, or by annual reductions of one year in the definition of "pensionable age" for men commencing on 1st January 1998, as determined by regulations". The view that we take is, that the whole point of the open scheme, is to enable new provisions to be made in the open scheme which could not be made in the closed scheme and could not be made in the 1955 Ordinance, for as long as that Ordinance and that fund was being used for the payment of the Spanish workers that stopped contributing in 1969 because that was the condition under which the UK was prepared to contribute the funds to meet that cost and therefore in the closed scheme there is no proviso for equalisation. The position of the Government when they introduced the closed scheme was that they were free to, as a matter of policy, bring in whatever changes they wanted to the open scheme, and that they were taking advice on this. Of course, when the open scheme was introduced in the second reading, it was said that the policy decision that had been taken was to continue with what was there in 1955 which is what is there in the closed scheme. We see no logic to having two separate funds, an open scheme fund and a closed scheme fund if they are exactly the same, we might as well have one. The whole point of having a different one is that in this different one we can reflect policy changes and we believe that the new fund can and should pay from the beginning of next year, which is the first opportunity that we have. It would have been possible to do it earlier if the UK had agreed to pay the Spanish pensions earlier or if the whole fund had been dissolved and distributed and replaced by a new scheme which was the original idea. But given the arguments that have been put in the second reading of the bill that the cost of £3 million by bringing in effectively the age from 60 to 65, which presumably involves something of the order of 1,000 male pensioners to be able to cost £3 million, of that figure, we are providing for the reduction in pensionable age to be phased in a year at a time which would then take five years and where the annual cost would not be £3 million, that would be the final cost in three years' time but effectively you would be talking about something like £0.75 million cost a year assuming the accuracy of the £3 million, which I imagine is an order of magnitude rather than an exact figure which has been worked out.

The need to wait till the year 2020 is not something that is clear because in the open scheme it has been the position throughout that since it is a replacement and therefore represents a clean break with the previous one, it is possible to proceed now as it is possible to proceed in the year 2000 and the year 2020. We in fact had a very clear indication from the British Government that their experts saw the new scheme as new and distinct

from the old and that in fact under Community law we were required to do this. But in any case we believe that even if it was not a requirement of Community law it is something that has been under consideration for ten years at least and which could not be proceeded with when there was a single scheme from which both present residents of Gibraltar who are working in Gibraltar or who are commuting to Gibraltar and those who stopped working in 1969 get paid. Therefore, obviously, our preference would be that it should be done on the 1st January but if the Government, when they have gone into greater detail as to the estimated costs of the resources of the fund, feel that it is too much to do it in one go then by regulation they would be free to introduce it in slower time. I think it is important that a start should be made for pensioners on the 1st January 1998 and we have suggested that date rather than doing it now so that the administrative procedures that would require the additional payments to additional numbers can be put in place with sufficient time to be able to do it. We would be talking, if it was done in a year, of less than 200 males in any one year being eligible because that is what the demographic structure indicates. I think it is also important that we should do it against the background where there are possibilities of people taking early retirement because the difference for those who take early retirement may be, that it is easier for them not to go back on to the labour market to seek employment if they are getting the Social Security pension at the age of 60 as opposed to the age of 65.

I commend the amendment to the House.

HON CHIEF MINISTER:

Mr Chairman, if the Government had wished to impose on itself the straitjacket of having to equalise pensionable ages by a given date, which is the effect of the Leader of the Opposition's amendment, then we would have so drafted the Bill. The Leader of the Opposition may think that pensionable ages in Gibraltar should be equalised by the year 1998. That is his view and he must know, or presumably knows, why he holds that view given that no Gibraltarian would benefit from it, given that the affected Gibraltarians are not suffering any financial penalty as a result of doing so and that the effect of doing so soon would simply be to entitle people who do not reside in Gibraltar, of various nationalities, to a pension earlier. I just do not understand what urgency the Leader of the Opposition attaches to the Gibraltar taxpayer funding pensions for non-residents of Gibraltar at an earlier age when Gibraltarians who would otherwise obtain benefits are not in any sense, for reasons that he well knows, putting any pressure on the Government to

take that step. I can therefore only assume that this is a wish on the part of the hon member to pursue the policy which he devised prior to the last election of seeking to say things which he thinks will strike a chord in a particular sector of this community but which actually in no sense furthers the interests of that sector nor is it in Gibraltar's financial interests to pursue it any more quickly than is strictly necessary. The hon Member says that he does not see the need to wait until the year 2020, and the Bill as drafted does not require the Government to wait until the year 2020, I do not know why he thinks it is the Government's intention necessarily to wait till the year 2020. The Bill says, "that for the purposes of sub-section (3) the equalisation date shall be determined by Regulation but shall in any event not fall later than 2020". Government are therefore free in accordance with policy decisions that it might at any given time make to introduce equalisation of age provisions at any time. Therefore it does not follow from the Bill as drafted that the Government will wait, still less, does it follow that it must wait until the year 2020.

The hon Leader of the Opposition started by saying that he saw no logic in having two schemes and then, with respect to him, he goes on to give one of the reasons why it is sensible to have two schemes. He must know that if there were not two schemes, if there was just one scheme, then when we did equalise and given that he is urging us to equalise by the year 1998, that if we did equalise by the year 1998 under one solitary scheme, the equalisation provisions would apply also to the pre-1969 Spanish pensioners who are beneficiaries under the closed scheme but not beneficiaries under the open scheme. Therefore if there was only one scheme and we equalised, pre-1969 Spanish pensioners would benefit from the age equalisation provisions, because as he must know, there are still pre-1969 Spanish pensioners who have not yet reached pensionable age and in respect of all those several thousand pre-1969 Spanish pensioners who have not yet reached pensionable age, if we equalised under a solitary scheme then they would be entitled to an advancement of their pension collection age. Mr Chairman, the Government therefore do not support the amendments. The Government are committed to the introduction of equalised pensionable ages in accordance with Gibraltar's Community obligations, so to do, but it will choose its pace for doing so in accordance with the Government's judgement of what is in Gibraltar's best financial interests just as every other legislature and Government in the European Community is doing. There is no Government that is rushing to equalise especially not in our case when it is not necessary to do so. I already explained to the hon Opposition Member why the Government

were anxious anyway not to introduce changes at this stage in the nature and extent of benefits and that is, that on the basis of the legal advice that we have, it does not necessarily coincide with the advice that others might have, but on the basis of the legal advice that we have, the issue of whether this is a new scheme falls to be decided not by whether it is introduced by new legislation but rather by whether it substantially changes what used to be there before in terms of benefits and entitlements. Therefore the Government for that reason as well are not minded to accept any amendment which has the effect of altering the structure of the Bill, which is not to say that at a later date, when the issue is no longer live, the Government may not introduce as future Houses of Assembly might introduce, any number of changes to the open scheme Ordinance. The hon Member has given notice to delete the reference, "by reducing to 60 years the age of men" in clause 3(3) of the Bill.

Mr Chairman, in the second reading of the Bill I said that it was the Government's present intention to equalise by lowering the pensionable age of men to 60 rather than by raising the pensionable age of women to 65 or any halfway house, which was the option being followed in other countries, in other words trying to meet them in the middle. The Government presently have no intention to do so but certainly I see no reason why this House should constrain the Government's freedom of policy manoeuvre before the Government have had an opportunity either to make a final policy decision or indeed before there is any need to do so. So, certainly the Government are not willing to enshrine in the laws of Gibraltar that it must equalise pensionable ages to 60. This is something that the Government will do at a time of its choosing in accordance with the policy decision that it then makes in the light of all the circumstances then prevailing. Certainly, the hon Member must be aware he is certainly free to move an amendment to legislation to give him an opportunity to argue what he thinks the law should be. But he must also understand, that the fact that the law does not say that, does not mean that that is not or will be in due course, when the Government introduces the equalisation proceedings. In other words, the Government are not willing to enshrine at this stage in the law the methodology which it will pursue in relation to age equalisation but of course that is something that will be debated in the House at the time that it comes to be implemented. The Government although it has the ability to make equalisation provisions by Regulation, the Government do not envisage introducing those changes without some sort of prior debate in the House.

Mr Chairman, the Leader of the Opposition also suggested that..... well really it is the same point Mr Chairman the bit about that equalisation should be by annual reductions. I do not know if he is aware but annual reductions would be very difficult to operate. He may know that in countries where they do operate a gradual convergent system, these are not annual reductions, they are done by monthly reductions. In the United Kingdom this process has already began and they are not done by annual reductions of one year as the hon Member suggests in his amendment, they are done by monthly reductions so that every month a new category of woman is one month closer to retirement age, or rather one month further away from retirement age in the case of the United Kingdom. It would not in any case be done by annual reductions of one year. I recognise that the hon Leader of the Opposition's amendments are calculated either to force the hand of the Government in something that the Government have already indicated is its present intention in which case the Government does not think it is appropriate that it should be so restricted by law in its freedom of policy manoeuvre, or alternatively, it is simply an opportunity for the hon Member to express his views as to when he thinks age equalisation should take place, presumably in an attempt to strike a chord. There is no need to the hon Member to occupy this ground. The Government are fully committed to the principle of equalisation. It will be done in a way which best protects the interests of future Gibraltar pensioners. It will not be done in a way that makes any prospective Gibraltar pensioner worse off than he would otherwise be. That is the Government's policy. That policy will not change but of course the Government wishes to remain free as to the mechanics and the timing that it chooses to implement those policy commitments. The Government will not be supporting the hon Leader of the Opposition's amendments.

HON J J BOSSANO:

Obviously, Mr Chairman, we are disappointed that the Government's reaction should be what it is and let me say that the arguments that have been used are not very convincing. The point that I made about the open long term benefits scheme, which we are bringing into effect today is, what is the use of having it there unless you are going to bring in changes? The Chief Minister says, "I myself have given the reason why we should have a second scheme". Yes, the reason that I have given is reflected in the amendment that I have moved but if we are not going to change anything and we are going to have an identical scheme then the very logic of having a second scheme is absent. So I was not saying I do not

know why we have an open scheme and then saying myself why we have it. What I was saying was, in the absence of any changes there is no logic but there is a possibility of changes and in fact we were told last September when the closed scheme was moved that the Government's intention was to bring in changes in the open scheme. It is all very well to say, "We cannot bind a future Government by putting in the years to 60." Well, that contradicts every single argument the Chief Minister has used on every other piece of legislation here where he has said, "It is a nonsense to say we are binding anybody because there is nothing to stop an amending Bill being brought in and changing it." So if we put there now by equalising in sub-section (3) the age for men, what it would reflect is that the commitment to do that is present in this House today. That does not mean that somebody cannot, in a future meeting of the House, change that Bill and remove it. The point is, that we are reflecting in what we are legislating what is the express policy objective. If in fact a decision has not yet been taken and it could equally be that it is equalised in between 60 and 65 or in some other way and that the decision will be taken when it is decided to qualify, then in fact, why in the second reading of the Bill was such emphasis placed on the fact that it would be regressive to increase the age for women and that it was progressive to bring it down? Well, if it is progressive and we all think it is progressive then let us reflect what this House thinks should happen when this House is legislating. It is up to another House to do something different and that is an argument that was used by the Chief Minister when he was explaining that when the UK wanted certain things reflected in the law he had said to them, "Well look, whether it is reflected or not reflected, they used that same argument in relation to the provision in the closed scheme for the Minister to alter benefits when it is a fact that the Minister may alter the benefits". It does not mean that he has to alter the benefits and there is nothing to stop a future Government doing something different and we accept that, so we are not saying the idea of putting it there means that we are tying the hands of anybody in the future. All that we are saying is that we are reflecting in the amendment what is the policy to which we all apparently subscribe. When it comes to equalising next year, obviously the purpose of moving the amendment is to try and persuade the Government that it can afford to do it now because the reason that was used in the second reading of the Bill was that the cost was too high and certainly if the cost is too high and that is the reason why in the judgement of the Government it cannot be done in one go, then by spreading it over a five year period the cost is not too high because the additional cost every year is only one fifth of £3 million. Nor do I

understand what the Chief Minister says about having to pay to people who are not in Gibraltar. We are talking about people who are not already pensioners and we are talking about if it was done in stages that people who reach the age of 64 in whatever month of the year, I do not know how they calculate the pensions in the United Kingdom, but I would have thought the Chief Minister must know that what he is legislating here is that the year counts for calculating the average irrespective of the month of the year in which the person is born. That is provided for in this Ordinance. So you count the average number of contributions from the 1st January 1955 or your twentieth birthday but you count the year in which you were 20 and the year in which you are 65 irrespective of whether you are born in January or in December. That is the provision.....

HON CHIEF MINISTER:

Would the hon Member give way? Is he not aware that that is simply not the case. He must be aware that that is simply not the case. If one advances pensionable age for people who are not presently in receipt of a pension, one is advancing the moment from which one needs to fund the commitment and start making the payment and increase the period of time during which the payments have to be made. He may wish to give the example by reference to people who are 64 and therefore cloud the issue by reference to the year of the birthday but there are many, many hundreds of pre-1969 Spanish pensioners who are not even 60, let alone 64, and he is suggesting that in respect of them we should advance pension entitlement by two, three, four, up to five years. Can he give a reason why he should want the Gibraltar taxpayer to foot that bill? For what benefit?

HON J J BOSSANO:

Mr Chairman, in the light of that remark, for which I am grateful, I have to say we are not discussing the open scheme and everything that has been said about the open scheme until now is complete nonsense because none of the Spanish pensioners get paid from this. The whole objective has been that in the closed scheme there is no change and no provision for change and no provision for equalisation and that the new scheme is new precisely to enable us to do and that is not just what I have said, this is what the Chief Minister has said last September and since September and today. If his argument is that we cannot do it in the open scheme because whatever we do in the open scheme will apply to pre-1969 Spanish pensioners, then it is not an open scheme. The two schemes are closed and then why have two? The whole

purpose of having two is to enable us to do things here which have no impact on people that have not completed it post-1969. If this Bill does not do that then it fails to achieve the reason why it was created in the first instance. In fact, if we look at the Bill 90 per cent of the clauses in this Bill are identical to the ones in the closed scheme. If one is going to have two identical pieces of legislation, 100 per cent the same, I do not understand why it is we need to legislate for a second scheme. I know the arguments that are used and those arguments are that the Government are free to do it any time. Well, if the Government are free to do it at any time then it does not have a problem of having to pay all the pre-1969 pensioners in the closed fund otherwise it is not free to do it at any time. Then let us be told it has nothing to do with the additional cost for local pensioners because the £3 million that was mentioned, I can only decipher that figure as being the cost of something of the order of 1,000 new pensioners and since it is a move of five years, that translates into an average of 200 new pensioners a year and of course.....

HON CHIEF MINISTER:

Would the hon Member give way? It is clear to me from what he is now saying that I inadvertently said pre-1969 Spanish pensioners. No, I did not mean pre-1969, I mean Spanish pensioners and indeed other non-Gibraltarian resident pensioners.

HON J J BOSSANO:

So if we are talking about persons who are in Gibraltar, who are working over the age of 60, then in fact it is in the context of the difficulty of finding employment beyond 60 that bringing the age down makes sense. In most countries in Europe where most of their schemes are constantly on the verge of bankruptcy because they are all under-funded, the problem of moving to 60 was a problem of how to finance it but on grounds of generating opportunities for employment and on grounds of progressive policies that equalised age, all the social and political arguments were in favour of bringing down the age of males. In all the countries it had been overruled by the Treasury who said, "We cannot afford it." It is clear that we are in the fortunate position that we can afford it. We can afford it now, we can afford it spread over five years and we can afford it any time between now and the year 2020 and of course in the numbers of the £3 million figure that was given by the Minister for Social Affairs must be included all the nationalities currently working in Gibraltar who are between the ages of 60 and 65. I do not know how many non-Gibraltarians there are in that category but I would

imagine that the percentage of the population of 60 to 65 is predominantly Gibraltarian and that you are unlikely to be getting foreign workers unless they have here a very long time in an area age group. It is not a bad thing given the problem that we have for redundant Moroccan workers if in fact the ability to get the pension at 60 means that they are less likely to be here competing in the jobs market. There are sound reasons for doing it and there are no reasons for not doing it and in respect of introducing the commitment to bring down the age, this is not a matter of methodology. The methodology is how you do it. The policy is whether you do it and what we are saying is the policy should be reflected in the law because that is what we are legislating at this moment in time. A reflection of the policy decision to bring down the age of males at 60 and although we have a number covered by Community Care Limited, in the 60 to 65 age range employed on a part-time basis and getting a social wage, that was something that was put in precisely because no amendment could be done to the 1955 scheme, otherwise the joint memorandum with the United Kingdom would be breached by any attempt to change that because of the cost to them. It seems to me it is an opportunity to start putting into effect something that has been there under consideration for the last ten years and that this opportunity should not be missed. I regret we have not been able to persuade the Government to move down this direction but I must say the reasons that have been given sound hollow to us.

Question put. The House voted.

For the Ayes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

For the Noes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon Miss K Dawson
The Hon T J Bristow

The amendments were defeated.

Clause 3 stood part of the Bill.

Clauses 4 to 9 were agreed to and stood part of the Bill.

Clause 10

HON CHIEF MINISTER:

Mr Chairman, I have given notice of an amendment to Clause 10. In clause 10(3)(a) it says, "That there shall be charged upon the Fund the payment of the benefits described in section 11 below." The hon Members will recall that in the closed scheme there appeared there the words, about which we debated somewhat at the time that we passed that legislation, that went on to say, "the payment of the benefits described in section 11 below...." and then it went on to say, "and notwithstanding the provisions of section 5 of the European Communities Ordinance, claims for such benefits payable by reason of Gibraltar's obligations under the regulations of the Council of the European Communities on the application of Social Security schemes to employed persons and their families moving within the Community". The hon Opposition Members will recall that at that time they argued that those words should not be included, as indeed they had excluded it, I think it was in 1991 or 1992 from some amendment to the Pensions Bill because they argued that the inclusion of the words there suggested that if included, this would imply that by the use of section 5 of the European Communities Ordinance, that these were liabilities of Gibraltar and therefore through section 5 a charge on the Consolidated Fund. The Opposition Members felt strongly that this was not something that they were willing to support because in their political judgement obligations to pay in effect pre-1969 Spanish pensions was not an EU obligation of Gibraltar because they took the view that this was an obligation of the United Kingdom because of the way that the then Foreign Secretary Sir Geoffrey Howe had mishandled the pensions issue back in 1985. Hon Members will also recall that we argued during the second reading debate on the closed scheme, that whilst we agreed that Britain had a moral commitment to pick up the Spanish pensions bill because the liability had arisen entirely as a result of either the United Kingdom's Government negligence and/or reticence in the handling of the issue, that that did not go on to mean that it was not a Gibraltar legal obligation because Gibraltar legal obligations under Community laws were established by Community laws and not by the act or omissions of the United Kingdom or Gibraltar. Our judgement, our analysis of the position was somewhat different. It was and is clearly under European Union law a Gibraltar obligation but a Gibraltar obligation which Gibraltar was refusing to discharge arguing, and with this part of the argument

we certainly agreed, that Britain should pay the bill because it had brought the problem down to bear on us. So we disagreed in the case of the closed fund about whether the words should or should not be included to protect Gibraltar's argument on which we actually agree. I think, Mr Chairman, that it would not be controversial between the two sides of the House that this point really only arose in relation to the closed scheme and does not arise in relation to the open scheme because it was only in relation to the closed scheme that we were arguing that it was Britain's obligation and not Gibraltar's. Therefore, because the point simply does not arise under the open scheme, we just made no reference to it at all and we just put, "all contributions paid under this Ordinance".

The passage, as the hon Member knows, of this Bill is a requirement for the European Commission closing a file or a fiche as they call them over there, in relation to infraction proceedings which are imminent. For that reason this draft Bill has been cited by the Commission in order to obtain from them an indication that it would result in the closing of the fiche. The Commission has made two points, neither of which, in our opinion, has any merit whatsoever. One we cannot address because it simply misses a point which is important for us and for the operation of the scheme and I shall explain that in a moment. But they did alight until what they have done is, that they have compared the text of the closed scheme with the open scheme that arrived at this section and they have said, "Oh, why have they excluded the reference to European Communities Ordinance and European Union obligations?" "Is Gibraltar arguing that by excluding the words 'including claims for such benefits payable by reason of Gibraltar's obligations under the Regulation', is Gibraltar denying the principle that European Union Regulations have supremacy and direct application in Gibraltar?". Which is of course a nonsense. That was not the reason why it was there in the first place, it was not the reason why it was excluded and rather than explain to the Commission, first of all, the reasons why it was excluded then the reasons why it was included and then the reasons why it was again excluded from this, all of which would simply be laundering our linen in a place where it does not need to be laundered, Government have decided to placate the Commission by quite academic, because it has absolutely no value or significance, meaning, or effect to restore in 10(2)(a) the words that were excluded. So that 10(2)(a) will then read in the open scheme, exactly as the equivalent section raised in the closed scheme and we trust that this will assist the Commission in arriving at the conclusion that we are not here trying to argue that European Union law is not supreme, nor are we seeking to gain some underhand

advantage by this. It is entirely academic and is frankly easier to concede it than to argue it because it is certainly in Gibraltar's interest that the fiche should be closed for reasons that Opposition Members will be able to work out for themselves. So for that reason, Mr Chairman, the amendment is that we delete the semi-colon after the words "section 11 below" and substitute a comma followed by the words "notwithstanding the provisions of section 5 of the European Communities Ordinance, claims for such benefits payable by reason of Gibraltar's obligations under the Regulations of the Council of the European Communities on the application of Social Security schemes to employed persons and their families moving within the Community". This will allow some official at the European Commission, that simply compares the two schemes as if that were a relevant exercise for him to conclude, that there is no difference and therefore will simply accept that the new scheme is in full compliance to Gibraltar's Community obligations and that will be the end of the matter. I hasten to add that in Government's judgement, in this Ordinance, the point is entirely academic even though in the closed scheme there was a political argument for excluding it in respect of which we differed from the hon Members.

HON J J BOSSANO:

Mr Chairman, we will support the amendment because in fact as the Chief Minister has correctly stated, the objections that we raised to its inclusion in the closed scheme should not apply in the open scheme since the open scheme has to finance any liability arising out of the application of Regulation 1408 and of course, to my knowledge, the only effect that has is in terms of passing the test of eligibility when you count periods of employment in other Member States. Other than that there is no connection between our legislation in the open scheme or in any other normal scheme that is not beset by the kind of problem we inherited in 1985. In fact, removing the provisions of Section 5 of the European Communities Ordinance is a good thing, not a bad thing and I would have thought it was a bad thing from the Commission's point of view but if they want it, then there is no reason why we should not want it and therefore we welcome the fact that it is going to be put in in this one although we did not want it in the other one.

HON CHIEF MINISTER:

I did indicate that I would give the hon Members an indication of the other point raised by the Commission which I felt we could not address and that was that somebody in the Commission, I do not know if the hon

Members have got the Bill in front of them, but if they look at section 19 of the Bill, the hon Members will recognise that under the heading "Special Provisions to Men", it provides in effect for men getting a pension by virtue of their wives contributions and that section 20 has the identical effect in relation to women. In other words, working women getting pensions, or women who have not worked, it could be both actually, getting pensions by reference to their contributions of their working husbands. The Commission looked at those two sections and because there are, one section deals with special provisions as to men and another section deals with special provisions as to women, notwithstanding the fact that the sections are otherwise identical, the sections in their provisions are absolutely identical. They concluded, quite irrationally in my opinion, from the fact that the provision is contained in two separate sections, one headed Special Provisions as to Men and the other Special Provisions as to Women, that there was some discrimination between men and women and of course that is not so. The only reason why the section laboriously sets out identical provisions in separate sections relating to men and women is because the phrase, "pensionable age", is used frequently in both sections and the phrase "pensionable age" means something different in the case of men than what it does in the case of women. In the case of women it means 60 and in the case of men it means 65. The Commission's suggestion was that this section should be merged into one and the word "spouse" used. I am not saying that it is not possible to sit down and do it but it is extremely complicated because every time one uses the word "spouse" one would then have to go on to say, "but in the case where the spouse is a man, pensionable age means 65 and in the case where the spouse is a woman, it means 60". This is exactly the reason why these sections are split into two so that they can just use the words "pensionable age" which is defined at the beginning of the Bill and always has been as meaning one thing for women and another thing for men. The Commission thought that this was discriminatory either of men or of women. We have put up a paper to them which makes it clear that in this respect there is no discrimination except that discrimination which is implicit in the fact that there are unequal pensionable ages, and that raises the whole question of the equalisation of pensionable age. That is the one Commission comment that we have not accommodated.

Clause 10, as amended, was agreed to and stood part of the Bill.

Clause 11

HON J J BOSSANO:

Mr Chairman, in the second reading of the Bill I raised the question of the reduced benefits table in the Schedule and why there was a need in the open benefits scheme to provide for proportional allocation of a pension of 60p a week to the new scheme for people with less than two years contributions or residence since 1970. Since the scheme started on the 1st January 1994 I could not understand why it was that we were saying that we were making provision for people who have contributed post-January 1994 on the basis that they had not been in Gibraltar since 1970 or insured since 1970. We did not in fact get an answer to that point at the second reading and therefore I am now moving the deletion of this provision by deleting in clause 11(2) the words, "except in the circumstances set out in sub section (3)" and then going on to delete sub clauses (3) and (4) which are the ones that provide for the higher rates of benefit to people who lived since 1970 and who reserved the frozen 1969 benefits for those who have not contributed or been resident in Gibraltar since 1970. There is an additional argument I think which needs to be taken into account. When the decision was taken in 1970 to increase benefits a decision was also taken to increase contributions. It seems to me that if somebody contributes in Gibraltar for 103 weeks post-January 1994 and has not got contributions post-1970 he is faced with the situation where he will be contributing or on his behalf the employer would be contributing £500 a year in order to get a share of 60p a week. That seems wrong because historically it was there because people paid £38 in 15 years and the actuarial relationship between the one shilling and five pence and the 60p was that that was what they were funding. Subsequently to that the increased benefits were linked to increased rates of contributions at different points in time. This is why we have two tables. We have a table that says people who contributed pre-1968, people who contributed post-1969 and people who contributed post-1970. The logic is that there was essentially a second contribution condition introduced so that the benefit would be payable to the people who had paid the same number of contributions but more expensive contributions. In the 1994 open scheme the only people that would be entitled to a share of their pension from the new scheme are the people that have contributed to the new scheme. We have, for example, at the back on page 118 where it talks about contribution conditions for the old age pension that it should be not less than 156 contributions. If we are talking about the contributions having all to be post-1994 then in fact it would not have been until 1997 that it was possible to have 156 contributions because that is fifty two weeks a year, three years. In this case the possibility of somebody

falling in the category of not having had enough contributions or residence to qualify for the £47.80 and having to get a share of the 60p is unlikely to be very numerous. There may be a dozen people in that category but it is in my judgement and in the judgement of this side of the House something that has been put in simply following what is clear has been one of the ingredients in the drafting of this which is to produce here what there is in the closed scheme and what was there in 1955 and I think not enough attention has been given to the fact that if the person was getting the 60p from the old closed scheme the 60p would mean because he had not been here since 1970. If he had been here post-1994 then I think, however few contributions had been made between 1994 and his retirement age, he should get in return for those contributions a share of the £47.80 and not of the 60p. Frankly, to make insurance compulsory and then to have a qualifying condition which means that some people have to contribute whether they like it or not and effectively they are contributing to a pension of 60p a week where they could do much better if they put the money in Government bonds and drew tax free interest from it and it is..... given that we are not given an explanation on the second reading of the Bill and having given the matter more thought, in between, we have come to the conclusion that all the pensions from the open scheme should be based on the £47.80 and that the cost of giving it to people who would otherwise be excluded by this would be very small and that in any case since in order to come under this scheme and in order to work out their average there must be post-1994 contributions, if they had not paid anything post-1994, they are not here at all. Their average would be simply based on the old contributions and they would be paid a 100 per cent from the old scheme. There would be no apportionment between the two schemes, if there is not any stamps paid under here. On the higher level of contributions now as compared to 1969 it seems reasonable that people who are having contributions made now are doing it on the assumption if they did not read the small print that they are actually paying towards the current rate of pension and not what was frozen in 1969.

HON CHIEF MINISTER:

Mr Chairman, the reason why this remains here, and there is much logic to the views expressed by the hon the Leader of the Opposition, are twofold. One remains valid even though the hon Members may not agree to and the other probably does not. The first reason which in our judgement does remain valid is our desire that there should be, as he has just said, that this should replicate the old scheme but certainly the issue to which the hon Member has just alluded in argument is one that

could certainly be reconsidered the next time or in some future occasion when the issue of changes to the scheme have already been saved.

In other words, he is right that the drafting philosophy of this Bill is to change nothing that does not positively need to be changed in order to strengthen the argument that this is not a new scheme in order to avoid the need to have immediate equalisation. He is absolutely right, that is the reason and that is one of the reasons why this is still there. The other reason why this is still there which in any case may not work, is this: it is actually not true to say that there is no connection between this Ordinance, this Bill, and pre-1969 Spanish workers. The Government understand that the European Union rules on aggregation requires the Gibraltar part share of the pension payable, for example, if somebody worked in Gibraltar before 1969 has left Gibraltar and has never been back, has then gone on to work in any number of other European Union countries, hon Members understand the rules of aggregation enables that person to add together all the pension contributions from all the EU countries in which he has worked and by stint of the aggregation rules get an entitlement to which each country in which he has worked then contribute their pro rata share. The European Union rules are that the Gibraltar share of that, even if it pre-dated 1969, have to be paid in accordance with the current Social Security scheme. It is not a question of saying, "Fine you worked in Gibraltar for three years, prior to 1970, you have got three years worth of Gibraltar contributions to aggregate, how much would you have been entitled to under the 1955 Ordinance or the closed scheme?" No, the way it has been explained to us is that European Union rules require that the Gibraltar proportionate share of such aggregated pension entitlement would have to be paid under the current scheme and the same applies in other countries. If there is somebody with an historical contribution in France, France's proportionate share would have to be paid in accordance with its currency and at the current rates. This is there partially to try and keep up and open the argument that the Gibraltar entitlement is limited by those provisions but we are advised that if that probably does not work, that if there is any pre-1969 Spaniard who left Gibraltar and has never been back but can contribute to the Gibraltar contributions to some European Union wide aggregation: then we would probably have to pay him a pension in respect of our contributions pro rate entitlement at the current Gibraltar rate of pension. The second reason, why that is there, probably will not work but the first one is the one upon which in any event would have caused the Government to leave it there but I hear the force of the argument that the hon Member has deployed and

therefore the Government will certainly keep this under review and on the next occasion that there is a need to amend this Bill after the question of the equalisation matter has been saved so that there is no longer an argument of about immediate equalisation then the Government will consider introducing amendments to reflect the points made by the hon the Leader of the Opposition.

HON J J BOSSANO:

Mr Chairman, all the arguments used are used really on the basis that the open scheme should not look like a new scheme, should look like the old scheme and therefore if the reason for doing that is to protect us from possible claims on this Fund, it does not make any sense at all because that is precisely what we have protected ourselves by having two Funds. The question of aggregation of course and the fact that people that have been in other Member States claim the higher rate of benefit is something that happened with the closed scheme not with this one. Yes, I am afraid so, Mr Chairman. If a Spaniard, to use the example given by the Chief Minister, left here in 1969 and has never been back the reason why he is able to claim a pension under the old scheme is because although he will not have been 104 weeks after 1970 paying contributions, he will have been ordinarily resident in Gibraltar since 1970 because under Community law residence in La Linea is the same as residence in Gibraltar. That it is 3(a), the equivalent of 3(a) in the 1955 Ordinance which was not amended in time prior to 1986 which triggered the whole mechanism of having to pay the pensions. We have been through that in this House many, many, many times explaining that that is where the redundant mechanism is but the point is of course that the view that has been put just now about people being entitled to the higher rate of benefit which they are in the closed scheme, it is not that the closed scheme only pays 60p, the closed scheme pays 60p to people who have not been in Gibraltar since 1972 which is 104 weeks after the 2nd July 1970, so anybody that has not been in Gibraltar in the period from July 1970 to July 1972 or in 104 weeks since that date does not get £47.80 irrespective of the value of his contributions. The Spaniards get the £47.80 in the closed scheme and so will any other Community national that contributed up to December 1993. Anybody that has contributed till December 1993 and can meet the rules of aggregating contributions over periods of time by reference to their contributions or residence in other Member States, are entitled. This, effectively, means that if somebody spends 103 weeks in Gibraltar and the rest of the time outside the Community then and only then would he fail to meet the residence conditions. If the argument is that

we want this to look like the other one so that it looks as if we do not have two but we have one, I have no counter argument to that one, except why not have one. Obviously, I welcome the fact that they are prepared to look at it but if they are going to wait until the year 2020 I do not think there are many people who contributed pre-1969 who have been away from Gibraltar who may have come back for less than 104 weeks and are still going to be alive to collect a pension of £47.80 if we are talking about some time in the next century.

Question put. The House voted.

For the Ayes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

For the Noes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon Miss K Dawson
The Hon T J Bristow

The amendments were defeated.

Clause 11 stood part of the Bill.

HON J J BOSSANO:

Could I ask, in clause 11 the reference, I mean if the answer is because it was there in 1955, then of course we know the answer. But if it is not, what is the logic of saying in clause 11(5)(b)(1) that the contribution year which counts, is when the contributor has attained the age of 20 or the 1st January whichever is later.

It is effectively that only people who were born in 1935 would have been 20 in 1955 and therefore all those people with later birth dates under this clause have their contributions counted from their twentieth birthday although they are contributing before 20. How can they be contributing into a pension fund and those contributions do not count?

HON CHIEF MINISTER:

Mr Chairman, the hon Member knows that the calculation of entitlements to the rate of benefit under this new scheme takes into account pre-1994 contribution records for the purposes of calculating the weekly average. We discussed this at some length at the second reading. Entitlements to benefits under this open scheme are not limited to the weekly average as calculated in respect only of post-1st January 1994 contributions. For the purposes of calculating the weekly average there is an aggregation of the contributions paid pre-1st January 1994 and then there is a pro rata payment under the new scheme. The hon Member will remember that we debated that on the occasion of the second reading. As far as I am concerned that will be the only justification for that reference there. If the hon Member wants a more considered opinion then he will have to give me notice of that question. Certainly the fact that a reference to yearly averages of such contributions shall be a reference to that average calculated in the prescribed manner over the period and then that period begins with the period which commences also the closed scheme is correct, only in so far as that method of calculation of the average is transposed into the open scheme where your rate of benefit is also calculated taking into account contributions payable under the 1955 Ordinance/closed scheme.

Before I sit, Mr Chairman, I noticed in the hon Member's letter dealing with these amendments that he had hoped to delete sub-paragraph (4) which I suppose is a mistake on his part, is it?

HON J J BOSSANO:

Sub-paragraph (4) is the loss of the right to a higher pension by people who, that is to say, one will not go back to 60p if one leaves Gibraltar but since I was deleting entitlement to the 60p there was no need to say they would not go back to it if they left Gibraltar because they would not be getting 60p in the first place, that is what sub-clause (4) does.

HON CHIEF MINISTER:

So it is consequential to the previous amendment?

HON J J BOSSANO:

Absolutely, yes.

HON CHIEF MINISTER:

It is just that we did not debate it.

HON J J BOSSANO:

But it only follows if there is no (3) and one is not going to be giving people 60p then there is no need to say one will revert to the 60p because they cannot because it was not there in the first place. As regards the explanation the Chief Minister has given, I am aware that in order to pay pensions a system has been introduced and that is covered by the clause that talks about the transitional provisions and the calculation being apportioned as between the two parts. The point I am making is that, as I read this, anybody entering our workforce and having contributions made on the 1st January 1994 and subsequently will not have those contributions counted until his twentieth birthday because it says, "you work out the average beginning with the contribution year in which he attained the age of 20 or the 1st January 1995." That may also be true in the closed scheme for what happened pre-1993 which was following what was done in 1955. I do not know why in 1955 the start of working life was supposed to be at 20. To my knowledge people started working even earlier in 1955 than they do now but nevertheless this does not just apply to people who are getting it in the past, it also applies to people who are entering insurance in Gibraltar for the first time post-1994. As I read it, unless there is another explanation, it means that when the time comes to establish their entitlement to benefits it is the stamps that have been paid from the 1st January of the year in which they had their 20th birthday that counts because there is a proviso that says that in calculating the contribution you start with the contribution in the year before.....

HON CHIEF MINISTER:

I thought you were homing in on the 1st January 1995 aspect of the matter. If the hon Member is saying that in respect of people who have perhaps not yet started working, 15 or 16 year olds, or people who have just started working, that in effect the first two years of their contributions, on the assumption that they have made no contributions, that they have not started working until this year so they are not in the closed scheme at all, that such people who will get their pension entirely from the open scheme because they did not start work until after the 1st January 1995 they will also in effect not get the benefit of their contributions, during their 18th and 19th working years as has always been the case with the pensions scheme, that is absolutely true. That rule that your contributions do not start to count and except in respect of your contributions of the 20th year even though the law requires them to pay during their

earlier years that they might work, remains absolutely the case. But, Mr Chairman, whilst I have the floor, can I just say that I think that the Leader of the Opposition may wish to withdraw, for the Hansard, his proposed amendment to sub-section (4), which I think means something quite different to what he intended it to mean. Sub-section (4) which he sought to delete says, "any person who is at the date of entitlement to benefit entitled to the rate specified in sub-section 2(a) shall not lose such right by reason of ceasing to reside in Gibraltar". That means, that whatever pension one is entitled to under 2(a), one does not lose simply because one migrates away from Gibraltar. But 2(a), and this is where I think he has misguidedly directed himself, 2(a) is not the frozen pensions, 2(a) is the principal pensions, because section 2(a) reads, "subject to the provisions of this Ordinance except in the circumstances set out in sub-section (3) the weekly rate of the several descriptions of benefit shall be as set out in the second column of part 1 of Schedule 2. Those are the standard rates of pensions collectable by everybody. The effect of this amendment, if it had been carried, which it has not, would be, for example, that Gibraltarians would lose their entitlement to collect their pension because they collect under section 2(a) if they ceased to reside in Gibraltar. Moroccans would lose their pensions if they ceased to reside in Gibraltar. That was not the intention, I am sure, of the hon Member in moving the amendment and to the extent that he has linked (4) only to sub-section (3) which is the one that he has sought to amend, I think that he has misread (4).

HON J J BOSSANO:

Mr Chairman, I am well aware that the pension to which sub-clause (4) refers is the prevalued pension of £47.80. But it seems to me that the only reason why one has to put clause (4) is because clause (3) says that one does not get a revalued pension if one is not resident in Gibraltar and what clause (4) is saying is, "if you have been resident in Gibraltar first you do not subsequently lose it by not being resident". But, of course, my amendment removes the residence qualification altogether in (3). It seems clear that (4) is to claw back the £47.80 so that the trigger mechanism in (3) would only apply prior to claiming the pension, not post being granted. It has always worked like that on the basis that if somebody left Gibraltar in 1969, there are people, we have people in Australia and Canada who are getting 60p a week and they made the claim from there, then they got 60p, but if they were in Gibraltar, had been in Gibraltar for 104 weeks and they made the claim here, they got £47.80. Then there was this proviso which really clarifies the situation saying, "if you then go to Canada

having already been granted £47.80 you do not go back to 60p, you only go back to 60p if you started off with 60p and you did not start off with the £47.80". Certainly, the intention was not to deprive people of the £47.80. As far as we were concerned it was consequential on the fact that nobody would be getting 60p so one could not very well say to somebody, "you will retain the £47.80 if you go" because the qualification on residence would have disappeared altogether had the Government accepted the deletion of sub-clause (3).

Clauses 12 to 30 were agreed to and stood part of the Bill.

Clause 31

HON H CORBY:

Mr Chairman, an amendment to page 102, I would like to amend clause 31 with the substitution of the figure "32" by the figure and letter "31A".

HON CHIEF MINISTER:

Mr Chairman, it is entirely secretarial. Previously, when the Bill was being drafted a new section 31A had been introduced which is the one about being able to pay the fees of any doctor and then in 31B, it refers to section 32, regulations may provide for the payment of such fees as may be specified in the regulations to medical practitioners appointed under section 32 but are not appointed under section 32, they are appointed under section 31A so it just simply that the section that enables the rules to be made refers to the right section number. There is no substantive amendment at all. It is entirely secretarial.

Clause 31, as amended, was agreed to and stood part of the Bill.

Clauses 32 to 48 were agreed to and stood part of the Bill.

Schedules 1 to 4 and the Long Title were agreed to and stood part of the Bill.

HON ATTORNEY-GENERAL:

I have the honour to report that the Nature Protection Ordinance (Amendment) Bill, 1997 and the Social Security (Open Long-Term Benefits Scheme) Bill, 1997 have been considered in Committee and agreed to with or without amendments and I now move that they be read a third time and passed.

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

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

Question proposed.

MR SPEAKER:

A notice of motion was given by the Leader of the Opposition and will now be debated.

HON J J BOSSANO:

Mr Speaker, the statement that has been made earlier on the lessened impact of the MOD cuts between now and the end of the century is of course welcome news. The reasons for my bringing the matter to the House in the adjournment was because in the last question we were told that the Government expected by no later than the 31st March to have been given the detailed breakdown of what was in the pipeline by the MOD. Obviously, it is better to have a forward projection over a number of years of what the reductions are likely to be. Even if those projections may change nearer the dates, but certainly when we are talking about the year 1997/98 which starts today, by now there should not be any need for further refinement of the figures or else this year there should not be any reductions. The MOD cannot possibly expect to start telling people that they are going to finish work tomorrow and for there to be alternatives for those people the day after tomorrow and the whole purpose of the advance consultation period which is in fact a requirement in any collective redundancy situation is to find ways of mitigating or avoiding the redundancies. That consultation has been going on between the MOD and the workforce in a global sense but if in fact a final decision has not yet been taken on the early retirement option then it must follow that, and I think we have got to keep on insisting with the MOD that they have to accept the inevitable logic of that, that the collective redundancy situation cannot precede a decision on retirement. Therefore given that we are already starting in this current financial year the numbers involved in the current financial year will certainly not be anywhere like the ones in the Touche Ross Report which was quoted by the Government in November last year and which of course was based presumably on information provided to them by the MOD as

to the direct effect. Let me say that the methodology of Touche Ross in projecting indirect and induced effects of the MOD redundancy seems to me a throwback to the exercise that was done in 1984 with the closure of the Royal Naval Dockyard. But, of course, now we have empirical data, we do not have to base ourselves on theoretical knowledge because we know how many people have lost their jobs since 1994, the figure was given that there were 1,400 in July 1994 and therefore if the loss of one job in the MOD triggered off the loss of half a job in the private sector we would be able to go back and test whether this is in fact what has happened. I do not think the indications are that this is what has happened. I am concentrating on the direct effect which is in fact the one that we can scientifically measure because it seems to me the indirect effect is based on a lot of assumptions about the multiplier effect of expenditure in the economy which were difficult enough to calculate in 1984 with a closed frontier and which do not have the same meaning whatsoever with an open frontier and I think they are using the same ratios as were being used in 1984. What I would welcome is an indication from the Minister with responsibility in this area in respect of 1997/98 as opposed to the wider picture between now and the year 2000 which he reflected in the statement at the opening of today's meeting, in respect of the current year, are we talking about people being made redundant? How soon within the year, within a matter of weeks or months? Or is it something that is not going to happen until September because people have to be given six months notice? Does he now have from the MOD a figure which will be relatively accurate, it may change by one or two, but it will be relatively accurate at this late stage in the proceeding of what is the total number of the job losses in the current financial year? Can he confirm in fact that the assumptions in the Touche Ross Report that MOD spending would be going down from £55 million to £45 million are incorrect and that we are not losing £10 million of MOD spending in this current year. Can he confirm whether the question of skills, ages, sex and nationality as the components of the demographic structure of the persons most likely to become redundant in this coming twelve months have been provided and if they have not been provided how soon has he been promised that information by the MOD. It seems to me that whether he reactivates the Joint Economic Forum or not, unless there are up to date and accurate figures, sufficiently detailed to say we are losing 300 jobs between now and December 1999, is not sufficient information to be able to plan an alternative.

The purpose of the motion I am bringing is to give the Government an opportunity to share with us, and the public, that additional information if he has got it and

if he has not got it, to send a message back to the MOD that they really are acting in a very irresponsible fashion if they are not providing that information, with that degree of accuracy and within the time limits which are required if we are looking at what was projected by Touche Ross for 1997/98 and what is likely to happen and the projection, let us not forget, was 560 jobs lost this year and £10 million of income not there any more.

HON P C MONTEGRIFFO:

Mr Speaker, I think I can partly satisfy the hon Leader of the Opposition's requests and there are other matters on which the Government are not currently informed. First with regard to the timing of the figures, it had been the Government's preference and this House well knows to have these figures known much earlier. Indeed, we were promised at one stage, it was indicated to us at one stage, that the figures would be available by the end of last year or at least some time in January but it became evident, Mr Speaker, that the MOD's delay was not, in the Government's view, sinister but rather part of a genuine reassessment of MOD requirements and what it took to actually get them serviced in Gibraltar. I think there has been a real assessment of what it takes to produce those services that the MOD still regards as important in Gibraltar. Once the figures were clear then there was further delays in the publication of the figures due to the elections in the UK because of rules governing the issue of press releases during a general election, releases that are not supposed to put the Government in the UK in a particularly favourable or disfavourable light. Special clearance had to be sought from London before the figures could be announced and the earliest possible and convenient time would in fact have been just before the Easter break, there was a possibility of this going to the public on Thursday evening which I thought was frankly a nonsense or this very morning straight after the Easter break.

With regard to the projections, Mr Speaker, I can give the Leader of the Opposition some comfort. A letter has been sent today to every civilian employee of the MOD and that letter does set out details, specifically, of the job losses over the next year, 1997/98, and then over the years 1998 to 2001. I will repeat these in the House now for the benefit of Members. It is proposed by the MOD to introduce job losses of 35 in this year with regard to non-industrials and 75 in respect of industrials, thereby making a total of 110 redundancies or job losses in the course of 1997/98. The balance of 179 jobs, which is in fact the balance indicated in the tables attached to the employee's letters, the balance of a 179 jobs breaks down into 66 further non-industrial jobs in the years 1998 to

2001 and 113 in the case of industrials. The actual total, Members will note, is actually 289 jobs rather than the round figure of 300 jobs which I have quoted for convenience's sake earlier. The letter to employees, which no doubt hon Members will have a chance to get a copy of, also sets down a breakdown of the grades and the areas in which each of these losses will fall. It is fairly accurate information, it does not identify persons but it does identify areas and it does identify grades. With regard to the Deloitte and Touche clearly many of the assumptions upon which that Report was based are now inaccurate. I personally take the view, although the Government has not yet so formally decided, that there is a good case for reassessment to be undertaken by Deloitte or other consultants, of the impact as is therefore likely to occur bearing in mind the figures as currently available. This is particularly so in my view, not just with regard to the economic impact, the indirect consequences that the hon Member has indicated, but specifically in the area of training by knowing now the type of people, the grades of people affected. I think the area of training which is pivotal to incentivising these employees into new jobs can be looked at with great focus and can be designed to match precisely the sort of skills which they have and which the economy is going to be needing. I cannot confirm the expenditure figures. The MOD has not made available to us the extent to which their spending in the economy will be reduced and at what stage and in what areas. It is important information which we will be seeking to extract and certainly, in the context of spending generally, the information they have put to us in the way they have argued these cuts is that they have tried to make savings in areas other than direct employment, partly as I said before through civilianisation and localisation of posts, but also through rationalisation of the way certain activities are undertaken. I think by centralising more of their activities in the Naval Base, and thereby effectively cutting expenditure, but not expenditure on direct employment on civilians.

Question put on the adjournment. Agreed to.

The adjournment of the House sine die was taken at 12.10pm on Tuesday 1st April 1997.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

29TH APRIL, 1997

**(adj to 28 May, 29 May and
30 May 1997 - BUDGET)**

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixth Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly Chamber on Tuesday the 29th April, 1997, at 2.30 pm.

PRESENT:

Mr Speaker (In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the Disabled, Youth
and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for Government Services
and Sport
The Hon J J Holliday - Minister for Tourism, Commercial Affairs and the
Port
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training and Buildings
and Works
The Hon K Azopardi - Minister for the Environment and Health
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

ABSENT:

The Hon Miss K Dawson - Attorney-General

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 13th February 1997, 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 Draft Estimates of Revenue and Expenditure for 1997/98.

ANSWERS TO QUESTIONS

The House recessed at 4.50 pm.

The House resumed at 5.15 pm.

Answers to Questions continued.

The House recessed at 7.30 pm.

The House resumed at 7.45 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Wednesday 28th May, 1997, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 9.30 pm on Tuesday 29th April, 1997.

WEDNESDAY 28TH MAY, 1997

The House resumed at 10.00 am.

PRESENT:

Mr Speaker(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the Disabled, Youth
and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for Government Services
and Sport
The Hon J J Holliday - Minister for Tourism, Commercial Affairs and the
Port
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training and Buildings
and Works
The Hon K Azopardi - Minister for the Environment and Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

The House recessed at 10.05 am.

The House resumed at 2.30 pm.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon Reginald Robert Rhoda took the Oath of Allegiance.

MR SPEAKER:

Could I on behalf, I am sure, of all the Members of the House welcome you Mr Rhoda to this new club. I have read your curriculum vitae and we have got something in common which is having been Stipendiary Magistrate. A Stipendiary knows very little about politics but quite a lot about human nature and I think that is what counts. Welcome.

DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of various documents on the table.

Question put. Agreed to.

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

Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 10 to 12 of 1996/97).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE PORT (AMENDMENT) ORDINANCE 1997

HON J J HOLLIDAY:

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

Question put. Agreed to.

SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. A number of small boats are lying within the Port area, the majority of which have been detained for a number of reasons, eg berthing without permission; non-payment of fees, etc. These boats, most of which are in a dilapidated state, have not been claimed and although the Port Ordinance allows for their removal to another part of the Port, they cannot be disposed of other than by sale. The majority of these boats are unsightly wrecks and the object of the Bill is to enable the Captain of the Port to dispose of such wrecks and other things under Section 12 of the Port Ordinance other than by sale. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

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

THE ENVIRONMENTAL PROTECTION (CONTROLS ON SUBSTANCES THAT DEplete THE OZONE LAYER) ORDINANCE 1997

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to give effect in the law of Gibraltar to Council Regulation (EC) No. 3093/94 on substances that deplete the ozone layer be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. This Bill comes from Council Regulation No. 3093/94 that sought to place global controls on controlled substances that deplete the ozone layer. That then was adopted into an EC Council Regulation and while that has immediate effect, in Gibraltar this Bill has become necessary to give teeth to some of the items that were listed in that Regulation. I thought, because this is a relatively technical Bill, that I should give for the assistance of the Members of the House who might, like me, not be technical, some information on the ozone layer and the purpose and aims of this Bill. Ozone, Mr Speaker, is a form of oxygen that occurs throughout the atmosphere but is most highly concentrated in the stratosphere, some 20 to 30 kilometres above the earth's surface. It acts as an umbrella and shields the earth from the sun's powerful ultraviolet rays to prevent lethal rays, levels of radiation from reaching life below. Usually the ozone layer is in a state of delicate balance and the ozone layer has been seriously disturbed by this century's use of chlorofluorocarbon gases, commonly known as CFC. Ultra violet light causes the chlorine to break away from the CFC and a single chlorine molecule has the potential to destroy 100,000 ozone molecules. That sounds very scientific but if I can translate it into day-to-day effect, it is thought that for each 1 per cent drop in ozone, cases of melanoma and other skin cancers will increase by 1 per cent to 3 per cent and that in the next 30 years to 50 years it may be that skin cancer deaths could increase by as much as 25 per cent. CFCs are gases widely used in consumer and industrial products; aerosols, freezers, mobile air

conditioning units and so on. The ozone layer also has a role in keeping a fine balance on the greenhouse effect and it is thought that if atmospheric pollution carries on at the same rate, it may lead to global warming of 1 per cent to 5 per cent which may not sound a lot but I understand has even been linked to the formation of one million acres of desert over the last couple of years.

The background to this Regulation, Mr Speaker, is that in 1980 the United Nations Environmental Programme became extremely concerned with these issues. After several years of negotiation in 1985, a Convention was signed at Vienna, and in 1987 some EEC countries agreed to support the freeze on the production of CFCs with an eventual reduction of 20 per cent. In September 1987 the Montreal Protocol on Substances that Deplete the Ozone Layer was signed and that really is the legislative source of this Bill. The Ordinance has been brought into effect as a consequence of that Council Regulation which came about as a result of the Montreal Protocol. It is intended to control the circulation of certain products which deplete the ozone layer. The Ordinance gives powers to the Government of Gibraltar to prohibit and restrict the importation, landing and unloading of ozone depleting products. The Minister for the Environment is the competent authority and he will be responsible for overseeing that the Ordinance is properly enforced. Customs Officers have the power to detain ozone depleting products or equipment. Persons authorised by me, as Minister for the Environment, will have the power to require persons who have imported such products, contrary to their licence requirements, included in the Ordinance and in the Regulation, to have their products destroyed or removed from Gibraltar.

The specific clauses of the Bill, Mr Speaker; Clause 3 of the Bill makes provision for the appointment of a competent authority for the purposes of the Regulation. It designates the Minister for the Environment as the authority. Clause 7 additionally confers powers on the Minister that enable him to require controlled substances or products that have been unlawfully imported, landed or unloaded to be disposed of harmlessly or removed from Gibraltar. Clause 8 of the Bill requires persons having control of the substances mentioned in Articles 14 and 15 of the Regulation to comply with those provisions. Clause 6 of the Bill empowers customs officers to detain controlled substances and products which are imported, landed or unloaded in contravention of the prohibitions listed in Clause 4. These powers also cover any equipment

which may be imported in contravention of Article 5 of the Regulation. The Bill also contains enforcement powers and sets out in Clauses 9 and 10 the offences which may be committed by persons or corporations. Clause 11 goes on to prescribe the penalties for non-compliance. The legislative steps that we are taking, Mr Speaker, follows closely the steps that the UK has enacted. I am going to move amendments at the Committee Stage of this Bill to clarify certain doubts and concerns that have been placed before me by the Environmental Agency and traders and indeed Customs, but the intention of the Bill is to give teeth to the Regulation and I stress to the House that while a technical matter, it has a very practical effect on the day-to-day basis that will, I think, enable us to control issues such as the risk of skin cancer. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Can I just say that the last comment of the Minister that he had had representation from traders suggests that, in fact, we are importing also depleting substances at the moment which will be stopped or controlled as a result of this Bill. Is this something that will have to go through the motions of doing in order to comply with the letter of the law or is it something that actually affects some products that are currently being sold in Gibraltar? And if it does affect products that are being sold in Gibraltar, is it not the case that when we are talking about limiting the importation into Gibraltar of a controlled substance, unless the Commission has allowed that substance to be in free circulation in the Community, we are talking about a situation where our products are not in free circulation in the Community because we are not part of the Community Customs Union. So provided a product is, in fact, complying with the standards required, even if it is not a product in free circulation in the Community, since we trade with the external world presumably we should be able to do it.

HON K AZOPARDI:

Let me clarify that the representations made, I have not spoken directly to traders, the Environmental Agency has. The amendments that I am going to move at the Committee Stage are as a result of those

representations but I understand that they are not as a result of concerns that they might not be able to import particular products but rather that on reading the Bill in the Gazette some traders were concerned that the section, the purpose of which was to prohibit the free circulation or the importation into Gibraltar of goods from third countries, was not specific enough by not mentioning the concept of importation from third countries and the logistic difficulty could have been that the traders who were importing from the Community might have been, if the section was not precisely drafted enough, prohibitive of importing that particular good even though it came from the Community because there was lack of clarity in the section. So what I intend to do is create that clarity by saying the prohibition of importation is from third countries as indeed is laid down in the EEC Regulation which takes immediate effect in Gibraltar as law and create a presumption that if evidence is shown to the Customs that the good comes from the Community, then there is a presumption that that good has been imported under licence in the Community and therefore there is no restriction in that being imported into Gibraltar. Those are the concerns that have been placed before me. I do not understand that representations are in place before me that this would have a severe effect on the trading community or an effect at all. I have not been led to understand that.

HON J J BOSSANO:

I am not suggesting that it does. As far as I am concerned, Mr Speaker, when we looked at the Bill we assumed that like other pieces of legislation on the statute book that control our rivers and control our chemical plants and control our oysters, this will be one more, controlling something that does not exist. But if in fact it does control something that exists then clearly we need to be sure we are not doing something, and my concern is that when we are talking about free circulation in the Community, one assumes that in the rest of the Community, other than in Gibraltar, goods are in free circulation because there are no internal barriers. My recollection is in fact that the normal procedure that we have got in trading with the Community, one which regrettably we were not able to get changed, was that once goods leave the Community, even if they have been originating in the Community, they are no longer treated as being in free circulation. When one re-exports from Gibraltar back into the European Union it is treated as a product originating from a third country even if it was originally manufactured inside the Union. What I am saying is, if what

we are looking at this is not from the point of view of the good being sold inside the European Union but the good being of a standard equivalent to that in terms of meeting environmental requirements, one could have goods which are of the correct standard but sold, for example, in the United States or Japan or whatever, which might not be in free circulation in the Community, would the wording of this have an effect on that? That is the point I was making.

HON CHIEF MINISTER:

This is a piece of environmental legislation not a free movement of goods. This is not a directive under the free movement of goods directive. My understanding of the phrase "free circulation in the Community" is that free circulation in the Community includes Gibraltar because the word "Community" cannot be interpreted to mean customs territory. If I am correctly understanding what the Leader of the Opposition is saying, he is suggesting that for these purposes "free circulation in the Community" may not include Gibraltar because we are not in the customs union. I think that that is a purely narrow reading of the word "Community". On the other hand and by the same token, Mr Speaker, the Government do not take the view of complying with our EU obligations that the Leader of the Opposition appears to be insinuating. Whether this piece of legislation has consequences to local traders or not is not the issue, when it might have consequences; but the fact that it has consequences is not a reason for not doing it. The policy of the Government is that if we are pushing strongly for recognition of our EU rights, that the flip side of that coin is that we must be seen to be complying with our EU obligations and that the criteria is, is this a piece of legislation that our EU obligations require us to transpose? If the answer to that is yes then we transpose it, and it is not transposed in a technical sense, it becomes the law of Gibraltar enforceable in the ordinary way. My understanding of this is that it does impact attention, this is not in the category of fresh water rivers and oysters and nuclear reactors that the Leader of the Opposition referred to. This is a piece of legislation which would have a bearing either on present or future goods which we are used to handling in Gibraltar. So it is in that sense a real piece of legislation.

Question put. Agreed to.

HON K AZOPARDI:

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

THE SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE) ORDINANCE (AMENDMENT) ORDINANCE 1997

HON H CORBY:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Employment Injuries Insurance) Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON H CORBY:

I have the honour to move that the Bill be now read a second time. Under the provisions of the Social Security (Employment Injuries Insurance) Ordinance, except for persons employed on ships, vessels and aircraft registered in Gibraltar, benefits are not payable in respect of accidents which occur outside Gibraltar. Provisions do exist under EU Regulations for the payment of this benefit if the accidents occur while travelling in the territory of the Member State, other than the competent state provided that the accident has arisen out of and in the course of the persons' employment. Earlier this year the Chief of the City Fire Brigade expressed his concern that members of the City Fire Brigade on fire fighting operations at sea may not be covered for benefits under the above mentioned Ordinance. Gibraltar is defined in section 2 of the Interpretation and General Clauses Ordinance as the City of Gibraltar. The seashore, port and harbour thereof and so much of the sea adjacent thereto as is subject to the dominion of Her Majesty. Consequently if a member of the Fire Service or any other essential services were to suffer in an accident in international waters he would not be adequately covered under the existing legislation. There may be other instances where a member of the essential services may have to perform some of his duties outside Gibraltar and in the event of an accident would similarly not be eligible to employment injuries or

disability benefits. This legislation will thus ensure that persons employed in the essential services are covered for accidents occurring abroad in the course of their duties. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON R MOR:

Opposition Members have really no problem with the Bill at all. It is rather perplexing, since under Community law a person would be insured, say, in any country to perform in other places whilst wherever he is contributing insurance would be the competent state for this purpose. Is it really necessary to go to the extent that we are going in the Bill? Why particular reference to essential services?

HON H CORBY:

The hon Member says why the essential services, well I have consulted with the experts in UK through my Department and they say that provisions are made only whilst they are travelling and every Member State has its own insurance insofar as the duties of the essential services are concerned. So they are insured within their own laws and not out of these.

HON J J BOSSANO:

Is it not the case that, in fact, any worker in any Member State that is temporarily deployed to another Member State for up to a year is covered by Home State Insurance? We have it on the way in and if people come and work here and do not have to become insured under our legislation and in fact as I recollect it, it is only when they go over the 12 months that it needs to be done by agreement because I remember we have had contract officers in the private sector who were here over 12 months and did not want to switch their insurance cover from their Home State to Gibraltar because they were going to go back and the request for an extension of the period over 12 months came from the social insurance administration of the Home State to the social insurance administration in Gibraltar. Invariably it is on the way in but presumably it would work with any worker where somebody in Gibraltar

got a contract and sent his workers to do a job in another Member State. Why should the essential services be any different from that?

HON CHIEF MINISTER:

I think that the Opposition Members in focusing on the EU angle to this, which I will deal with in a moment, are missing an essential point of this legislation. The essential services in Gibraltar are often called upon to carry out their duties outside the constitutional definition of the territory of Gibraltar without being in another EU country. For example, if the Fire Brigade attend a ship ablaze in the straits or if the Royal Gibraltar Police or the Gibraltar Services Police is engaged in a chase on fast launches in international waters, that has got nothing to do with what reciprocal rights in the European Union may be and it is primarily to cover that eventuality that this legislation is formulated. But having said that, the answer to the point that the Opposition Members make which I think is this, well is this legislation necessary to cover a Gibraltar fireman who is called to assist in a fire in La Linea, which I think that is the somewhat limited scenario that the Opposition Members had considered. The advice that we have been given is that European Union regime would cover such people as they are travelling to the incident but curiously not whilst engaged in the fire fighting or the policing or whatever. Of course the parallel that the Leader of the Opposition draws with contract officers is not strictly accurate because it would apply mainly with the Fire Brigade I suppose, if the Gibraltar Fire Brigade is despatched to assist on Spanish territory as they have in the past done, they cannot be said to be working in the Member State of Spain, there is no employer/employee relationship; they are not in any sense employed in Spain and therefore all those EU Directives and Regulations that govern the reciprocal rights of workers from one Member State when employed in another Member State would not apply to somebody who is despatched there to attend an incident. Mr Speaker, I cannot say with 100 per cent certainty that the last point I make is true although I can say that the advice that we have had is that EU Regulations would not cover Gibraltar firemen in those circumstances but that in any case the legislation was not motivated or driven by that scenario as much as by the scenario of our policemen and our firemen having to attend outside our territorial waters if, for example, in international waters which has nothing to do with the EU.

Question put. Agreed to.

HON H CORBY:

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

THE APPROPRIATION (1997/98) ORDINANCE 1997

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31st day of March 1998 be read a first time.

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. In support of the Draft Estimates of Revenue and Expenditure for the financial year 1997/98 which I tabled previously, I will be confining myself to the customary practice of making a short introductory speech before giving way to the Chief Minister to comment on the Government's public expenditure plans and specific aspects of the Estimates.

Mr Speaker, this year the Appropriation Bill is in three parts. Under Part 1 of the Bill the House is being asked to appropriate an amount not exceeding £90,101,000 to departmental and other office expenditure as set out in Part 1 of the Schedule to the Bill. A further £19,479,000 of Consolidated Fund charges not requiring the vote by the House brings the total recurrent expenditure to £110,080,000. The details of this proposed expenditure is set out in the Estimates which also show that the estimated recurrent revenue is £117,171,000. Part 2 of the Bill, Mr Speaker, concerns the appropriation of £20 million of non-recurrent Consolidated Fund expenditure: £19 million going to the Improvement and Development Fund and £1 million contingency to be held in the Consolidated Fund. These funds arise from transferring to the Consolidated Fund the balances of a number of Special Funds that

have been recently wound up and by a proposal to utilise some of the surplus of the Gibraltar Savings Bank. Part 3 of the Bill seeks the appropriation of an amount not exceeding £36,976,000 for the Improvement and Development Fund, for the capital and economic projects set out in Part 3 of the Schedule to the Bill and in more detail in the Estimates. The main sources of finance for this expenditure are the £19 million which I referred to earlier which is the contribution from the Consolidated Fund; £10 million of commercial borrowing, £4 million of capital receipts from the sale of Government leases and property, and just over £2 million of European Union grants. The extent of the restructuring of public finances under which the monies to be voted by the House now incorporate more revenue and expenditure than was previously accounted for by special terms and Government companies means that the Draft Estimates 1997/98 are not directly comparable with those for the previous year 1996/97. This is why, Mr Speaker, the Government this year have presented a separate book containing the forecast financial outturn for the financial year 1996/97. I will leave it to the Chief Minister to explain the Government's financial restructuring and the main changes to the content format and presentation of the Estimates.

Finally, Mr Speaker, at the Committee Stage of the Bill I would like to inform the House of some minor amendments to the Draft Estimates. These concern adjustments to the civil service posts in some departments resulting in a very small increase in the overall establishment together with a few editorial amendments. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON CHIEF MINISTER:

I acknowledge the Financial and Development Secretary's adherence to recent practice in the conduct of these debates on the Appropriation Bill.

Mr Speaker, in our manifesto we promised to increase personal allowances to restore and maintain their real values to 1988 rates. One-third of the necessary increase to close the gap was introduced, that is to say, increases to personal allowances in July 1996 and it is our intention during the forthcoming tax year, that is to say, commencing on

1 July 1997, to close another one-third of the gap by increasing personal allowances as follows: the personal allowances for a single man is increased by a further £200 to £1,850; the personal allowances for a married couple are increased by a further £400 to £3,600; the personal allowances for an old age single person is increased by a further £40 to £400; and the old age married couple's allowance is increased by a further £60 to £570. With these increases, between this year and last, personal allowances will have increased by a total of £400 for a single person, £800 for a married couple, £80 for a single old age pensioner, and £120 for an old age married couple and that will be two-thirds of the increases necessary to close the gap. The cost of this year's increase in personal allowance as announced is estimated at around £1.9 million.

Mr Speaker, in our manifesto we also promised to abolish estate duty between spouses and we also undertook to lower the rates between people who were in a relationship of kinship. That is to say, between next of kin. Having considered the matter further and taking into account the residual collection left after abolishing between spouses and after lowering the rates of the duty for next of kin and bearing in mind the cost of collection of that tax, the Government have decided to abolish estate duty altogether and for everybody. Legislation will be introduced into this House to abolish estate duty in respect of the estate of any person who has died since the commencement of this financial year, that is to say, the 1 April 1997.

In our manifesto, which is now one year old, we also promised that public finances would be organised in a way that ensures full and up-to-date public accountability and restores to this House its legitimate function as a watchdog of public money. It is therefore with a great measure of satisfaction that the Government present to this House the Estimates of Revenue and Expenditure for the current financial year which, in our view, represent a complete revolution and transformation of the estimates. The principal changes which I will go into in some detail include the fact that 100 per cent of revenue and expenditure is now reflected in them. They reflect, as a document, the fact that many Special Funds have been closed down and their activity, that is to say, their revenue and their expenditure have been diverted to the Consolidated Fund. Mr Speaker, it is important to bear in mind that the immediate consequence of diverting revenue and expenditure away from a Special Fund into the Consolidated Fund is that they are then affected by the constitutional requirement that monies cannot be spent

from the Consolidated Fund without the appropriation mechanism of this House. In other words, by the Government coming, through a debate such as this, to seek the permission of the House to spend it. Whilst revenue was being diverted into Special Funds, it could be spent by the Government without appropriation mechanism, without the sanction of this House of Assembly, as a simple executive administrative act. We have also closed down, although not yet in a legalistic sense but in a functional sense, Gibraltar Information Bureau Limited which was a company through which Government revenue and expenditure was also being channelled and to the extent that revenue was being channelled, expenditure was being incurred, again without the scrutinising function of this House. Thirdly, the Estimates disclose all Government contracts with private entities which are a charge on public funds, and they disclose not just their existence by naming the company with which they are entered into, and specifying the amount of the cost of that contract to public funds, but indeed by describing the function which the contracts relate to. In addition to those, there are a number of presentational improvements. Mr Speaker, in the Government's judgement and we are confident in the judgement of other objective observers, the result is complete transparency in public finances. That is an objective which we indicated from the Opposition benches would be a priority for us in Government; it was a matter for which we consistently criticised the Opposition Members when they were in Government and we in Opposition and it was an important part of our manifesto which we now comply with.

Mr Speaker, I would like to acknowledge and thank a number of people without whose dedication, hard work, willingness to work hours beyond the call of duty, it would not have been possible to so massively restructure public finances in such a short period of time. I acknowledge in particular the assistance and input of the Accountant General, Mr Dilip Dayaram; Mr Tito Gomez of the Financial and Development Secretary's Office; two ex-civil servants whose assistance in a consultancy and advisory capacity the Government recruited, namely, Mr Walter Crisp and Mr Joe Capurro; and since the very date of his arrival in Gibraltar, the current Financial and Development Secretary, Mr Tim Bristow.

Mr Speaker, the Estimates, as I have said, disclose a number of very important changes. The first thing that they reflect is a number of ministerial changes, that is to say, changes in ministerial responsibilities

and I would like to just inform the House of what those are, as follows: The Engineering and Design Section presently located in the Department of Trade and Industry is transferred to the Support Services Section of the Ministry for Government Services; a new transport portfolio is created to include political responsibility for the port, the airport, roads and sewers and traffic, the transport portfolio is linked to the tourism portfolio and that Ministry will henceforth be called the Ministry of Tourism and Transport, and the transport portfolio is taken by my hon Colleague, Joe Holliday. One of his functions, namely, roads and sewers comes from the Support Services division and traffic comes from the Government Services generally and they go to the new Ministry of Transport. The Statistics Section goes to the Department of Trade and Industry not just in order that in that Ministry there should be a radical development of the whole function of producing up-to-date modern and usable statistics, but also so that the staff of the Statistics Department should provide a body of support staff to the Department of Trade and Industry and its Minister, my hon Colleague, Peter Montegriffo, in what will become a focused Ministry, focused on business, trade and industry, charged with the development and the rejuvenation of the private sector of the economy of Gibraltar. Mr Speaker, there are a number also of administrative changes. The Licensing Department is transferred and subsumed into the Treasury Department and the Licensing Department will henceforth to the extent that it is engaged in revenue collection, will answer to the Accountant General. The Government, and the Estimates are drawn up on that basis, will establish a central arrears unit within the Treasury Department and that will be charged with responsibility for the collection of all arrears due to Government and where the collection of arrears is the subject matter of a contract with which the Government are either satisfied or from which the Government cannot easily extricate ourselves, if we were not satisfied, then that central arrears unit within Treasury answering to the Accountant General will be responsible for the direction, monitoring and supervision of the private contractor so charged by contract with the collection of any such arrears. But the arrears that the central arrears unit will collect directly, centrally, that is to say, out of the departments from which the revenue originally is initiated, will be PAYE which was previously collected by Gibraltar Information Bureau Limited, and income tax; social insurance contributions; electricity; Government housing rents; parking tickets and fines; penalty offences in the Magistrates' Court; ground rents; Mr Speaker, there is an unacceptable trend of growth in arrears of

Government revenue. As at April 1997 the arrears of PAYE stood at £3.47 million; the arrears of income tax stood at £28.3 million although that is a figure which needs to be taken with a substantial pinch of salt because, of course, it includes assessments raised on taxpayers which are not accepted and which are challenged and they are simply dead because they are the subject matter of an assessment. £12 million is due in arrears of social insurance contributions. £4.14 million is due in arrears of electricity charges. £1.2 million is due in arrears of Government housing rent. £4.26 million is due in arrears of rates and £1.53 million is due in arrears of ground rent. Mr Speaker, this position is not acceptable to the Government and accordingly the Government are determined to dedicate not just the political support but indeed the resources necessary to enable an aggressive, proper approach to the collection of arrears due to the Government. Let us make no mistake about this, Mr Speaker, most citizens in this community pay their dues to the Government in a timely fashion and it is accordingly neither fair nor acceptable that a small minority should not do so thereby adversely affecting the ability of the Government to reduce the tax burden as much as we might otherwise be able to to all taxpayers in Gibraltar which would be the case if arrears of revenue were collected and people paid in a timely fashion.

The third administrative change reflected in the way the Estimates are drawn up, is that the Government will establish a central purchasing and monitoring unit and that will be part of the Government Secretariat located at No. 6 Convent Place. The purpose of the central purchasing unit will be to co-ordinate and effect all Government purchasing in accordance with one standard tendering procedure and practice. The central purchasing unit will effect the purchasing on behalf not just of all Government departments, but of all Government companies and statutory bodies, for example, Gibraltar Community Projects Limited, GJBS Construction Limited, the Gibraltar Development Corporation Limited. All these companies will be subject to a central procurement discipline by the central purchasing unit that will act as purchasing agent for all purchases which are ultimately effected with public monies. And they will further supervise, monitor and control performance of Government contracts generally. Eventually, Mr Speaker, although this may not happen during this current financial year, it is the Government's desire to develop the Central Procurement Purchasing and Monitoring Unit as an internal audit facility. That is to say, that in addition to the Principal Auditor whose job it is to audit the Government's accounts

once prepared, that the Government should have available a task force that we can despatch to particular Government departments to seek out information and to establish that Government policy and Government regulations and Government procedures are being adhered to to the letter.

Mr Speaker, the fourth administrative change is that the Government will establish a Legislation Support Unit. This Legislation Support Unit will be responsible for all aspects of the creation and management of the laws of Gibraltar. It will draft domestic legislation; it will draft into Gibraltar legislation EU directives, a function presently carried out by the European Legislation Unit which will be subsumed into the Legislation Support Unit. It will be responsible for conducting, on behalf of the Government, research into European Union related matters. It will maintain, up-date and computerise the laws of Gibraltar and will be responsible for their publication in loose-leaf form to ensure that the laws of Gibraltar do not again fall into the state of unusability in which they are presently to be found. They will be responsible for the production of the Gibraltar Gazette and they will monitor, on behalf of the Government, international conventions and treaties of relevance to Gibraltar.

Mr Speaker, the fifth administrative new function is the establishment of a civil status and registration office. This is a Home Office type of department which will bring together under one Gibraltar Government department all existing functions which relate to the personal status of individuals, for example, there is in No. 6 Convent Place at the moment the Passport and Nationality Office whereas the administrative side of immigration is done by the Police at the New Mole House. So if one wants a passport or if one wants to apply for nationality one has got to go to No. 6 Convent Place. If one wants an identity card or a civilian registration card one has got to go up to the Police in New Mole House. If one wants to register a birth, death or a marriage or if one wants to register oneself as a Gibraltarian one has got to go to the Supreme Court. All of these functions will be brought together under a new department to be called the Civil Status and Registration Office which will be located on the ground floor of the old Secretariat building presently, whatever others might think, under magnificent refurbishment in Secretary's Lane. And because it is also the registration office and because it does not have a natural home otherwise, the Land Titles Registry will be included in that Registration Office as well. That

department being a Secretariat function will answer to my Office, that is to say, to the Chief Minister.

A word, Mr Speaker, of the proposed location of all these functions. I have already said that the Civil Status and Registration Office will be in the old Secretariat building. The Legislation Support Unit will move into one of the Government buildings in Town Range that house that used to be occupied by Mr Chris White, until recently on secondment to the Income Tax Office, a building that looks very much like the present Attorney-General's Chambers and are 100 yards further to the north of it. The Ministry of Government Services which until now has been located, because he has not really had a very big staff of his own, in No. 6 Convent Place. The Minister for Government Services will move into the first floor, the southern end of the first floor of the refurbished Secretariat building where he will take functions such as the design section from DTI, the computer section which has been put back together, and the northern end of the first floor of the Secretariat building will be the new offices for the Attorney-General's Chambers. The Social Affairs Department including social security pensions and benefits payments and social welfare, probation officers, etc will all move to the old Sergeants' Mess and the annex to it in Governor's Parade and all these functions together with the Housing Department soon to be reconstituted will all be on one site, all social affairs functions will be housed within the complex which is the Sergeants' Mess, the annex to it and the two buildings down Library Hill presently occupied by the Small Business Bureau.

Mr Speaker, I have indicated that there are a number of presentational changes other than, of course, the amount of information contained in the Estimates generally. The first and perhaps most important of the presentational changes is that all in-house industrial wages and some materials are now clearly shown and accounted for as part of departmental expenditure in the Consolidated Fund. In the past this expenditure could not easily be identified because it was accounted for in the Improvement and Development fund. For example, the Buildings and Works Department had a vote for wages for its industrial staff under the Consolidated Fund and then there might have been, in the Improvement and Development Fund, Buildings and Works Projects which simply said "Refurbishment of Housing Estates - £2 million". Well, much of the recurrent overtime bill of the established workforce of the Buildings and Works Department - and I use them only as an

example without wishing to suggest that they are the only instance of it - was charged not to the Consolidated Fund head of emoluments but to the Improvement and Development Fund Head "Refurbishment of Housing Estates". Of course, the departments do not have sufficiently sophisticated internal accountancy procedures to properly allocate their wage bill to recurrent Consolidated Fund because it relates to maintenance or to the Improvement and Development Fund because it genuinely relates to a capital works project. The result was that in practice, although not intended to be so in the theory of it, this was just another big fund available to the management then of the Buildings and Works Department to use as a pot to pay out in earnings in a perfectly recurrent fashion to the workforce in Buildings and Works. Because this is in effect recurrent expenditure, the Government have taken the view that it more properly belongs in the Consolidated Fund. Of course, if there was a specific project, building of a building, it would be perfectly legitimate and in theory it is perfectly legitimate to include as part of the cost, of a capital project in the Improvement and Development Fund, direct labour element just as it would be legitimate, if it went out on contract to a private contractor. But it was not working like that in practice and this is not a one-off item. It is not that one year there was £x million and then the next year there was not; this was labour cost which was happening year in, year out and therefore, for all intents and purposes, it was recurrent wage cost spent on established in-house labour and could not in any sense be said to be capital expenditure driven. And how much of that has been transferred? The answer, Mr Speaker, is that £5.9 million worth of expenditure that previously was accounted for in this way in the Improvement and Development Fund is now included in the Consolidated Fund as recurrent departmental expenditure of which £5.9 million; £2.2 million is Buildings and Works, £400,000 is the Electricity Department, £2.7 million relates to Community projects, and £600,000 refers to resurfacing of roads.

Mr Speaker, the second presentational change is that heads of revenue and expenditure have been reorganised to coincide with Ministries and Ministers' political responsibilities. I am sure hon Members will have noticed that all the items of departmental expenditure have been reorganised so that the heading at the top of each section is the name of the Ministry under which they come. So, for example, there is now one section of Tourism and Transport; Social Affairs; Environment and Heritage; and each Head of Expenditure follows the portfolio of each member of the Government except in respect of those portfolios which

are not in a department which are basically administration and finance for which the Chief Minister has traditionally been politically responsible, the judiciary for which the Government are not constitutionally responsible in a political sense, and the Police for the same reason and the Principal Auditor for the same reason and the House of Assembly for the same reason. In other words, those Heads of Expenditure for which there is not direct constitutional political responsibility have been left as they were outside the new presentational style.

The third presentational difference, Mr Speaker, is that because that part of the Gibraltar Health Authority's funding which does not come from social insurance contributions, that is to say, the Government subvention, so to speak, in the last three or four years used to come from the Social Assistance Fund, it never featured in the Estimates; well it did not feature in the Estimates since it was taken out by the previous Government and put into the Social Assistance Fund. That is now restored because the Social Assistance Fund is being limited to a very limited number of items to which I will refer later. There is now not only a reference to the amount of the subvention from the Consolidated Fund going into the Gibraltar Health Authority but as in all cases where there is a Consolidated Fund contribution to a statutory body, there is annexed to the back of the Estimates in effect the Draft Estimates of Revenue and Expenditure of the Gibraltar Health Authority as they would have been in the body of the Estimates had the Health Authority been a Government Department. In other words, Opposition Members when assessing whether they should support the proposed contribution from the Consolidated Fund to the Gibraltar Health Authority will have Draft Estimates of the Gibraltar Health Authority before them as to what their sources of revenue and extent of revenue are and how they intend to spend it. Mr Speaker, the only health warning that I would give in that respect is that that is there for information purposes only, it is not strictly part of the Appropriation mechanism, that is to say, the Health Authority is not strictly banned as Government departments would be banned by the information given in that appendix. The same applies to the Consolidated Fund contribution to the Social Assistance Fund, it is small this year, it will be much larger next year as I will explain later but there is a contribution of £100,000 from the Consolidated Fund to the Social Assistance Fund and for that reason at appendix D, the Opposition Members will find an informative draft Estimates of Revenue and Expenditure of the Social Assistance Fund.

Mr Speaker, I would like to spend a moment or two now explaining the use that is made generally and in these Estimates of the Gibraltar Development Corporation. I have already said that the Government have discontinued Gibraltar Information Bureau Limited and its activities. Gibraltar Information Bureau Limited is a Government-owned private company of which the managing director used to be the then Minister for the Environment, Mr Pilcher. It had 70-odd employees, not all of them working in tourism, some of them were deployed elsewhere. It had revenue and expenditure of £2.4 million and this was completely without the scope of public accountability of any sort. The Government have discontinued that but, of course, there are 70 people there who cannot just be sacked nor are the Government willing to absorb them into the civil service because they have not gone through the required selection procedures for entry into the civil service. So therefore what the Government have decided is to engage these people and the activities in which they are engaged through the Gibraltar Development Corporation. The Government believe that the Gibraltar Development Corporation is, I would not say as transparent as the Consolidated Fund, but the Government have made it as nearly transparent as the Consolidated Fund as is physically possible. It is, first of all, a statutory corporation established by the Gibraltar Development Corporation Ordinance with statutory rights and obligations unlike the Gibraltar Information Bureau which is just a private company with no obligations to anybody. Hon Members will remember that at the last meeting of the House of Assembly the Government amended the Gibraltar Development Corporation Ordinance to impose on the Gibraltar Development Corporation an obligation to have its accounts audited by the Principal Auditor and laid in this House to the same standard as the Principal Auditor is required to do with the Consolidated Fund and the Improvement and Development Fund. Therefore the Government are satisfied, Mr Speaker, that in channelling those items of revenue and expenditure that used to be in the Gibraltar Information Bureau and one or two new ones, through the Gibraltar Development Corporation it is entirely consistent with the Government's commitment to total transparency because the Gibraltar Development Corporation must account to this House. First of all, the Principal Auditor is required to audit the accounts; the accounting regulations that apply to the Gibraltar Development Corporation are the same ones that apply to Government departments; and its accounts have to be laid before this House and can be debated. And what is more, the revenue of the Gibraltar Development Corporation other than the employment levy, is all

channelled through the Consolidated Fund. So hon Members will see throughout these Estimates wherever there is, for example, in tourism, if the Gibraltar Development Corporation needs £300,000 to pay its staff engaged in tourism functions, that amount of money is in the Tourism Department's vote in these Estimates and it appears as an entry subvention or grant to the Gibraltar Development Corporation reference Tourism activity. So that hon Members will not only be able to scrutinise the accounts after they have been audited by the Principal Auditor, but indeed they will be able to scrutinise and question the Government on the injection of funds in the first place into the Gibraltar Development Corporation. The basic activities of the Gibraltar Development Corporation will be the following: - Hon Members will notice that it is mainly the activities that used to be in the Gibraltar Information Bureau - The Consumer Advisory Service; the Employment and Training Board, well that has always been part of the Gibraltar Development Corporation even though the Employment and Training Board has always been a division of the Gibraltar Development Corporation, the staff, that is to say, the 30-odd people that work in Duke of Kent House, have actually been employees of the Gibraltar Information Bureau Limited and they are so registered in the Employment Training Board and they are paid for by Gibraltar Information Bureau; the Gibraltar Tourism Board which will basically be the people presently engaged in tourism who are employees of the Gibraltar Information Bureau; the Small Business Board, details of the revamped version of which will be given by my hon Colleague, the Minister for Trade and Industry during his address; and Gibraltar Security Services which is a euphemism now for the clamping, the traffic wardens because they were all employed and still are by the Gibraltar Information Bureau. All these people will now get new contracts of a civil service type, that is to say, they will be subjected to the essential parts of civil service discipline, financial regulations and things of that kind and they will all be given standard contracts by the Gibraltar Development Corporation. Again, in consonance with the points that I have made before, as throughout these Estimates, in almost all departments related to the activities I have just listed, there are contributions to the Gibraltar Development Corporation, at page 99, appendix E, Estimates of the whole Revenue and Expenditure of the Gibraltar Development Corporation.

Mr Speaker, the principal change, however, is not the ones that I have just mentioned but the ones that I will mention now. That is, the complete transformation in the completeness and the volume of

financial information disclosed in this document that the House has before it today. I have already explained how it worked in previous years and I can tell the House that with the Special Funds that we have now cancelled and the Gibraltar Information Bureau Limited which is the company that we have so far cancelled, there is a total revenue used to go through them of £38.6 million. That is roughly one-third of Government revenue used to go through these Special Funds and these companies. The effect of those £38.6 million going to these Special Funds were twofold. First of all, because the money was no longer in the Consolidated Fund the Government did not need the permission of the House of Assembly to spend it and therefore there were no details of it in the Estimates. Then taking the logic one step further, perfect logic although built on an unacceptable foundation, well if one does not need the permission of the House to spend the money why should we estimate the amount of the revenue? So the House used to get neither estimates of the revenue of these sums of money nor indeed of the expenditure; still less was the permission of the House sought for that expenditure. If I could just give an example of how this system resulted in practices which at least in accordance with the views of this Government are simply unacceptable. Once money goes into a fund or a company from which the Government can spend it for whatever they like without having to come for the permission of the House it results in things like this. This is just, of course, the tip of the iceberg, this is just by way of example. Hon Members will remember that in the excitement of the run-up to the last general election the Opposition Members then in Government had to lay a budget before this House, I think it was by some date in February 1996, I do not remember the exact date, and I suppose for that reason it was hastily drawn up and not very carefully thought in terms of what the Government's requirements would be. Mr Speaker, between the months of February and May 1996, that is to say, in respect of the end of the last financial year, full financial year that the Opposition Members were in Government, and six weeks of the first financial year during which subsequently we came into office, a Government-owned company called Gibraltar Land Holdings Ltd spent £575,747, that is to say, in the three months running up to polling day, on..... *[Interruption]* Well, the hon Member may describe it as he likes. The nature of the projects were certainly projects that would have done no harm to the Opposition Members in the election prospects. SOS 24 Ltd received alone of those £500,000, received £451,000 in those three months: refurbishing of this club, refurbishment of that association's premises, transferring the Boat Association to Coaling Island; all sorts of

projects which were simply paid for by this company, Gibraltar Land Holdings which is a Government-owned company. The other £60,000 went to a company called Rock Developments Ltd for projects of a similar nature and I have here all the invoices relating to all these projects. Mr Speaker, I mention this as no more than an example of how the existence of these companies and special funds outside of the appropriation mechanism of the Consolidated Fund and this House of Assembly, simply create a pot of money that makes a mockery of this House's function as the guardian of the public purse. I remember that when I was in Opposition and I used to plead with the Leader of the Opposition, then Chief Minister, to restore to this House its function as guardian watchdog of the public purse he used to answer in his inimitable style, "The Opposition Member" - then referring to me - "is not fit to be the watchdog of a kennel club" or something like that and therefore why did I want to be watchdog of the public purse. Happily for him I will not get the same opportunity to comment on his powers in a similar vein because he is not in the same position as I then was. He now has all the information at his disposal, all the information that will enable him to keep track of Government finances, Government expenditure and I hope that he will by this means be able to discharge the functions of the office of Leader of the Opposition with less handicap than affected me when I was occupying that position. Mr Speaker, I have said that there were £38 million going through these means; £36.2 million were in Special Funds, and it may interest hon Members to have details of where these £36 million came from. In other words, which were the items of revenue that were being channelled, not into the Consolidated Fund from which it could only be spent with the permission of this House but into Special Funds and companies from which it was spent by the Government without explanation. The items not in the amounts that operated last year but in the amounts that would apply this year, but they are more or less the same, are interest on Government balances of £500,000; company tax of £10 million; ground and sundry rents of £1.6 million; exempt company tax of £2 million; stamp duty of £700,000; proceeds of sale of coins £300,000; workers' hostel receipts of £100,000; import duty in the sum of £17.2 million; dividends from Government stakes in Gibtel and Nynex of £1.4 million; and electricity charges in the net sum of £2.4 million. The £2.4 million of revenue that used to be channelled into the Gibraltar Information Bureau Ltd is £100,000 receipts from public market rents; £100,000 receipts from public health and environmental fees; £1.1 million receipts from tourist sites; £600,000 receipts from airport departure tax; and

£500,000 in airport fees and concessions, amounting during the current financial year to £2.4 million. Another item, Mr Speaker, and of course needless to say it follows from everything that I have just said that all those items of revenue have now been re-diverted back into the Consolidated Fund so that not only must we now give estimates of those items of revenue but we cannot spend that money without it being included in the Appropriation Bill and in the estimates that support them with the permission of this House. But there was another device deployed which had the effect not of concealing money but of concealing information. In other words, it did not give the full picture and this was the practice of netting which has now been discontinued by this Government. That was the practice whereby, for example, if Terminal Management Ltd - and I use them only as an example and perhaps I should not - if a contractor had a contract to perform a function for the Government and that function gave rise to revenue for the Government, against that revenue the Government had expenditure to meet: the fees payable to that company under the contract. All that we would see in the House is the net amount; in other words, if the revenue to the Government was £600,000 and the cost of that contract to the Government was £500,000 all we saw was £100,000 revenue. The fact that the revenue was £600,000 and not £100,000 and in order to earn that £100,000 we had had to pay £500,000 in expenses to the contractor all that was in some dark tunnel but certainly not in this House. That is what is meant by netting. That system has been discontinued and hon Members will see that even when there is a private company contract in place, when that private company is collecting what is in effect public revenue on behalf of the Government, the whole gross amount of revenue is disclosed under the revenue heads and the whole expense of that contract, in other words, what the company is entitled to keep, even in labour cost or in commission or whatever, different contracts have different remuneration bases, the whole cost of that contract is separately disclosed under the expenditure. So the House can now look at any of these contracts and say, "Revenue - £10 million; expenditure - £8 million", not only does it have those two bits of information but by putting them together it can judge whether that contract is really in the taxpayers' interest or not.

The main items of netting were these: £2.3 million in favour of Lyonnaise des Eaux, Lyonnaise des Eaux was entitled to fees and commissions and moneys but it also runs the brackish water system for the Government and this was simply netted off. So the fact that the

water brackish system was costing £2.3 million is a system nowhere to be found. LPS with fees of £300,000; netting, in other words, moneys netting balances of Land Property Services of £300,000; Residential Services Ltd, this house rent collection and Housing Department administration company, £100,000; a bulk mailing operation being done in the Post Office, £300,000; and Companies House, £500,000. So there were £3.5 million of revenue and expenditure which was just not visible for analysis and inspection because it was the subject matter of netting; £3.5 million of revenue, £3.5 million expenditure, they cancelled each other out and neither was included in the picture. That practice, Mr Speaker, as I have said, has been discontinued.

Mr Speaker, £11.8 million of expenditure at this year's level but at £17.4 million at last year's level of expenditure which used to be put through Special Funds are now through the Consolidated Fund. £4.5 million of that is the contribution to the Gibraltar Health Authority which actually last year was £7.3 million; the purchase of electricity which costs £4.5 million from the private generator OESCO is now fully disclosed here in these Estimates; the Government's subvention to the John Mackintosh Homes of £900,000 that is also now through the Appropriation Bill and other smaller items totalling £1.8 million; in all totalling £11.8 million. On the expenditure side the moneys payable to Government contractor companies which are now shown as departmental expenditure in whichever department the activity belongs are the following: Sights Management Ltd who receive a total of £1.2 million; Terminal Management Ltd which receive a total of £800,000; Security and Immigration Ltd which receive a total of £600,000; the Yacht Registry which receives a total of £100,000; Parkside Investments Ltd receive £100,000, and the Environmental Health Agency receive £100,000.

Mr Speaker, the third major source of information in these Estimates after the complete picture of revenue and expenditure is the question of the companies with which the Government have got contracts and the quality of the information is twofold, not just the netting that I have just been explaining so that the whole of the revenue collected on behalf of Government by that company and the whole cost of that contract to the Government is disclosed, but there are two further qualitative aspects of information which are now in the Estimates. The first is the existence of each contract. So far I have only mentioned the ones where there is netting but there are many contracts, all the ones with companies that do not collect public revenue, in which there is no netting. All of those,

every single contract that is a charge on public funds is identified by name of contractor, by activity to which the contract relates and by amount. For example, the Government have a contract and this is the list of them: with Knightsfield Holdings Ltd for the running of the John Mackintosh Hall at a cost of £136,900; a contract with Gibralflores for the maintenance of the cemetery at a cost of £31,200; another contract with Knightsfield Holdings Ltd to run the Museum at a cost of £200,800; a contract with the Environmental Agency Ltd to run the old Environmental and Health Department at a cost of £815,100; a contract with Wildlife Ltd to run the Alameda Gardens at a cost of £232,500; a contract with Greenarc Ltd for the upkeep of the planted areas, and a very good job they do of it too, for the cost of £311,500; a contract with Rent-a-skip Ltd for the provision of rotational skips, those are the skips in which people dump their stuff on the highway, for £47,900, that skip is outside the Cleansing Depot in Line Wall Road, Orange Bastion; a contract with In-town Developments for the disposal of refuse, the cost varies depending on the volume of refuse but this year £1,674,000; a contract with Parkside Investments Ltd for their fees for running the market of £27,000; a contract with Sights Trading Ltd for the cleansing of certain streets in Gibraltar at a cost of £252,000; a contract with Emmi Ltd which cleans other streets in Gibraltar for £148,300; with Parkside Investments Ltd for the cleaning of other streets in Gibraltar or that might be the emptying of waste bin baskets but from memory I cannot tell the House, £101,400; a contract with Ramall Ltd for cleaning streets in the sum of £196,000; and a contract with Truli Clean Ltd for cleaning other streets in the sum of £109,900; a contract with OESCO for the supply of electricity to the Government which costs annually about £4,586,000; a contract with a company called Residential Services Ltd dealing with housing matters which costs £115,000; a contract with Sights Management Ltd for the running of tourist sites which costs £1.2 million; a contract with Terminal Management Ltd - some of these I have mentioned before in the netting context - which costs £780,000 and Security and Immigration Ltd which costs £590,000; there are three contracts with KIJJ Parkings Ltd totalling £97,500 relating to the provision of security at No. 6 Convent Place, the traffic compound in Queensway next to the car park and the coach park; there are contracts with Land Property Services Ltd totalling £886,000 and they relate £300,00 to the collection of rates, evaluations on property services; £61,000 in respect of the collection of electricity arrears; £280,000 in respect of the collection and management of ground and sundry rents; £215,000 in relation to stamp duty collection and related

services; and £30,000 in respect of commission on Government land sales. We have a contract with Lyonnaise des Eaux in the sum of £155,000 under which they collect electricity charges on behalf of the Government and we have a contract with Companies House which costs £500,000 for the running of the companies registry. There are a total of 12 contracts for the cleaning of Government offices in various places with a company called ABC Cleaners Ltd to a total value of £297,000.

Mr Speaker, the Special Funds that have been wound up and whose revenue and expenditure has been transferred to the Consolidated Fund, as I have already explained, are the following: the Drug Offences and Prevention and Enforcement Fund; the Gibraltar Electricity Fund; the Workers' Hostel Fund; the Gibraltar Coinage Fund; the Gibraltar Investment Fund; the Gibraltar Telecommunications Fund; the Gibraltar Government Scholarship Fund; the Gibraltar Government Insurance Fund; the General Sinking Fund; the Gibraltar Handicapped Fund, and the Audit and Supervision Fund. All those revenues and expenditures are now in the Consolidated Fund. We have also wound up, really for housekeeping reasons, a number of small funds which had a very small amount of money in it: The International Year of the Disabled Fund; the King George V Fund; the St Bernard's Hospital Humphries Challenge Cup Fund - whatever that might have been; the Public Trustee Fund; and the School for Handicapped Children (Public Donation) Fund. All those amounts of money are now in one new fund called the Gibraltar Government Trust Fund. The characteristic that all those last mentioned five funds had in common is that they were all funds in which the Government held moneys that did not belong to the Government, moneys held on trust so instead of five funds all of which have to be accounted for separately, there is now one fund called the Government Trust Fund and each of those items will be presented separately within that fund.

Mr Speaker, after 12 months at the helm of public finances, what are the changes that we have introduced because we have not yet done everything that we hoped to? So far we have published the historical accounts and we have undertaken to publish in a timely fashion the future accounts of all Government-owned companies. We have eliminated netting as a practice from Government finances and we have channelled all revenue and expenditure through the Appropriation Bill and therefore this House. We have abolished all the Special Funds that

I have just listed and the Gibraltar Information Bureau and we have now, in the Estimates and myself now already disclosed all contracts with their value. But there are things left to be done and the things that the Government expect to do during the forthcoming months is to further restructure the Government property-owning companies of which there are still several in existence. We are studying the legal implications and where there are legal implications we are seeking to eliminate them, to enable the government not just to disclose these contracts that I have now disclosed the existence of and their value, but actually to put in the public domain, to publish the contracts themselves so that anybody who wants to see the arrangements that the Government have entered into with one of these companies will be free to do so just as they can do with the Government companies. One of the obstacles in our path is that many of these contracts had confidentiality clauses which the Government have to find a way of getting around one way or the other, but we will do that. The third control of public finance and expenditure item is, as I said before, the setting up of the Central Procurement Unit. Mr Speaker, I think that hon Members will agree that these changes, which I have described at some length but in passing and in outline only and the detail of which is reflected in those documents itself, represents possibly the biggest transformation in the presentation of public finances since Gibraltar has had its modern Constitution or perhaps at least since the Opposition Members altered the original system when they came into office in 1988 but certainly I think it is true to say that there are improvements here not just that reverse practices that we do not approve of and that the previous Government used to put into effect but indeed improvements over and above the practices of Governments before the previous Government, in other words, the original practices since 1969.

I would like to turn now, Mr Speaker, to the consideration of the current state of public finances. The public debt of Gibraltar as at 31 March 1996 was £65,700,000, just before we came into office. As at the 31 March 1997, at the end of the financial year just ended a month or so ago, the public debt of Gibraltar was £61,500,000. That is to say, a reduction during this current financial year of £4.2 million and the reduction would actually have been greater because during the financial year we actually paid down £9.2 million and I would have been in a position to report now that the public debt is £56.5 million, in other words, almost a £10 million reduction. At the end of the last financial year we unnecessarily borrowed £5 million in order to avail ourselves of

a commercial revolving facility which the previous Government had negotiated, I think it was with Barclays Bank which was expiring on reasonable terms and had we not drawn on it the facility would have expired. That money, of course, is held in reserve so although the public debt has fallen by £5 million less than it might otherwise have fallen, that £5 million is in the reserves which have therefore increased by £5 million.

HON J J BOSSANO:

The £5 million that he says are in reserves is reflected in these accounts, where in the Improvement and Development Fund?

HON CHIEF MINISTER:

No, it is reflected in the accounts in the statement of the Government's Summary of Estimated Financial Position. The hon Member will see at the bottom of page 3 now gives greater detail of the public debt.

HON J J BOSSANO:

No, I am asking where the £5 million reserves are to be found?

HON CHIEF MINISTER:

I will explain that to him in a moment. That is in the Consolidated Fund summary item 2 on the same page, Consolidated Fund Reserve. I will explain to him the composition of the reserve in just a moment. Mr Speaker, the Government would not have envisaged the need to borrow any money during this current financial year and indeed, technically speaking, need not do so but it may rise, it will depend on the extent of revenues and on the extent of expenditure but the Government may borrow £10 million to cover the cost of a start on the cost of repairs of Harbour Views should the Government need to fund that. The Government have decided not to use reserves to make that expenditure but to isolate it in volume. But the extent to which it will be necessary, Mr Speaker, is subject to the extent of the budget surplus that we generate during this year and this of course will depend on the extent of revenue which has been very prudently estimated. Revenue has been very prudently estimated, expenditure has been estimated on a worse case basis and therefore the estimated recurrent surplus of £7 million

that we estimate for this current year is a prudent statement of the position. There is another point to be made in relation to the public debt which I have said stands at £61.5 million and that is that of that £61.5 million about £46 million is owed to Gibraltar Community Care Ltd who hold that amount of Gibraltar Government loan stock. So of the £61.5 million of public debt, about £46 million of it is actually due to Gibraltar Community Care Ltd. The hon Member will recognise that that reflects the position as it once was during part of his period of office when Gibraltar Community Care Ltd owned, it is just over £46 million worth of the Gibraltar Government loan stock which is quoted in the Stock Exchange. What is the position of the Government reserves? Well, as at 31 March 1996, that is to say, a month or two before we took office, the reserves of the Government part as they were in all sorts of little back pockets stood at £41.3 million and those reserves were to be found in the following places: £2.4 million was in the Consolidated Fund as a surplus carried forward; £1.2 million was in the Improvement and Development Fund as a surplus carried forward; £10 million was in the Gibraltar Savings Bank reserve surplus; £11.5 million were sitting as cash balances in other Special Funds; and about £16 million were sitting in Government-owned companies and the total of that is just over £41 million. As at 31 March 1997, that is a few weeks ago, the reserves of the Government stood at £46.1 million, that is to say, an increase of a couple of hundred thousand pounds under £5 million higher than they were on the 31 March 1996, and the explanation for that is the £5 million that I explained before we had borrowed on the drawback. That Government reserve of £46 million is no longer in all the places where it used to be parked. The Government have in effect restructured the reserve so that it now appears here in the Estimates and if hon Members will turn to page 3, the summary of estimated financial position, they will see that the second main heading is Consolidated Fund Reserve. What we have done, Mr Speaker, is that we have transferred out of the Special Funds and into a Consolidated Fund Reserve Account these reserves so that if there is surplus in the Savings Bank we have taken it out and put it in the Consolidated Fund; if there was surplus in the Improvement and Development Fund we put it into this reserve section and similarly for all the other Special Funds. There is still a sum of £11 million which is, in effect, Government reserve and which has not been transferred into the Consolidated Fund yet and that is the £11 million that still remain in Government property owning companies and the reason for that is that the Government are about to use that money to fund the 50/50 schemes in relation to

Westview Park and Montagu Crescent. Of course, it is not envisaged that we will need the whole £11 million for those two projects, the balance is kept available because as Opposition Members know there is continuous expenditure in relation to the situation at Harbour Views and if that can be brought under control and any surplus will be then transferred into the Consolidated Fund Reserve.

Accordingly, during the last financial year, during 11 months of which this Government have been in office, the public debt has been reduced and the reserves have been increased. All this talk, never to be found on the lips of objective people and mainly to be found in the pages of the publication sponsored by the party of Opposition Members that this Government are spending the reserves carefully gathered together by the previous Government because of their economic wizardry and prudence and that we are spending that money like confetti is absolute rubbish, like so much else that is to be found printed in that publication. As also is rubbish talk of the fact that Opposition Members left reserves of £130 million. The reserves left to the Government by the previous Government for us to spend and we have not spent them yet although we fully intend to spend quite a lot of it this year on things which will be explained during the remainder of this debate, is £41.3 million.

This brings me, Mr Speaker, to this year's budget itself. The Financial and Development Secretary has already indicated and hon Members have been able to see for themselves from the Estimates that they have before them, that we are estimating a revenue during this financial year of £117 million and expenditure of £110 million to produce an estimated surplus in the Consolidated Fund of £7 million. There are three points to highlight. The first is that the revenue has been, when I say prudently estimated I mean that we have not taken what perhaps are extraordinary amounts of revenue collected perhaps in the last three months of the last financial year for extraordinary reasons and used them to create a figure for the whole year. The revenue is on the basis of an amount comparable to the amount actually collected during the previous year. If there is a major source of additional revenue it will be whether we are successful or to the extent that we are successful in improving the arrears collection situation. We are actually confident that revenues will be enhanced substantially during this financial year by a blitz which we intend in relation to the collection of arrears. But time will tell whether we are able to enjoy success in that respect and importantly, the estimated surplus in the Consolidated Fund would be £5

million higher than £7 million, in other words, it would be £13 million if we had not transferred to the Consolidated Fund expenditure from the Improvement and Development Fund the £5.9 million that I explained earlier. In other words, there are £5.9 million of expenditure that used to be accounted for in the Improvement and Development and therefore expenditure, there are £5.9 million worth of items of expenditure in this year's Consolidated Fund which would not have been there last year, and therefore, if our expenditure had been that £5.9 million lower, the surplus, the gap between expenditure and revenue would also have been £5.9 million larger than the £7 million that we are prognosticating. Of course, Mr Speaker, at this point it is worth mentioning one point; because this expenditure of £5.9 million used to be in the Improvement and Development Fund, it was financed not from recurrent revenue but from the items that normally funded the Improvement and Development Fund expenditure, that were invariably capital sources; sale of Government properties; borrowings; EU grants; things of that nature were funding these £5.9 million of expenditure which are now in the Consolidated Fund and can therefore now only be funded by Government recurring revenue. I do however need to sound a note of caution in relation to the size of the Government's surplus and that is that for reasons of which Opposition Members are aware, there are certain items of expenditure which ought, for potential legal reasons, to be funded from the Social Assistance Fund and not generally from the Consolidated Fund and for that reason we have not closed down the Social Assistance Fund. The Social Assistance Fund continues to have about £6 million in it. So quite apart from everything that I have said so far, the Social Assistance Fund still has £6 million in it and those are the £6 million that will be used to fund the non-Gibraltar Health Authority items of expenditure in the Social Assistance Fund. Next year the Social Assistance Fund will have to be funded from the Consolidated Fund because its capital pot, so to speak, will have run out. Therefore the £6 million of expenditure which are presently being paid for in effect out of the income that has been accumulated there during previous years and during this last year, these last 12 months, will not be replenished and the expenditure which will continue to be done through the Social Assistance Fund will nevertheless have to be funded from the Consolidated Fund. Next year there will be that additional item of expenditure to be funded from recurrent revenue which will severely impact on what will be the size of the revenue surplus over expenditure to that disclosed this year, and therefore, unless revenue increases substantially or unless some of the items of expenditure which are in

there that would probably not be incurred for reasons that I will explain later when I come to the size of the establishment, unless expenditure moves down or revenue moves up it is unlikely that next year we will be able to generate a surplus of £7 million, that is in the financial year 1998/99.

Mr Speaker, the most noteworthy points in respect of revenue are the following: Import duty - during the last financial year just ended, that is to say, end of March 1997, has fallen by £4 million as compared to what we are estimating for the previous year. In other words, in this financial year just ended, 1996/97, we collected £20 million in import duty. The previous year there had been £24 million and therefore the effect, I suspect it must be, there are other factors, of the eradication of fast launch activity seems to have stabilised now at around £3 million lost revenue from those reduced volumes of tobacco that are now being exported from Gibraltar. Income tax collected last year, that is to say 1996/97, is £46 million, hon Members will have seen this from the booklet which contains the forecast outturn, we are estimating for this year the marginally low figure of £45 million. That is because, for example, we have got the Kvaerner situation where there is a loss of revenue to the Government, we expect increases in other areas of revenue, arrears collection but of course we have lost £1.9 million in revenue as a result of the allowance increases that I announced at the beginning of this speech. So we estimate that during the current financial year we will collect £45 million in personal income tax. Mr Speaker, the Government are reviewing the structure of import duties and hope shortly to be in a position to make a detailed announcement of that but that would be broadly neutral in terms of revenue. In other words, we would not expect the restructure to result in a reduction in revenue because of the restructure, in other words, things that are reduced in duty will be compensated by increases in duty, indeed it may be cash positive to the extent that the articles on which we increase duty are more valuable in terms of import duty collected than those upon which we lower it. The other element is rates; the Government are going to very shortly make an announcement as part of our business assistance package of a reduction in rates for commercial premises and that may result in a reduction in revenue. And I say, "may result in a reduction in revenue" because the assistance will actually be delivered in a way which will reduce arrears and will increase, not just the collections but the speed with which the money is collected and therefore the interest income that the Government can earn from those

items of revenue. So import duty will be broadly neutral by the time we have restructured it; the rates restructure may have a marginal reduction in levels of revenue that it produces; and the rents restructure that we are doing for Government tenants at first sight has an income revenue reducing effect in the sense that we are reducing the rents that we collect from our existing tenants, but one of the effects of reducing the rents is that we generate demands for those properties owned by the Government which are empty and therefore, although we collect less from our tenants we collect it from more tenants and the overall effect may therefore be that even though we are reducing rates our overall collection from rents of Government properties may actually increase because we will find tenants for properties which are presently empty, quite apart from the principal reason why we did this, which is to put pressure on the private sector to reduce its rents.

Mr Speaker, as a comparative exercise, if the forecast outturn, which is much more scientific than the estimates, in respect of the last financial year had been presented on the same reconstructed basis as we have now done with ours, in other words, with the special funds out of the way, with companies out of the way, in other words, if what we have done this year had been done at the beginning of the last financial year, revenue which we disclosed at £170 million estimated, for the forthcoming financial year would only have been £1.1 million higher. The revenue of the last financial year would have been higher than what we are estimating on a reconstructive comparable basis by £1.1 million. As far as expenditure is concerned, on the same reconstructive basis, in other words, forgetting all that we have done in respect of restructuring which does not really amount in new expenditure, it is not new things that we found money to spend on, it is simply accounting for existing activities in a different way. Excluding that, on a reconstructed basis the increased Consolidated Fund revenue is higher than it would have been on a comparable basis by £7.8 million. But of those £7.8 million, Mr Speaker, and in a sense I am contradicting what I said just 45 seconds ago, not all of that £7.8 million is new spending decisions that we have made. We made much more than £7.8 million of new spending decisions in the Improvement and Development Fund but in the Consolidated Fund we have not made £7.8 million worth of new recurrent expenditure decisions. So where does the figure of £7.8 million come from? Mr Speaker, £1.6 million of the £7.8 million is a provision for the higher cost of servicing the public debt if we borrow the £10 million that I have indicated we might borrow if we needed to fund

Harbour Views repairs, but that might or might not be spent, but if we do spend it, it will reflect the need to borrow money to service that debt in order to spend it on Harbour Views which is not a new spending decision of ours. A sum of around £420,000 is the wage cost of 14 civil servants, who have always been there in the Employment and Training Board which, apart from having people who were not civil servants, also has seconded to it about 14 people who are civil servants, not just in the Employment and Training Board, throughout the functions carried out by the Gibraltar Information Bureau. There is a total of 14 people who are actually enlisted civil servants some of whom are in the Employment and Training Board but not all of them and who are seconded to activities which are conducted outside. Well the salaries of these 14 bodies was not last year included in the Estimates so we have now included them in the Estimates and of course it raises the wage bill by £400,000 but that is not new expenditure, that is simply bringing it back into the Consolidated Fund, the salaries of 14 civil servants who have always been there and whose salaries were previously funded through companies whose revenue and expenditure is now all in the Consolidated Fund anyway. Mr Speaker, £600,000 of those £7.8 million, so we started with a top figure of £7.8 million, I have explained that £1.6 million of that is possible cost of increased public debt servicing; £400,000 of it are these 14 civil servants whose salaries were not in the Estimates last year; £600,000 of it is a sum of money that the Government have paid to Lyonnaise des Eaux, Opposition Members will immediately recognise the reason for it, in compensation for not increasing the water tariff to the consumer. The Opposition Members know that before the last election they signed a letter undertaking to review, if not increase, the tariff, indeed the letter that they signed I think committed the Government to an increase of the water tariff by the amount that Lyonnaise's privatisation contract entitled them to; given that the hon Members had put in their manifesto an unambiguous commitment not to increase water tariffs at the same time they were promising Lyonnaise des Eaux that they would increase the water tariff. One can only come to the conclusion that the hon Members intended to absorb the increase themselves out of public revenue although the language used in the manifesto and in the letter to Lyonnaise would not be entirely consistent one with the other. I suppose there is an innocent explanation for it and that is they, in effect, intended to subsidise the water and that is what this figure of £600,000 represents. The Government do not undertake to maintain water tariffs at their present rate and therefore at some point in the future this item

may reduce, as part of the tariff increase to which Lyonnaise is entitled, if the Government allow them to pass it on to the consumer. To the extent that the Government allow them to pass it on to the consumer, the sum of this subsidy is reduced. There are other items of DTI promotional work; Tourism promotional work, amounting to £450,000 and that is new expenditure that the Government have decided, as is the sum of £160,000 for the two offices that the Government intend to open a Gibraltar Information Bureau in Brussels with which the Government intend to proceed and a proper Gibraltar Tourism Board Office in Madrid. The Government are aware that there is an office of sorts in Madrid already, that is neither in a location nor of a standard which we think is suitable to represent the touristic interest of Gibraltar in Madrid and therefore there is expenditure of £160,000 included in the Estimates for those two new offices. There is about £500,000 on other items; one of them may be of interest to some Opposition Members, is a sum of £55,000 which is the annual cost of a new contract that the Government are about to enter into for disposing of the fly ash produced by the incinerator plant. There is several years worth of accumulation in tunnels and caves; the Government have entered into a contract for the elimination of all that accumulation and it is going to be shipped to a reprocessing plant in England. The contract to remove in one lot the arrears of fly ash accumulation is about £120,000 and then the cost of annually removing, on a quarterly basis, the fly ash of current production of the incinerator is about £55,000 a year. It is not acceptable environmentally to this Government to accumulate bagfuls of toxic waste in our caves and in our tunnels. Mr Speaker, there is included in that £7.8 million a figure of £500,000 of legal fees but that is not to say that we are going to spend £500,000 on legal fees when previously less was spent, it is that previously there was a token provision for legal fees and expenditure always exceeded that in practice, and similarly for supplementary funding the previous year the supplementary funding provision was £1 million, we increased it to £1.5 million this year and therefore that is not expenditure, it is a provision for potential expenditure. In summary, Mr Speaker, of the £7.8 million I calculate as an estimate, that of that £7.8 million, probably no more than £2 million is actually discretionary spending decisions, well perhaps £2.5 million when I have included this item, and that is the question of the number of new posts that have been created in the Government and their cost. Mr Speaker, a simple comparison between the establishment details attached to last year's Estimates and this year's Estimates would give the impression - but it will be no more than that - that the

Government have created 103 additional civil service posts. Before Opposition Members leap to their feet to condemn this act of rashness on the part of the Government, let me put them at their ease that that is not what has been done. Actually, Opposition Members may be interested that the number of civil servants, excluding the Gibraltar Health Authority, on the Government's payroll now in May 1996, and I know that this will appeal immediately to the Leader of the Opposition's proclivity to cut the size of the public service that the number of civil servants, excluding the Gibraltar Health Authority, on the Government's payroll and we have not privatised anything in the last 12 months, is five less than there were in April 1996 when the Leader of the Opposition handed the reins of power to this Government. In April 1996 there were 1,469 non-industrial civil servants on the Government's payroll; in May 1997, that is to say, this current month's payroll, there are only 1,466, that is five less and of course this is a net amount; many people have retired, some people have been recruited but the net effect is that the civil service has decreased in size in terms of payroll by five, is that not impressive! No doubt hon Members will wish to congratulate us for that example of prudent public expenditure management when it comes to their turn to speak. For reasons that I have not yet had an opportunity to cross examine him about, the story in the Gibraltar Health Authority is not quite so impressive. There has been there an increase of 18 between payrolls, between the position in April 1996 and May 1997 but I am sure Opposition Members will wish this Government to deliver the best possible health care to our citizens. Mr Speaker, so what is the reason for the fact that at a time when a comparison of the establishment suggests that we have created 103 new posts that the actual body of civil servants, judging by the payroll, actually being paid, is actually less than it was at the beginning of the year. The reasons are these, we already have identified 14 from the Gibraltar Information Bureau but are now included in these Estimates in the establishment and which were not there last year because they were seconded and as they were seconded the previous Government did not include them. There is provision in the Estimates this year for 11 people for the Legislation Support Unit but of those definitely three and probably four are already on the public payroll, people like the previous Chief Minister Mr Canepa; one of the lawyers Mr Raphael Benzaquen; the ex-librarian Mr Ronnie Miel; Miss Annie Thornton who used to be in the Attorney-General's Chambers; all those were previously elsewhere and the provision of 11 includes them who are already being paid for and therefore they are new in the establishment, they have vacated three

posts which were not in the establishment so therefore they are like the first 14; Mr Canepa and Mr Benzaquen were not on the establishment; Mr Miel and Miss Thornton were on the establishment; but they came from places where they will not be replaced. So if Miss Thornton who used to do the Gazette mainly in the Attorney-General's Chambers is now moving to the Legislation Support Unit because that is where the Gazette is now going to be provided, the post that she vacates in the Attorney-General's Chambers is not being filled.

HON J J BOSSANO

Mr Speaker, if the Chief Minister will give way. Surely that explanation does not explain the argument he is putting because if Miss Thornton has disappeared then compared in the two establishments it will show her disappearing one year and appearing the other and would not be included in the 103 difference between the two totals, surely.

HON CHIEF MINISTER:

That will apply to Miss Thornton but not to Mr Benzaquen who is a newcomer to the establishment. Mr Speaker, there are two people there down for GCID, if hon Members look at the establishment under Administration, those two people are not established members and they should not be there and that is one of the amendments that may be introduced. Of course, there is an assumption by those that have put the Estimates of the establishment together, that all existing vacancies and new vacancies thrown up by the transfers resulting from the restructure of Government activities will be filled so that, for example, if people have been moved from one existing department to another there is, in many cases, an assumption which will not be realised, that those posts will be filled. It will actually be necessary to do a staff resources audit and the Government are committed to doing this. Once the functions have been transferred to different Ministries, to different buildings, there will then be a section by section staff audit of each department and each section within each department and the Government will then publish, even if we are in the middle of the financial year, an accurate statement of the establishment. But it has to be said that the salaries of all 103 phantom additional posts have been included in the Estimates of Expenditure so expenditure on emoluments is overstated by the number of new posts that we do not create of those 103. So what are the posts; which are the new bodies that we have recruited? People who are now

working in the Government that were not working in the Government when we took office. We have recruited 18 new administrative assistants, mainly to replace the 15 or 16 existing administrative assistants who were promoted to administrative officers and moved to administrative officer duties, so there are 18 additional administrative assistants already at work. There are two new teachers; there is one nursery teacher; there are two classroom aides; there are six typists; and there are 15 policemen, we actually recruited 25 but of those 25, 10 were filling vacancies in the establishment, so additions to the establishment were 15 policemen. We have recruited two environmental monitors and we have recruited two PTO building inspectors; that is a total of 49 additional bodies recruited. But of course those have to be netted against people that have retired from the service for one reason or another and of those 49, if one takes out the 15 policemen, it is actually 34 non-policemen. In other words, if one strips out the figure of 49 which includes the 15 policemen, there are 34 civil servants, in the widest sense of the word, non-industrial civil servants but excluding policemen that although they are on the public payroll, I do not regard them as civil servants as such. So there are 34 people which netted against the retirees and other people who have left service for one reason or another, results in a net reduction in the size of the payroll. There are a number of posts presently under advertisement and which have not yet been filled and just for the completeness of the information, there is one social worker; one SEO in customs, which eventually may create a vacancy at the very bottom as people move up to fill the SEO post of Deputy Collector of Customs which I announced publicly some time ago; there is a Maritime Administrator the interviews for whom in fact have been conducted in London this week by the Administrative Secretary and the Personnel Manager; Opposition Members will remember that as part of the agreement that they signed with the British Government at the time that they agreed the re-establishment of the Category 1 register, an agreement known as the Survey Agreement; hon Members agreed to recruit a Maritime Administrator and to give the Department of Transport in England a role in that recruitment process; that commitment has been translated in practice to a selection board that comprises three representatives of the Government of Gibraltar and one representative of the Department of Transport and that will, hopefully, be filled during the course of next month. There is a Finance Centre Director to be recruited which my hon Colleague, the Minister for Trade and Industry will explain later and three Tourism Management

posts to which my hon Colleague, the Minister for Tourism, may himself refer at a later stage.

Mr Speaker, moving to the Improvement and Development Fund there are presentational changes there as well. The revenue heads have been adjusted by creating separate heads for contributions and loans on the one hand and reimbursements on the other, I am sure hon Members will have noticed that already. I have already explained that expenditure heads have been restructured and that in-house labour wages and related materials have been stripped out and included in the Consolidated Fund and I have also explained the reasons for that. And subheads, Mr Speaker, have also been brought together in generic terms where practical, followed by a list of the major projects to which they relate. Mr Speaker, the Government are reviewing, but have not yet made a decision on the future of the Improvement and Development Fund itself. Such a separate fund for capital projects does not exist, for example, in the United Kingdom where all capital works expenditure and revenue; revenue in the UK is mainly EU grants; all goes into that Consolidated Fund and all expenditure and revenue is met from that. There are clearly arguments on both sides of that debate; it will improve transparency and accounting and will destroy what has become substantially artificial distinctions if they are combined, but in order for that combination not to hide the difference between capital projects and non-capital projects the capital projects would have to be very clearly highlighted in any new Consolidated Fund presentation. Mr Speaker, the expenditure of the Consolidated Fund for this year, as the Financial and Development Secretary has announced is £36 million in the Improvement and Development Fund, a very substantial increase on previous years expenditure in that Fund, for example, last year it was £11 million; the Financial and Development Secretary has already explained the sources of the funding for that, and just to remind hon Members, £10 million will come from loans; £2.3 million will come from EU grants; £4.1 million will come from sale of Government properties; £19 million will come from what are, in effect, Government reserves. The Consolidated Fund, which now contains the reserve, in effect comprises of what is already there, which is the £46 million that I mentioned earlier, plus whatever surplus there is of revenue over expenditure during the current year now in progress. The main projects to be funded from the Improvement and Development Fund, and I will leave the details of these projects to my hon Colleagues to deal with on a departmental basis, but the main projects are: housing £12 million, but

that includes the £10 million provision for making a start on Harbour Views; there is a token provision only for a project which the Government intend to undertake which is the creation of housing units for the elderly but it is unlikely that there will be substantial capital expenditure on that project during this year and I think what will probably happen this year is expenditure on pre-contract design services. There is £1.2 million on schools and cultural facilities; £3.8 million on enhancement and beautification. The Government attach a considerable amount of importance to enhancement and beautification projects as part of our policy to develop and promote tourism in Gibraltar. There is £0.75 million on port development; £1 million on the refurbishment of Government buildings; £400,000 on police equipment; and a sum of about £6 million on schemes to support existing private sector businesses to grow and to establish new business start-ups in the private sector. We regard this expenditure, just as the previous Government expended large amounts of borrowed money on infrastructural projects, for example, New Harbours, that it is a proper investment in the future of our to be private sector led economy for the Government to make investments, not with borrowed money but with existing Government monies to stimulate, develop and promote the private sector which is what everybody agrees has got to be the motor of the economy for the future. There is funding within that for increasing access to Gibraltar by airlines and by cruises; there are beautification projects and product development schemes; there is assistance to the hotel industry for infrastructure enhancement and in relation to the Finance Centre, the Government will continue with our policy of putting into place the necessary legislation, the necessary regulatory framework properly resourced so that the Finance Centre continues its preparation for what we think is substantial growth in the immediate years ahead, based not just on those items but on the work that the Government have already done to transform the image that others consume of Gibraltar which is so vital to the Finance Centre. My hon Colleague, the Minister for Trade and Industry, will give details of the full package of measures in the business assistance scheme most of which reflect part of the £24 million that we are spending, other than on housing in terms of rents, rates, import duty, capital funds and the creation of funds for EU fundable projects. The Minister for Trade and Industry will also give details of the inward investment projects which, together with the measures that the Government are taking, together with the investment that the Government are making in the private sector, and together with the promotional work that the Government are doing, will be the pillars

on which the private sector will be able to grow, as it must, to generate many more places of work than it is presently doing. It would be pointless, Mr Speaker, to conceal that the closure of Kvaerner has not come as a very substantial blow to the Government. The Government are, of course, committed to preserving shiprepairing in Gibraltar and we are confident that an appropriate operator will be found, and the Government are investing time and financial resources in seeking out internationally, all potential operators so that we may choose the one most ideally suited to Gibraltar. But I have to take this opportunity to repeat that under no circumstances will the Government reopen that yard as a Government facility. We will not go back to the days of GSL, where the taxpayer stood ready with an open cheque book, funded by his hard earned taxes, to back up the commercial losses of a commercial shiprepair yard worked in by a workforce who may take a different view about working for Government than they may take about working for a private sector commercial entity. I am certain that notwithstanding the recent remarks that have been made to the contrary, the Leader of the Opposition when he reflects, will commend me for that sensible view given that it is the one that presumably caused him to close down Kvaerner, not Kvaerner, I am sorry, a Freudian slip of the tongue, to close down GSL after it had lost tens of millions of pounds of taxpayers' money and at considerable expense to the taxpayer in redundancy payments to the then employees of GSL. The reasons that caused him to close GSL at that stage are the same reasons that cause me to come to the conclusion that the Government will not put ourselves in that position again and certainly nothing sufficient has happened in the intervening period to encourage the Government to re-engage workers whom they have already paid substantial redundancy payments to and there are some workers still working at the yard that have collected redundancy payments. Mr Speaker, the Government will not be persuaded to risk having to underwrite commercial losses using taxpayers money and find ourselves, in effect, running a Government Department, finding ourselves with the problems that we now have in the Buildings and Works Department, magnified in an environment in which the potential losses are not just the labour cost of a labour force that is not producing but indeed commercial losses incurred in having to undertake shiprepair works for real clients in the real world, not for a captive client in the form of the Government. The Government's priority in everything that we will do, the Government's focus in our economic policy will remain the creation of jobs through the generation of sustainable economic activity, and we will do that by basing our

measures and our actions on developing demand for Gibraltar's products. Just as the Opposition Members felt that the time was right between 1992 and 1996 to concentrate on the creation of infrastructure, we have no doubt that the focus now must change and has changed to the generation of demand for that infrastructure and the generation of demand means finding customers for Gibraltar, finding customers for our Finance Centre, finding operators for our Finance Centre, bringing tourism to our streets and to our hotels, bringing ships, creating an environment in which our shiprepair can operate, bringing ships to our port, bringing telecommunications projects to Gibraltar and other inward investment projects. There is no point in building an economy on a constant hyperactivity of infrastructural work which cannot be constant because eventually those that are generating that infrastructure will want the demand for their infrastructure to meet, or the gap between the demand for their infrastructure and the supply of their infrastructure to be closed and that has not been happening. Therefore everything that the Government are doing, Mr Speaker, promotion work; image and reputation work, I know it is a phrase that brings a smile to the faces of Opposition Members, it is vital to the success of our Finance Centre that we are seen in a different light to which we have been seen at some point in time in our recent history and it is vital that we concentrate on bringing the consumer, bringing the people who will constitute the demand, the customers of our products. Therefore the concentration is in promotion work, in making sure we have products to deliver, in making sure that Gibraltar is an attractive place to visit hence the investment in beautification enhancement work. Of course, the Government back up our policy with investment and that policy of backing up our policy with investment is reflected in the very substantial amounts of taxpayers' money that we are investing through the Improvement and Development Fund into the private sector so that it will have a boost in demand generating activities. Only such economic growth is capable of being sustainable and as that is the only growth that is capable of being sustainable, it is the only growth that is capable of delivering durable quality jobs for the people of Gibraltar. The Government are acutely aware that that will require also an investment in training for skills and that also will be reflected in the Government's expenditure, not only will we encourage it and fund it within the private sector itself but such vehicles as Gibraltar Community Projects is not so much a subsidised employment enterprise, it is a training enterprise. The people who are presently working in Community Projects who used to be in Calpe Cleaners and used to be in SOS getting minimal, if any,

training are now working in a structured, disciplined, well-managed environment in which it will be possible to deliver training to them and the differences in output is already visible. The nature of the work that they are doing, the value that the taxpayer is getting from them for the money is already greatly enhanced as is the ability of the workforce themselves to enhance their personal skills and training so that as their contracts require them to do when they are ready they can be placed in the private sector. Mr Speaker, the Government are also committed, as part of our contribution to skills training, to open apprenticeship schemes, it is true there will not be any guarantee of employment in the public service at the end of those employment schemes but the Government will allow, in effect, our workshops and our garages to act as a place of learning for people who want to develop their skills. Government will open apprenticeships in its work force, in workshops and garages, as I have said, and if at the end of that period there is a need for those skills in the Government, of course such people will be able to apply for those jobs but it will not be apprenticeships of the old style where there was an apprenticeship followed by a guaranteed job. It is the Government's contribution to training, not a Government contribution to job creating. Mr Speaker, the Government have also a project which will soon see fruition and details of which will be given by the Minister for Education to establish, as part of our training commitment, a college of adult education which will specialise in finance centre training, in business training and in tourism training which are the skills which will be required for the jobs that the Government are investing and generating. There is no point in the Government investing in generating activity in the Finance Centre, investing in generating activity and jobs in tourism, if the people that need jobs in Gibraltar do not have the skills to do the jobs that the Government are concentrating on generating and therefore the Government accept responsibility, as part of our economic policy, not just to help the private sector financially with advice and financially, but indeed to create the training infrastructure to enable the unemployed and the future generations of school leavers in Gibraltar and university leavers to aspire to those jobs. In addition, the focus of this budget to all these things that I have just been explaining, is equipping and resourcing the public service so that it can modernise its practice; so that it can deliver the necessary expertise; so that it can improve productivity and the quality of the service that it delivers to the taxpayer. We think that there is a place for a well resourced public sector in a private sector dominated economy and the Government need a well resourced public sector in order to

administer and deliver our policies but we will not do that, we will enlarge the civil service by quality not by quantity, we will target the expertise that is required and we will recruit that expertise. In other words, we will do it in a way which is not a disproportionate increase in costs and which delivers to the Government the skills and the qualities that we need. That will include an increased element of simple administrative capability but it will also include a lot of specialised activity which may not be providable, in many cases will not be providable from within the existing ranks of the civil service. Mr Speaker, this is a convenient moment in which to recess.

The House recessed at 5.25 pm.

The House resumed at 5.46 pm.

HON CHIEF MINISTER:

Mr Speaker, basic statistics in relation to the indicators of the economy, I can inform the House as follows: the inflation rate in Gibraltar in 1995 was 2.3 per cent compared to 2.9 per cent in the UK, and in 1996 it was 2.1 per cent in Gibraltar compared to 2.5 per cent in UK. Our estimate for the inflation rate during 1997 is of a 2 per cent to 3 per cent range. Mr Speaker, it has to be said that, and I think this is a point that we once made from the Opposition benches that the final report of the Family Expenditure Survey for 1995/96 which should be published later this year, in about October, is still done on the basis of the index of retail prices weights based on the Family Expenditure Survey of 1979/80. I think that there is a growing body of opinion, I think I expressed a view in Opposition that those weightings are out-of-date and need revising. The 1995/96 Survey should cast light on the changing patterns in household expenditure and the Government will then consider whether there is a fair case to be made for reviewing the weightings and the factors taken into account in the weightings, for example, by making a provision for mortgages and service charges which is now a significant part of many more household expenditure than it used to be and which are not reflected. That would, of course, impact on the general level of inflation in Gibraltar and that itself has consequences in many other directions. Government would have to take carefully into consideration whether the domestic advantages in doing that, not just in terms of pay rises but indeed pension levels and things like that given that many of that is exported and a careful balance has to be made and the

Government will consider that. Mr Speaker, the employment situation is that there is a gradually rising trend. The best estimate available so far is that whereas employment in April 1995 was 12,702, employment in October 1995 had crept up marginally to 12,713 and that by April 1996, and the figure for that is still provisional extraordinarily enough given that it is almost 15 months ago, is that it went up further marginally to 12,980. Our best estimate is that it now is a figure of around 13,000. But the facilities, that has to be said, Mr Speaker, available to the Government and the techniques for computing employment statistics are at best shocking. The April 1996 statistics are not yet definitively available. Employment figures on the basis of the census, in other words, on the basis of surveys are supposed to be on the basis of employment and training returns which is the basis upon which the unemployment and employment figures are given, the employment figures which are, of course, much more scientific and much more relevant to economic planning, are never available on a current basis and are never available in a relevant form at a useful time. There are no detailed breakdowns of by trade or by occupation, all we have is this broad category of occupations and this is something that the Government are determined to review and to acquire a capability and to acquire techniques, by one means or another, to produce relevant statistics. For the same reason, the Government will make no predictions for this year on GDP, not only can we not make a prediction for the current year's GDP projection but indeed I am not even in a position to tell the House what we think GDP was last year, and not only are we not in a position to do that because the employment information is not yet available to the Government's Statistician, but indeed we are not satisfied that the methodology used historically in the past to calculate national income and gross domestic product is actually an accurate and meaningful measure of those values and the Government will also seek to review the way in which national income is measured. The best estimate available to the Government is that GDP in 1994/95 was about £326 million and that in 1995/96 it was probably in the range of £320 million to £340 million. But, Mr Speaker, I would not skin a cat on the basis of those statistics. There are some indicators in the tourism sector which give cautious grounds for optimism. We have read in this morning's local press a piece that suggests Gibraltar has, during these last 12 months, acquired increasing popularity as a resort destination. There are other statistics which I would say suggest no more than that we are on the right road, we may have reversed the trend and that there may be success ahead for tourism in Gibraltar. Visitor arrivals in 1996

were very substantially higher than in 1995. The figure for 1995 is 5.5 million; the equivalent figure for 1996 is 6.5 million. Tourist expenditure is calculated by the Government's Statistics Office as being for 1995 £136 million and for 1996 £181 million, reflecting mainly the much higher number of visitors, basically an extra 1 million visitor arrivals; most of those, of course, are arrivals over the frontier. Mr Speaker, the hotel..... [HON J J BOSSANO: Mr Speaker, what was the figure for 1996?] £181 million according to the Government Statistician. The hotel occupancy figure is completely flat; it was 39 per cent in 1995, it was 38 per cent in 1996 and we do not know obviously what the figure is going to be for 1997 although information provided to us by Gibraltar's leading hotels suggest that they are having a much better year in terms of hotel occupancy than in the past so let us hope that that augurs well for a possible upward trend in hotel occupancy but that has not yet reflected in any statistics that I have available to me. The arrivals by sea reflecting mainly cruise visitors is up from 103,000 in 1995 to 122,000 in 1996. Yacht arrivals are marginally up just by 200, from 16,100 to 16,300. The number of cruise liners is marginally up from 138 to 141, these are always comparisons between 1995 and 1996. Arrivals of coaches are up from 858 to 966 per month. Therefore there is steady and encouraging if unspectacular improvements in the tourism sector indicators. The news in the port, I think, is very much more encouraging, Mr Speaker. The number of vessels arriving in Gibraltar increased by 20 per cent in 1996 from 3,528 in 1995 to 4,222 in 1996. The total tonnage increased by 37 per cent. The number of ships calling in Gibraltar for bunkers increased by a staggering 54 per cent in 1996, from 1,631 in 1995 to 2,510 in 1996; all these figures according to the information provided by the Government Statistician. In relation to the finance centre, there is really a static situation as we await passporting initially in insurance products and other promotional work that will now begin to unfold. There is steady minute growth, really no growth, a plateau in overall deposits; loans and advances have increased by 11 per cent in 1996 following two years of decline by 10 per cent in each of 1995 and 1994 suggesting that the banks are beginning to recover their confidence in financing local business propositions but that is no more than a suggestion. Imports, Mr Speaker, are up by 25 per cent, from £380 million in 1995 to £475 million in 1996; and exports are up 26 per cent at £217 million, from £173 million. So in summary, there is encouraging growth in some indicators in tourism; a flat picture in the finance centre; really very encouraging growth in port activity. In general terms and on the basis of statistics available, it would appear

that the economy is stable and showing tentative signs of picking up, I would put it no more strongly than that. The closure of Kvaerner and some of the, albeit reduced number of MOD redundancies starting impacting, that may affect adversely whatever tentative revival may be in place as will, of course, and as it is being affected at the moment, especially in tourism and the retail sector, by the strength of the pound against the peseta. Therefore, in conclusion, I would describe this budget as a prudent balance between running budgetary surpluses of a prudent amount; maintaining reserves and public debt at prudent levels; but coupled with bold but necessary measures to stimulate the support of the private sector through expenditure in support measures and indeed by sacrificing income in a package of measures calculated to stimulate the private sector. It also includes the balance, the need to improve public services; Opposition Members know, it is something that we used to say when we were on that side of the House, and the fifth item that is carefully but prudently balanced in this budget is not just the question of budgetary surpluses, public debt and revenue and expenditure to stimulate the private sector, but indeed our medium and long-term objective of reducing what is an unnecessarily draconian tax burden on the people of Gibraltar. Mr Speaker, this budget seeks to put in careful and prudent equilibrium all those, in some respects, conflicting objectives for those that have to manage the public finances and the economy and I therefore have no hesitation in commending the Bill to the House.

HON J J BOSSANO:

Mr Speaker, the Government would have no problem in getting us to agree with his recommendation in his last sentence if we could see it as a careful and prudent equilibrium as he has tried to convince us that it is. Let me say that occasionally one hears of an analysis that politics in Gibraltar are conducted on an unnecessary adversarial basis and that seems to have been anticipated by the Chronicle which started off predicting that we were about to clash. As far as we are concerned, we are not looking for a clash with anybody but I have to say that the explanations that have been given in presenting the Estimates do not appear to reflect what is in the Estimates and that is a problem because grateful as I am to the Government that we have had them for 28 days instead of the 14 that we are required to have them, if when we get here we get told that the revenue is underestimated and the expenditure overestimated, then for the last 28 days we have been working on a

premise that there was a gap which presumably may not be there at all but we do not know whether there will be a gap or there will not be a gap or whether it will be in the reverse direction. It remains to be seen, I suppose, during the course of the year how close, and we will have an opportunity at intervals to ask how revenue is doing and how expenditure is doing, to see whether in fact the figures that are here actually predict what is going to happen. But, of course, it is what we are being asked to vote on and there are a number of things which the Chief Minister has said, which as far as we are concerned are so self-evident that I do not think anybody could disagree with the analysis that what we need is fundamentally a sustainable economy and that that sustainable economy has to be private sector led because there is no MOD to lead it anymore. Indeed, that that is not just necessary for the sake of being able to produce a revenue stream to maintain public services but indeed fundamental to our whole fight for recognition of our right to self determination and I remember the Chief Minister used to say to me that I had abandoned that when he was in the Opposition. I do not think that it is true, that we had abandoned it, in fact, I am glad to see that today he has in fact said that the emphasis that we put in creating infrastructure and creating a capacity, he said he hoped we would agree with him that now what we need is to bring customers. That is true. But, of course, without the place for the customers to go to we could be wasting our time in bringing the customers. If the position today was as it was in 1988 when we could not dispose of our refuse; when we could not produce water; when we did not have electricity capacity; and when we did not have telephones; he would not be marketing Gibraltar, there would be nothing to market. So those things were necessary and whoever was there had to do them before anything else could be done and we would not have been able to do it entirely from the Government resources because the resources were not there. That is why in many areas we went into partnership with people from outside who invested in creating the capacity, something which we never gave a title to but which the United Kingdom in recent years have started to copy and calls the private finance initiative where an infrastructure project is built by a private contractor on the basis of doing the investment, building the project and operating it and then charging the Government for the service. Of course, some of those contracts indeed, the bulk of the contracts, the big contracts, that have been listed as now being shown in the Estimates are the result of that strategy, like Lyonnaise and the refuse disposal, to mention two. And the supply of electricity which would never have been possible if we had had to expand Waterport

Power Station which was estimated , in 1988, to require something like £15 million and at the time all the reserves of the Government were £16 million. So what happened was that OESCO provided the capacity and sell the electricity to the Government who in turn sells it to the public. In fact, the bulk of the statement from the Government, other than the final part dealing with an assessment of the state of the economy, has been dealing with a change in the presentation of the accounts. We do not attach the importance to the change in the presentation of the accounts that the Government do. If they want to present it like that they can and if they do not want to they do not need to, it is a matter for them. But as far as we are concerned, irrespective of how one presents the accounts, what matters is what is really happening, otherwise if we are just interested in presentation we are talking about optical illusions and we stopped talking about that in 1992, no longer is it even in their vocabulary, it never was in mine.

In looking at the Estimates let me just say, Mr Speaker, that perhaps in the figures that the Chief Minister was quoting he may have got confused between one figure and another. When I interrupted him to ask about the £5 million of the borrowing of the last financial year it was because in looking at the Estimates of Revenue and Expenditure 1996/97 that have been tabled, it shows £10 million of loan going into the Improvement and Development Fund and it shows it being spent so that in fact although originally it was intended to borrow £5 million and in any case it would have made sense to borrow £10 million if there was a facility there which would have otherwise been lost, since I remember it was a facility for which we used to bear I think a quarter of one per cent to have available and certainly the advice that we had was that the rate above liable at which we were borrowing was as good as a prime borrower could get in the London money market so that it was worth retaining for that reason. So we would have agreed with the decision of taking up the £10 million even if they had not been needed but it appears, from the figures presented, that they actually were needed and they actually were used.

HON CHIEF MINISTER:

If the hon Member will give way. Yes, Mr Speaker, there was an element of mistaken information given. That forecast outturn is in fact not going to be met, the real expenditure is less in the Improvement and Development Fund than that forecast outturn but the hon Member is still

partially right. It seems as if of the £5 million which was actually put in the Improvement and Development Fund, the £5 million that I was referring to as having been drawn on the Barclays facility; it seems that anything between £1 million and £1.5 million will turn out to have been spent when we do the accounts for the Improvement and Development Fund, the balance is left in the Improvement and Development Fund as a balance carried forward. So of the £5 million we will probably have spent between £1 million and £1.5 million and the reason why it appears to the hon Member to have been the whole £5 million is that it seems that that forecast outturn will turn out to be ambitious, an overstatement to the reality when the account is drawn up which is presently being done. That is the information that has been given to me during the tea adjournment.

HON J J BOSSANO:

Mr Speaker, I am grateful for that information. I assume therefore that on the basis of that clarification we still have to consider the money as not being available because, in fact, it is committed in the sense that what will happen will be that instead of having been spent in March it may be spent in April or May but it is for an on-going project which was assumed to have been completed by the end of March. I think the Chief Minister used that same analysis when I asked him, during the course of the year, about questions on the money that was available in the Improvement and Development Fund for certain projects on workshops and he told me that it was not available because it was committed, even if it was not done before the end of the year. So I am just repeating the argument that he used in answer to my question.

When I look at page 3, in trying to assess what is the position today and the position that we are facing in terms of the estimated finances of the Government of Gibraltar in order to judge just how prudent the Government are being, I think I have a problem which I would be happy to give way if somebody can clarify for me, and that is, that we start off with a position of a forecast consolidated balance on the 31 March of £593,000. In order to find out how we get there we need to look at the forecast outturn for the previous year that has been circulated and there on page 2 we see that there is a figure for the consolidated fund balance on the 1 April 1996 of £2,443,401, at the top of the page and an estimated deficit for the year just ended of £1.8 million leaving the £593,000 which then appears in the other book. Unfortunately,

notwithstanding their desire to put in all sorts of extra information, they have left out information that was available last year and in every previous estimates presented to this House and that is the assets and the liabilities of the Government as at the end of the preceding financial year, that has been left out of this year's Estimates. That is what would enable us to explain the figure at the top of the page. In the absence of that information, what I have done is look at the figures showing the actual revenue in 1995/96 which is on page 3, I am still on the 1996/97 book, and looked at the actual expenditure 1995/96, and I have for revenue £71,971,000 and for expenditure £71,483,000 which produces a surplus of £488,000, if we take the actual revenue and the actual expenditure. The audited accounts for 1994/95 left a Consolidated Fund balance of £1,073,956 and therefore we would need to have a surplus of £1,369,445 to get to the figure on page 2 and that is not the surplus that is shown in this book. The surplus that is shown in this book is £488,000 so I would like to know where the other £900,000 are because, of course, that figure is the one that produces the first figure in the first line on page 3, and I cannot understand how that could possibly be wrong since that is supposed to reflect the final audited figure. In the case of the April 1995 figure, the audit was done in December 1995, one would expect, it may not be available to the Government it is certainly not available to the House, I know the Chief Minister used to complain that the audited accounts for the preceding year were not available at this point but, in fact, the summary that was provided in the Estimates was a one page summary which gave the net effect of all the special funds and the net effect of the Consolidated Fund and the Improvement and Development Fund of the preceding year. In the absence of that, as I have said, I have done the calculation based on an assumption of accuracy in what is here and that produces a figure which, unless somebody can correct it for me, would mean that the actual starting position of the Consolidated Fund balance in March 1997 would not be plus £593,000 but minus £289,000 and it would mean that the Consolidated Fund balance, not that it is any big tragedy, but it would be the first time that the Consolidated Fund balance has actually been in the red at the end of any financial year. Of course, every single figure on page 3 after that would be wrong if that was the case. I cannot explain it because it is something that should not be happening given that of all the figures the only one that is supposed to be 100 per cent accurate is the March 1996 outturn and the March 1996 outturn is being shown as being £2.4 million.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the hon Member will give way. Could I just say to the Leader of the Opposition that I have full confidence in the figures that are in these Estimates but I do not have available to me all the prior year accounts but I will be happy to look into it once we have adjourned for this evening and we will come back to him if there is something in it.

HON J J BOSSANO:

Mr Speaker, I am afraid I am not sure. The point I am making has nothing to do with all the prior year accounts. I am talking about the figures that he has produced in this House and the figure that he has produced in this House is that in the year ending March 1996 there was a surplus of £488,000. That surplus is not shown but it is obtainable by taking from that same book the total revenue and the total expenditure which is the fourth column on every page. If we go to page 3 and we look at the actual revenue 1995/96, it says at the bottom of that column that the actual revenue was £71,971,000. I am assuming that that is correct, I am not assuming that that is wrong. And I am assuming that the expenditure summary which is on page 8 which shows £53.133 million from the appropriation and £18.349 million Consolidated Fund charges producing a total of £71.482 million is also correct. Having taken it for granted that those figures are correct, I have subtracted one from the other and that leaves me with £488,000. But £488,000 will not produce what page 2 says is the Consolidated Fund balance of 1 April 1996, it cannot because in the audited accounts that have already been tabled in this House, the figure for the preceding year is £1,073,956 and if I add £488,000 to that I do not get £2,443,000. It is not a question of going back many years, I am talking about one figure for one year and what I am saying is in fact that that would have been possible for me to establish beyond any doubt if in fact this year we had had included, as in every previous year we have had included, the summary of the Government assets and liabilities at the end of the preceding year which is, to some extent, reflected in that fourth column that I have been quoting but it is not complete because it does not give us the balances at the end of the financial year in all the other Special Funds. The year that has just ended therefore has either in the Consolidated Fund a small balance of under £600,000 or is actually in the red and in the course of the next 12 months the Estimates show a surplus of £7 million. The Chief Minister has already acknowledged that in fact that is

due to the decision to retain the Social Assistance Fund, which we welcome, but of course if it were treated with the same methodological approach to recurrent spending then really the recurrent spending this year is £6 million higher and really it is £1 million surplus and the reserves at the bottom line would be £6 million higher. So the effect would be that the dissolution of the Special Funds would be £17 million instead of £11 million. The bottom line does not change but of course we are looking at recurrent expenditure and in assessing the recurrent expenditure the only saving grace really, as far as.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the hon Member would give way. Just on this question of whether the balance being carried forward is correct. Of course, the confusion between us may be that in fact what the hon Member is not doing is adding it to the balance for the Consolidated Fund at the start of that financial year. So one has got to take the balance at the start of the year, the income added to that year, the expenditure in that year and then that produces the balance. I think if the hon Member was to do that he would see that it is £1.9 million, it started a balance at the front of the end of the year to which one adds £0.5 million which produces the £2.4 million. But I do apologise if that was not clear from the forecast outturn that we have presented.

HON J J BOSSANO:

Mr Speaker, where does the Financial and Development Secretary get the £1.9 million from?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am just looking at a set of the draft accounts to be published for the 1996/97 financial year that have not yet been published because they are still awaiting completion of the audit and that shows just in rounded figures a balance at the start of the year of £1.955 million to which one adds the figure that the hon Member said of the difference between £71.9 million and £71.48 million. If one adds those two together one gets the balance carried forward of £2.4 million. So I have absolute confidence in that figure.

HON J J BOSSANO:

Mr Speaker, I do not know what the Financial and Development Secretary is quoting as the £1.9 million but I am referring to the audited accounts 1994/95 and therefore the 1995/96 addition I am adding to the figure that is available. What he is saying is that in fact at the beginning of 1995 there was £1.9 million, is that correct? It is not information that is available in anything that is here? *[Interruption]* Yes, it has always been, this is the point I am making. There was always a statement.....

HON CHIEF MINISTER:

I beg your pardon. I think the starting point on page 3 has always been the opening balance as carried forward at the end or at the beginning of the financial year in question. This idea that we go back, how many years, I have not seen that. I have got the previous year's Estimates here and it does not appear there.

HON J J BOSSANO:

Mr Speaker, we are not going back 100 years, I am going back 12 months. The Estimates for 1996/97 presented in this House contain a statement of assets and liabilities which explains what was the result of the Consolidated Fund at the end of the preceding year based on audited accounts. That, which were the first two pages of the estimates....

HON CHIEF MINISTER:

What have assets and liabilities got to do with the opening balance of the Consolidated Fund?

HON J J BOSSANO:

If the Chief Minister were to look at page 3 of the Estimates tabled last year by him but prepared by us. *[HON CHIEF MINISTER: Tabled by the hon Member.]* Well, tabled by me originally and then re-tabled by him after the election. This is the book that was tabled by this Government here and it contained on page 3 what it used to contain every year; Statement of Liabilities at 31 March 1995 and there it says, Consolidated Fund balance in April 1994, £2.1 million. It then shows

deficit for 1995, £1 million and it says Consolidated Fund balance in March 1995, £1.073 million. Therefore if that was the position in 1995 the surplus achieved in 1995/96 must be added to that. How else does one do it? If we look at page 5 last year, which is the equivalent of page 3 this year, he will see at the top of the page £1,073,956 which is the equivalent of £593,000 this year but the £593,000 is not explained but the £1.073,956 last year is explained. It is explained by going to the bottom of page 3 and there we find where it comes from. In the absence of page 3, in looking at the £593,000 I then go back to the balance in 1996. Therefore if the balance in 1995 shown here is £1 million and the balance that we are being asked to look at in this House today is £2.4 million then I want to know how the £1.4 million got there. I am not going back 100-odd years, I am asking a question about a document that has been tabled today for debate in this House.

MR SPEAKER:

I do not think this is a question and answer session.

HON J J BOSSANO:

No, it is not a question and answer session but, Mr Speaker, this is the first figure on page 3.

MR SPEAKER:

That is the point you are making.

HON J J BOSSANO:

Yes, the point that I am making is that if the first figure on page 3 is wrong and I cannot for the life of me understand how it could be, but it appears to be, then it seems to me, I am not going back hundreds of years, it seems to me a perfectly legitimate function which ought to please people who want to be scrutinised, that is what I am doing, doing the job I get paid to do, scrutinising it. They do not seem to be able to understand that. It is no good saying that we are going back 100 years because I am not. If in fact we look at the projected position at the end of the current financial year, then of course we have got a balance after this year's operation which based on the methodology of putting all the recurrent costs against all the recurrent revenue and not having any

money going into any Special Fund really shows that the Government are saying to the House that of the money they expect to be collecting this year, they need approval to spend a sum of money which taking into account what is being spent in the SAF effectively means a balance of £1 million and that £1 million is either going to produce £1.593 million if the £593,000 is right or if the £593,000 is wrong and we have a minus to start off with, it is going to produce a figure of £802,000. When we move further down then we have this decision to dissolve all the Special Funds and to transfer the money into the reserves and to make use of them. The effect of that, and I will come back to the wisdom or otherwise of dissolving all those Special Funds, but going down that route the figure would then be either £13.9 million or £13.1 million, depending on which of the two at the beginning is correct. What are the implications of that position? Well, the implications of that position are that given that now there are no rainy day funds or anything else, the total transparent reserves of the Government which we are being asked to consider prudent, is a Consolidated Fund balance of between £13 million and £14 million, assuming the accuracy of everything else, it could turn out to be much more rosy because expenditure has been over-estimated and revenue has been under-estimated but I am working on the basis that this is correct. If we compare that, not with the situation that was inherited in 1996, which the Chief Minister has asked us to compare it with, but to the position that was inherited in 1998. Here we are looking ahead to March 1998 and how does March 1998 compare to March 1988; 10 years earlier and with what we inherited to see just how better off or worse off the finances are today? Well, the position is that the prediction for March 1998 is that the general revenue reserves of the Government collectively will be £1 million less than in 1988, that is what these figures show. In 1988 the Government had total reserves of £16.44 million. This produces total reserves of just over £15 million, £1 million less. If £1 million less than in 1988 is a prudent target all I can say is that we did not think those reserves were good enough in 1988 and in 1988 the personal emoluments of the Government were £20 million and the pensions charge on the Consolidated Fund were just over £3 million and today the pensions are £9 million and the personal emoluments £33 million. Those are things that cannot be avoided. If one decides to spend £1 million on advertising, well at the end of the day during the course of the year if the money is not coming in one just advertises less but of course if we are appropriating £33 million on personal emoluments, other than the explanation that we have been given that if now we are voting money for people who do not exist and

who are not going to exist which seems an odd thing to want to do but that, as I understand it, is what we are doing but of course, however transparent the Estimates may be they are not so transparent that we can actually see whether the body is there or not. So when we have looked at the complement and we have looked at the money what we have seen is that the money coincides with the bodies, it did not always happen in the past. When Estimates were brought to the House before if there were posts on the complement that were unlikely to be filled the appropriation in the budget was cut. If there was a job that was going to be filled in December we did not ask for money for 12 months, we asked for money for three months. Quite apart from anything else, assuming the Government are interested in controlling public spending which they say they are, is that it is much easier to control public spending if one has got the money there for three months than if one actually produces money for people who do not exist at the beginning of the financial year because then that money is there and as the Chief Minister pointed out last year, there is no problem in viring money from one subhead to another subhead and making use of it to finance unexpected overtime or whatever. So when we analysed the Estimates, of course what we saw was that the personal emoluments were going up from a forecast outturn of £30 million to just over £33 million, part of which may not be additional spending because in fact it was coming from a saving elsewhere but even the figures, the 11 people who were previously paid by the ETB or Mr Canepa who was previously paid by the GIB, I do not think that brings us very near to the £33 million. We are talking about, I think, the biggest appropriation change in personal emoluments from one year to the next, certainly in all the 25 years that I have been here. The position in the budget provided in 1996 was £29,387,000. The outturn of £30.4 million I think is accounted by the normal movement in the course of the year both in movement up the salary scales and of course in the pay review plus the addition of some jobs which have not been listed in the list we have been given today of who is going to be employed like of course the media representative who came in during the course of last year, the media expert that the Government have got. But that is part of the £1 million increase but a £1 million increase between the estimate at the beginning of the year and the outturn at the end is not an unusual change, that is why we put £1 million in supplementary funding for pay reviews. In fact, if we look at the personal emoluments actual for 1996 it was £29,017,000. Therefore the provision in last year's budget over the preceding year was £380,000 and that is the way the budget has tended to normally

move. That is to say, that within the estimating for personal emoluments from one year to the next since, for example, the pay reviews come in during the year but then at the beginning of the financial year one is financing a full 12 months of the increased pay, it is normally based on the actual result of the preceding year plus a few hundred thousand pounds. Well, the increase we are providing this year is 10 times the normal and 10 times the normal is not consistent with the explanation that we have been given of the approach of the Government to provide a limited additional manpower input in terms of the size of the public service. When we have looked at the Estimates to try and understand what is actually taking place, what we have seen is that in fact the old and the new complements show 18 AAs which is the bottom layer of the system but it shows an increase in top management. It seems peculiar to us to introduce improvements into a system where one has more chiefs and less indians and.... *[Interruption]* No, we did not get rid of the indians, we got rid of the chiefs, but the Government are putting more than there were there before, Mr Speaker, that is the problem. The problem is that when the Government list all the contracts which are now being done he does not seem to understand that if there are people in Lyonnaise they are the chiefs who used to be in the service before and are now in Lyonnaise still being chiefs; and that if there are public services being contracted out the monitoring of the delivery of that service is one thing but the actual management role has gone. So we have now got a ratio of grades at the top to grades at the bottom which is higher than it has ever been before assuming, of course, as we have assumed, that all the posts in the establishment are intended to be filled. If they are not intended to be filled then until we know which are filled and which are not filled we cannot be sure whether the Appropriation Bill that is before the House is in fact a reflection of what is actually happening in the Government.

Mr Speaker, the position therefore as we move forward is that unless we have got a level of spending which is not going to materialise and therefore levels of reserves which are going to be higher than shown in a non-changing situation just to keep an unchanged position on public spending at this level relying on a Consolidated Fund reserve as the only reserve now left, would mean that in two years the requirements of the Social Assistance Fund would be enough to leave us high and dry, with nothing left. That is an extraordinary situation to be in after the efforts of eight years to build up a stronger fallback situation than the one that existed in 1988 because we thought in 1988 that that position,

which historically reflected a Gibraltar economy with a very strong MOD presence where one could in fact in looking at one's income for the next year one could actually say down to the last penny how much money one was going to get because it was MOD-led. When we are talking about a private sector-led economy, as we both are, Mr Speaker, if the figures that I am quoting are not there then all I can say is that that is what has been distributed and what we have been looking at for 28 days and what we have been looking at for 28 days is a position where at the end of March 1998 there will be £1 million less than there was at the end of March 1988.

HON CHIEF MINISTER:

If the hon Member will give way. What does the hon Member mean when he says relying on the Consolidated Fund reserve being the only reserve now left when he has already heard me say, whatever reserves are now left are £5 million higher than the reserves that he left me? So what does he mean by reserve now left as if some reserve has disappeared into a black hole? The reserves have increased; it is true that they are now in the Consolidated Fund whereas before he used to hide them in Special Funds and in the Savings Bank reserve but the reserve is still there; the reserve has not been depleted; the reserve has increased. So what does he mean when he says the only reserve now left, giving to understand that before there were more reserves which do not exist now? Another thing is whether he likes the idea that this coming financial year I am going to spend some of those reserves but this is looking into the future. The reserves that he left are intact and have grown.

HON J J BOSSANO:

I will give way to him if he feels he needs to interrupt, Mr Speaker, but in fact he does not listen, he gets worked up and he does not listen. I said in March 1998, and we are not in March 1998, we are in 1997; I said in March 1998 on the basis of the Estimates that are being put to this House by him, in March 1998 he will already have put Gibraltar with £1 million less than there was in 1988 in its reserves, that is all I am saying.

HON CHIEF MINISTER:

Yes because I may be spending £20 million of it, absolutely right, so what?

HON J J BOSSANO:

Well, OK, so what? Mr Speaker, he is entitled to say so what and I am entitled to question the wisdom of doing it.

MR SPEAKER:

You cannot interrupt unless you ask for permission.

HON J J BOSSANO:

Mr Speaker, he has put forward a case in which he finishes saying that this is the right balance of what is prudent. All I am doing is exercising the right that I have got to question the judgement of how prudent he is being and I cannot understand why he wants to be so transparent, to give us more information and then he gets so hot under the collar when anybody questions that he may not be infallible and that he may have got it wrong. I am not accusing him of hiding it, taking it away; all I am saying to him is if these figures prove to be right and they may be, in fact, as he indicated which of course changes the analysis, they may be cautious in both directions. They may be cautious in assuming no improvements in revenue, although he qualified that afterwards. He qualified that afterwards when he said that he was being cautious in revenue estimating what he meant was that the revenue would probably be higher than estimated as a result of the Arrears Unit. Well, if in fact the revenue is higher as a result of the Arrears Unit then that improvement will reflect in these figures in the future but that does not still explain how it is that there is no anticipated improvement generated by any of the economic activity that the spending of the Government is supposed to be bringing about.

We have heard very little from the Chief Minister about what is going to be done in relation to the MOD cuts. I expect the Hon Mr Montegriffo intends to tell us more about that. But one thing is obvious, they certainly do not believe in the methodology of Deloitte Touche, that is obvious from these Estimates because Deloitte Touche produced all

their calculations on the premise that if the MOD reduced their spending by £28,000 the economy lost one job; and if one used £20 million of reserves and spent them that has the same impact in terms of induced and indirect employment as if the MOD spent £20 million and if one divides £28 million by £28,000 that is an awful lot of jobs and that is not reflected here. So what we have here is no assumption of growth in the economy. I know that sometimes hon Members used to say that we were judging the growth of the economy by the effect of Government revenue. Well, that is a perfectly legitimate way to judge it and a lot of people do it and given the fact that at least now he knows that I was not keeping from him employment statistics because he is getting them at the same time as I used to get them which is at the same time as he used to get them and presumably it will be the same time as I will get them as well, but I can tell the Chief Minister that if there is a way of improving the accuracy or the production of those statistics that is good news. But what was done by the Tax Office was an improvement on what was there before because at the very least one thing that is clear now is that the figure we get of people employed is based on the figure of people who have actually paid tax and there is no question about that figure being wrong. Whereas before it was based on employers' filling in a questionnaire and those employers had to be chased lots of times and in any case it did not always mean that what every employer put down on the questionnaire was always accurate whereas what the employer actually sends on the P8 to the Tax Office, which is the basis of the new Employment Surveys, there can be no doubt about the accuracy of that. But I accept that it does mean that has got to wait until the P8s are in. So we thought that gain in accuracy was worth it given the fact that before there really was absolutely no way of cross checking that information against any other source whether it was the ETB, the Social Insurance or the Tax Office or anything else because we were getting a source from surveys which actually disagreed with every single other estimate made from every other single source. Certainly, if the figures that had been quoted showed a slight increase in the totals, then we can be sure that that is happening because those people are paying tax. But the point I am making, of course, is that there is no indication here that the spending that is taking place will have an impact on employment levels and on economic activity and on revenue yields and on import duty which would be consistent with putting that extra money in the economy.

I will return to the question of the dissolution of the Special Funds and the fact that the Chief Minister got so upset because I said it is the only reserve they have got. Well, it is the only reserve they have got because, of course, one of the things that they have done with which we totally disagree has been to eliminate the Sinking Fund. The Sinking Fund, and indeed some of the other funds which have been dissolved, were not introduced post-1988, they had been there for a considerable time and there is a reason for those funds being there. The reason is quite obvious, if we look at the audited accounts every year we find against every loan a provision which is in fact amortising that debt as one gets nearer to the maturity date so that when the maturity date arrives one does not have a loan of £50 million that one has to pay back which in the absence of the Sinking Fund one has to pay back out of the Consolidated Fund. There is not £50 million in the Consolidated Fund and it is not expected to have £50 million in the Consolidated Fund but if there is a Sinking Fund for the £50 million then one says, "If I have got 10 years left to pay that loan I put £5 million in every year and then, of course, the interest of that £5 million gets put back". That is how it has always been done, we did not invent it. What we did differently, which the Government do not agree with, and we did not do it in order to deprive them of information or to deprive this House of appropriation, we decided that since the money that had been borrowed had been used for capital investment to generate activity which was commercial activity, we would try and match the repayment of those loans from the income streams generated from business activity like corporation tax. So we said, we will put the corporation tax into the Sinking Fund so that if we are investing in capital projects we try, conceptually, to have the equivalent of a commercial relationship between where the money from the loans are being put and where the money to repay the loans is coming from. The fact that the Government want to show it in the Consolidated Fund need not have stopped them from leaving the system on the basis that the company tax came into the Consolidated Fund and then the Consolidated Fund put money into a Sinking Fund which is in fact something that was happening previously in relation to debts which were repaid before. It is no good saying, why am I saying the only reserve is in the Consolidated Fund? Well, because in 1988 and since 1988, in our time and before our time, the general reserves of the Government were considered to consist of the Consolidated Fund and the Sinking Funds and if the Sinking Funds do not exist then one cannot compare the Consolidated Fund in March 1988 and 1998 without looking at the Sinking Fund in 1988 which was then described as part of

the general reserves of the Government in the audited accounts of that year and the same is true of the Improvement and Development Fund. So the calculation that I have done in fact is to look at the general revenue reserves March 1988 and March 1998 on a like for like basis and on a like for like basis we are £1 million down at least. If we look at other areas of the dissolutions and the transfers of the Special Funds, well the Government said the Coinage Fund has been done away with because we created a Coinage Fund, well the House was not being deprived of appropriating money from the Coinage Fund, no money was ever used. All the money that was generated by the decision to issue Gibraltar coinage has all been there since the day it started. There was a total in March 1997, which is shown in these Estimates, of I think it was £2.8 million and that is all the money that came into the Coinage Fund after meeting the operating costs without the money being used for anything else. So it is not that that money was not there as a reserve, of course it was there as a reserve and it could be made use of but this is not being made use of in a case of particular need. I can tell the House that when we first issued circulating coins in Gibraltar the advice that we got was that there was no requirement in the law to match the number of coins in circulation with an equal reserve of money as there is in the case of notes but that most jurisdictions thought it was prudent to have some reserves. In the case of currency notes we are required to have 110 per cent of the notes in circulation, 10 per cent more in reserve than there is in circulation. So that if we have got £10 million in circulation we have a reserve account of £11 million. In the coins there is no legal requirement but we were advised that it was prudent to have some reserve. Theoretically people who are using Gibraltar coins as opposed to using Gibraltar notes have got the same right to turn up tomorrow and say, "I want my money in sterling" and one has to replace the coins with sterling the same as one has to replace the notes with sterling; whether it should be 50 per cent of the coin issue or more or less is a matter of judgement but it is certainly not prudent to have no coinage fund backing the coin issue, that is not prudent, it is permissible and it is legal but it is not prudent. The Government are not only using the profits from this year's issue of coins but the profits from every year's issue of coins since coins started to be issued because we never touched one penny of those profits. So if the Government choose to highlight the revolutionary character of the changes let us be clear that not all those revolutions are revolutions that we think are particularly wise but we do not reject for one moment that they have got absolutely every right to do it if that is what they want to do. If that is

what they want to do then we have to say that we think it is part of our job to point out that there was logic to some of these things and that therefore wiping them all out on the basis that if they were done by the GSLP by definition they must be bad and therefore they must be eliminated, it does not necessarily follow. Certainly the level of information that is being shown is one that was not there not just recently but ever and it may well be that the way that we do our accounts here does not follow the way they do their accounts in the United Kingdom, it probably follows the way they do their accounts in every other colony, I would imagine and that is where it came from. Certainly when we came in we did not invent the telecommunication fund, the telecommunication fund was there. The difference is that we could not have dissolved the telecommunication fund in 1988 because it was £1.5 million in the red so it would not have done us much good dissolving it. The difference is that we put the money not just from the investment that had been made by the previous Government, which was producing a return to that fund, but from the investment that we subsequently made with Nynex into that fund on the basis that it was a fund that was available if we ever wanted to make use of it and, in fact, the provisions of the Ordinance say that if there was money over and above what was required for that fund, that fund might have given us the possibility of investing in telecommunications if that was something that we wanted to do. But the money that was in that fund was money that is not going to be there in the future because it has been transferred into the Consolidated Fund and it is intended to be used in the Improvement and Development Fund. So each of those moves leads to the conclusion that having everything in the Consolidated Fund reserve is not necessarily such a good thing from the point of view of the prudent management of the public finances. It may well be that the Chief Minister feels so strongly that it is something that we should have to vote in this House every time we spend a penny that irrespective of any other consideration that is how it should be. The position therefore in terms of the public debt and, Mr Speaker, after the 1995 budget we were accused of creating a debt which would be a millstone around the necks of future generations of Gibraltarians and shortly afterwards, given that we were not able to persuade them by reference to the accounts that it was not such a millstone, we decided to use the £30 million in the Sinking Fund to repay the debt to show that in fact we had been conscious of the need to make provision for the future so that it would not be left to fall on the resources of one particular year to have to meet debt repayments. Well, that is where we are going now and I

really feel the Government should think seriously about the wisdom of not having any Sinking Fund whatsoever of any description for the debt that was there from before and for the debt that they have already taken on and for the debt they propose to take on and, certainly if we look at the Improvement and Development Fund it is quite obvious that this level of expenditure would not be repeatable after 1998 without substantial borrowing, unless the millions of tourists pouring across the frontier which the Statistics Office calculate are spending hundreds of millions of pounds which means that they can no longer just be buying cheese, as the Chief Minister said during the election campaign, unless we are importing hundreds of tons of cheese; unless that is reflected in huge increases in revenue for the Government then any capital investment will require more debt and to go into more debt without a provision for setting aside money for the repayment of the debt is not a wise thing. In terms of the recurrent expenditure, the problem that we have with the presentation that has been given is, in fact, that whether those £3 million extra on personal emoluments are there or not there, makes a very significant difference to the result and not only this year. If we are talking about the cost of the public service being 10 per cent higher one year, this is only the beginning, we all know people are on salary scales, the salary scales have got annual increments, it then leads to pensions and the pension bill already is £9 million. The Government will find that when we look at this we will look at these Estimates or any other Estimates on the basis of asking ourselves which is the way we would tackle this and if we feel that what they are doing is, in fact, taking a risk that we do not think is wise, then we will give the benefit of our advice which they can take or disregard.

Therefore I want to respond to what the Chief Minister said about having been in Government when the decision was taken to close GSL as an operation. If I think about it I would not want to reopen it because of the risk that people working for a Government company would somehow not be as market orientated as they would be if it was a totally privately owned enterprise. I think that there is an element of that but it is a matter of degree. It does not always hold true and it does not always hold to the same degree. I do not think, for example, anybody can question that the performance of JBS compares with that of any private construction company in Gibraltar and many of the people in JBS are ex-GSL who opted not to take redundancy. Everybody at the time of the yard closure, everybody had a commitment given to them that they could either take what were very generous redundancy terms by

comparison with any other employer; two years pay for eight years service was paid to every worker, or he had to accept alternative employment in what was available because we were talking about a situation where we had 600 people working in that yard and it was not possible to keep 600 people working. The nature of the business meant that it is not like the yard was in 1996, Mr Speaker, when we had 100 industrial workers and a back-up of 300 or 400 when the three dry docks were full. We had a situation where when the three dry docks were full, the 600 were employees and when two dry docks were full one-third of the workforce had different work to do. I do not think the yard could ever operate with a direct labour force anywhere near the size it was up to 1992. I think the nature of the market does not permit that kind of operation. But I have to say that even when it was closed in 1992, frankly it was not that the people were not responding. I do not think one can say that even the position that Kvaerner tried to impose on people was a reflection of people's lack of commitment to work. The fundamental thing was what does one do when there is no work? Really what Kvaerner was saying was, "when there is no work I send you home and I pay you but then you have got to come and do those hours free when there is work". The nature of the shiprepairing business may be one that provides fluctuation but nobody else in Gibraltar is required to work on that basis irrespective of changes in supply and demand for their labour and that is a very serious route to go down on to take a position like that. Certainly with 600 people there is absolutely no mileage but we sincerely believe that the Government will have the greatest of difficulty in getting somebody in to take over the yard with no Government involvement and we believe that the longer the yard is closed and out of the market the more difficult their job will be. That is what we believe, having been through this scenario twice ourselves involved directly with the Naval Dockyard closure, the A & P Appledore closure and then the need to close GSL and bring in Kvaerner in 1992. So the answer is that we believe that the only way forward really is to try and come to an understanding with Kvaerner that they depart now and not in April next year, try and do a commercial arrangement on whatever it is that needs to be done on the basis that they are complying with the notice but not complying in a way that is satisfactory; and for GSL to come in in partnership because they will need a partner to bring in work from outside, but we are actually losing opportunities of limited shiprepair work which was being done prior to Appledore coming in. The Blands Shiprepair Yard at the Rotunda, without dry docks and without wharfage, sending workers out to ships tied in the bay was able

to generate enough routine maintenance work to keep 80 people employed. They went out of business because Appledore came in with a Government subsidy from the United Kingdom and took the 80 jobs away from them and their clients away from them and those were the ships that were done not in dry dock but alongside. So that, Mr Speaker, as far as we are concerned, the reason why having been involved in closing the yard when it had 600, we are now proposing that that is the route and we, of course, will see whether in fact when we come to the Improvement and Development Fund whether there is a token figure there, the Government will be in a position to tell us something more about what they think is likely to happen with the possibilities of restoring shiprepairing over the next 12 months. We are going to be voting £100,000 for that purpose, I take it. Equally in the Improvement and Development Fund we have a number of references to Konver Projects which presumably we will be able to get some extra information on because we have had no indication that there is a strategy for the next 12 months to deal with the MOD or indeed an evaluation of the impact on the Government finances which obviously is not going to be the disaster painted by Deloitte Touche but which nevertheless every single person who loses their job in the MOD is one person that will look to the Government for a way forward and which will be one less contributor in helping Government finances in dealing with other commitments in the provision of public services. So if the Government already have some notion, which is certainly not anything that has been said until now, we would expect that it will be either said by the Minister responsible for economic development or when we come to the Improvement and Development Fund and we look at the specific provision that the House is being asked to vote on for those particular Konver Projects or re-training projects, if any of them are intended for potential redundant MOD workers.

Mr Speaker, the bulk of the contribution of the Chief Minister in asking the House to support these Estimates has been dedicated to explaining to us the changes in the presentation. As I have said at the beginning, as far as we are concerned, having looked at the presentation we do not think that the requirements that Gibraltar has in terms of a sustainable economy can be simply put right by presenting the information in a different way from the way it was presented before and that is really the most important issue that we are here today to vote on. We do not agree with some of the things; we do not think it matters with some of the others but at the end of the day what we have been presented with

is a summary of the finances of Gibraltar which grew substantially in terms of reserves between 1988 and 1996, which continued to grow after the election and which are destined to decline from now on. That is what these figures show and they are destined to decline because the Government, in the appropriation that they are seeking, are using everything from dividends from Nynex which has never paid dividends before, it is the first time they are paying, so it is a dividend based on their performance since they arrived; to the profits from the sale of coins, to all the accumulated profits of the coins, to all the money in the Gibtel fund, and after all that, what we have is an assessment that the economy hopefully will start performing better in the future on the basis that at least there is common ground in one thing, that we all agree that the sustainable economy that is required has to be an economy led by the private sector and cannot be led by the public sector. If the public sector is in the market for labour as well then that is a factor that cannot be ignored. So we believe that our political survival requires that there should be a sustainable economy and that one cannot talk about a sustainable economy without talking inherently in that sustainable economy about sustainable Government spending. So Government spending for us is not something that we can look at simply on what is going to be spent in 1997/98 and can the Government afford it? They can barely afford it this year on the basis of everything that they call recurrent revenue and everything that they call recurrent expenditure. If realistically we are talking about collecting £117 million and spending £116 million, that is a wafer thin margin between the income and the expenditure. We are all agreed that although the £6 million that have to come from the SAF is not shown there, next year it would have to be put in. Next year there will have to be a vote. If we look at these figures and we said to ourselves, "Suppose we are now in 1998 and we have got in front of us what is going to happen in 1998/99 and it is a repetition of this year" there is no doubt, the Chief Minister himself has said that in those circumstances, he said, "I have to sound a word of warning, a caveat, there would have to be an extra £6 million there". That is the real position, it does not alter the bottom line but of course I am not talking about the bottom line, I am talking about recurrent revenue and recurrent spending. If we say to ourselves, "Can this be done next year and the year after that?", the answer is, "No, it cannot be done next year and the year after that. Either expenditure will have to come down or income will have to go up". That is what we are saying. Therefore that is not sustainable Government spending and in an economy that has to rely on the performance of the private sector to finance the expenditure

of the Government, and where the private sector, irrespective of everything that the Government may do in advertising, globe trotting, in images, or whatever, if they have not got a product that happens to be able to hold its share of the market in a market that is competitive and the position is that the private sector is not able to grow at the pace that is required or is prevented from growing at that pace because the Government have said that the financial services industry is simply coasting along and that we will have to wait and see with the passporting; when that is achieved whether that produces a take-off of the industry. Well, in May last year passporting was not important in the debates we had in May last year, we were being told that Jersey did not need passporting, the other did not need passporting and they are all flocking there so it is not a question of passporting, it is a question of image. So presumably if the image is now all right then the passporting now is not all that important. We think it is important and we think that passporting is a commodity that has got a value that cannot be marketed and sold and a value that other people cannot compete on with us. But if that does not happen then that is where the reserves of the Government have to be available and it may well be that we have to take into account not just that a small economy with a private sector dependence of necessity has to have big reserves, they do in all the other small jurisdictions but that in our case if on top of that we are all in agreement that in spite of everybody's efforts our neighbour can put a spanner in the works, again there is another reason for wanting and looking to a strong position of reserves as the effective safeguards to maintain employment, to maintain public services and to maintain economic development. Therefore all I can say, Mr Speaker, is that in the period that we were in we saw the surpluses generated by the Government's economic activity and the investment in the private sector generating new revenue sources and we thought the best thing was to not use that revenue to meet recurrent expenditure partly because the continuity of that revenue could not be guaranteed. If we look at the figure that there was in 1988 and what happened over the years, that is what enabled us to build up within different Government funds cash balances which permitted the Government to give £15 million every year to Community Care and which allowed Community Care to finish up with £63 million in cash which could have been kept within the Government Special Funds as Government reserves which enabled us, prior to the election, to use £30 million in the Sinking Fund to repay the debt which we could have chosen not to repay and left £30 million. Of course, as far as we are concerned, if we had left that £90

million the Chief Minister would now have dissolved all those funds and have another £90 million on top of the £40 million that he said he inherited to give him the £130 million he wants to have to spend. So therefore.... *[Interruption]* No, Mr Speaker, the comparable children's fable is not the squirrel, it is the ant and the cricket and I am the ant, building a nest for future generations, and he is the cricket fiddling away and spending all the money; he is planning to spend it, he has not spent it all but he is saying he sees nothing wrong with doing it and we are trying to persuade him that there is and therefore, frankly, I wish I had been more ingenious in ring fencing more so that he would have had more obstacles in spending this money and then when the real crunch comes and when we find that we have serious, serious problems which fortunately until now frankly has not happened; we have got problems which, taking into account our size, taking into account the limitation, the practical non-existence of our resources other than our geography and our climate, we compare favourably with the problems facing other peoples in other parts of the world irrespective of who is in Government. Therefore, we approach this on the basis of being constructive and critical which is in fact something that should make them very happy because that is what they keep on saying they are being so transparent about. In some cases they are so transparent that they become invisible, like all those jobs in the complement that are not going to be filled. But if there were no doubt about the accuracy then we can only describe the effect on the future of our economy and the policy which is going to be implemented over the next 12 months in one sentence, Mr Speaker, never in the history of Gibraltar have so few spent so much in such a little time and on top of it expect to have so little to show for it. We will nevertheless support the bulk of the Appropriation Bill.

HON K AZOPARDI:

Mr Speaker, there are obviously some points that the Leader of the Opposition requires a reply to and indeed deserves a reply to. I do not intend to reply to those particular points, I will leave that to the Chief Minister.

After the overall exposition that we have heard on the budget from the Chief Minister and the general reply from the Leader of the Opposition, I think mine is the first of what will be now the departmental explanations of the use to which we will put the money voted in the Estimates. I have to make a general observation before I commence with the description

of what we intend to do, certainly within my Ministry of the Environment and Health. We were voted in with an ambitious programme, certainly an ambitious programme insofar as what we wanted to deliver to the people of Gibraltar, a difference in the quality of care that they were receiving in health, a better administration and environment, but the delivery of what we want to achieve certainly personally, I feel is tempered with the realisation that for the first 12 months at least we have had to dedicate some substantial amount of time to a degree of restructuring which has been necessary to lay the foundations for the implementation of what we said we would do in the manifesto. Certainly that degree of restructuring has been done with the co-operation and commitment of the loyal staff that we have in the civil service and it is a true tribute to the professionalism of that staff that we have been able to achieve that degree of fundamental discussion on restructuring that we intend now to progress.

I say our programme is ambitious, it is certainly ambitious in a health sense. The approximate expenditure that I outlined in the health field in the last meeting of the House in the Question and Answer session, was about £22.1 million for 1996/97; we expect to spend just over £22.8 million by the Gibraltar Health Authority this year. That is a relatively modest increase. I know that the Leader of the Opposition has been talking in global terms but insofar as health is concerned, this is a relatively modest increase compared to the budgetary increases that we have seen over the last eight years or so. We think that that budget properly administered will allow us now to implement the Review Team's Report and indeed provide the basis for the plans we want to put in place.

We were elected on the basis that we would conduct a health review. The fundamental question that was facing us last year was, was the Gibraltar Health Authority working, it was created by the Gibraltar Health Authority Ordinance back in 1987 as a result of reviews in 1987 into the administration that led to the creation of the Health Authority and into nursing in the Hill Report in 1986. The fundamental question we faced was, because of all the criticisms that had been laid at the foot of health care in Gibraltar was the Authority and the structure envisaged by the 1987 Report working? That was the fundamental question that we tasked the Review Team to examine. We certainly did not want the Health Authority to become merely an empty statutory vehicle which was not fulfilling its functions. When the Bill creating the 1987

Ordinance was put before this House it was introduced by the mover of the Bill then as a Bill that would free the Health Authority from the shackles of the civil service, his words not mine, and the conclusion really that we were trying to address was, had indeed the intentions behind the Health Authority Ordinance been fulfilled, and indeed had the statutory duties that the Health Authority are tasked with performing been effected? Certain things were indeed obvious from a simple reading of that particular Ordinance. The Ordinance creates a structure and creates a Management Board, for example, and a particular section, I think it is section 5 or section 6 of the Ordinance, says, "that it shall be the duty of the Authority to employ a Finance Officer, a Personnel Officer, a Primary Care Manager, a Hospital Manager" and so on. When I say certain things were obvious, they were primarily that. While that was the duty of the Authority and indeed the reason behind that duty was so that it would create an efficient structure which could then administer the policy and manage the Health Authority efficiently, for many years the Government were in breach of that statutory duty by not employing a Primary Care Manager or a Personnel Officer and so on. The view the Government take, certainly when approaching this matter, is that if there is a statutory duty it certainly is not acceptable for the Government, and I say the Government because the Minister is the Chairman of the Health Authority and indeed politically accountable in this House and indeed to the electorate, to be in breach of a statutory duty created by that Ordinance or indeed any Ordinance. So that is the frame of mind that we approached the review situation with, we tasked the Review Team to have a look at fundamental questions as to the structure and efficiency of the health care system. The Review Team was commissioned in July, and I said this in my last intervention in the House in the budget in July 1996, it reported back in November and after substantial consideration of the Review Report and its recommendations, the Review Team's Report was made public by me in January this year with indeed a note which I called the implementation strategy of the Government for the first 15 months which describes precisely what we intend to do, at least till the end of the financial year 1997/98, in other words, this financial year. We welcome the Report, indeed it includes a lot of recommendations, 98 recommendations. They are broad-ranging, they are from a fundamental structural nature which criticises the administration and suggests alternatives right through to relatively minor net issues which have nothing to do with the structural recommendations such as, for example, reviewing the mental health legislation or perhaps refurbishing

the mortuary area, there are very net issues that can be tackled in isolation with the degree of change that is required to make the structure more efficient. Certainly we approached it, having welcomed the recommendations, having seen that we would implement generally a majority of those recommendations, we thought there was a need to produce an implementation plan and we did so saying exactly what we intended to do. I do not think it is possible to go through the 98 recommendations or indeed appropriate at this stage to do so, but I think it is pertinent to outline a couple of paragraphs that the Review Team highlighted in their preface to at least mark, for the purposes of this debate, the degree of change that was envisaged by the Review Team's Report and the issues that we were confronted with that had to be implemented. I will read a couple of paragraphs, Mr Speaker, if you will allow me, from the Review Team's Report.

MR SPEAKER:

I will allow you so long as the others allow you.

HON K AZOPARDI:

Yes, I am sure hon Members will not have difficulty with me doing this. The Review Team concluded, in its summary of a conclusion, and I read from the Report, "Expenditure on health services in Gibraltar is now about £22 million per annum. It has grown so at a considerable rate over the past few years and threatens to continue doing so. Whether or not Gibraltar receives value for money for this relatively high proportion of GDP is not at all clear since the facilities for assessing performance in the Health Authority are poor or non-existent. It seems likely, however, that there are significant areas of inefficiency within the health services and that the way ahead should not consist of continuing to provide more money without establishing a structure that can deal effectively with the inherent and long-standing problems. The policy-making and executive structure that was set up after the 1987 Review has not functioned satisfactorily and many of the weaknesses identified then still exist. There is still diffusion of accountability and responsibility, a lack of clarity and evasion in the decision-making process and a practically complete lack of forward planning, problems tend to be shelved and not solved. We recommend in this Review, as did the previous one, the urgent establishment of an efficient and cost effective management structure. This is not a criticism of the individuals now in

management but rather of a system within which they have had to work and this latter aspect is clearly a political responsibility. The essence of the recommendations lies in improving the performance of the GHA through a revised management structure; the devolution of decision-making to four defined levels and most importantly the active involvement of professional staff in managing the provision of health care. There must be vastly improved delegation; better performance assessment; more flexibility, and responsiveness to the health needs of the community. The Health Authority should not continue to be an Authority in name only, but should function in a businesslike and publicly accountable way. We recommend many staffing improvements which could probably be made within the present GHA budget if other money saving recommendations are implemented". That is the position, in summary, of how the Review Team perceived the conclusions that they reached which are included in the Review Team's Report and indeed the basis upon which we then considered the Report and published an implementation plan. The changes that we see, again, I enter the caveat that it is not possible to outline all the changes that we intend to make in the next financial year, they are included in the note that was published on 27 January with the Review Report but certainly I think it would be helpful if I outline at least a synopsis of the major issues that we intend to implement within the next financial year which are based on the recommendations of the Review. As the Review Team identified that the main difficulty facing proper administration and strategising within the health service was that degree of lack of efficient management and accountability within the structure and indeed the fact that the duties of the Authority were being breached in that the structure envisaged and indeed put into place by the 1987 Ordinance were not actually put into place, much of what we are doing within the next few months is of a structural nature. I say structural because we are creating posts; we are engaging a Chief Executive, an advert has indeed gone out and recruitment will take place hopefully in the next couple of months; the management system within the Health Authority and the managers are to be assisted further by recruiting a Primary Care Manager; by recruiting a Personnel Officer; by creating an Assistant Hospital Manager and by formalising an acting post in finance, an EO in finance. That will create, we see, a management structure of five or six individuals who we think will assist a great deal in strategising and indeed planning for the future. My fear in my experience in the last 12 months has been that the managers, however loyal and committed they are, find that there are only 24 hours in a day and there is only so much

they can do and to that end, no matter how much money we pay them it is just simply not possible for them to act or work harder than they are already working and it is simply, I think, naive to a certain extent to expect that two or three posts can be top management within the Health Authority and can administer a budget of £22 million; solve all the day-to-day problems; negotiate on EU Directives, if necessary, with London; strategise for the future, and indeed plan on any necessary aspect of health care. It is just simply not possible to do so and I do not want to run a day-to-day service, I want to run a day-to-day service and a service that plans for the 21st Century and it is not possible to do so with the current structure in management and that is what we intend fundamentally to change so that that then can perform adequately and certainly can perform in the view that the Review Team took of what needs to be done within health care. So we are going to provide the support, we are going to allow the managers to find more support on the day-to-day implementation, to free the top managers to be able to discuss and tackle the more important major issues of planning that at the moment are abandoned because a glass pane has broken at St Bernard's or a potato peeler has broken down and they need to chase that up instead of addressing the more important issues that need to be addressed.

Other structural issues that are being tackled and indeed have been tackled in the last few months are that the GHA, which I Chair, now meets monthly instead of annually with the previous administration. The Management Board also now meets monthly instead of quarterly under the previous administration. That, I think, increases that degree of fluidity between the Health Authority and the Management Board and that degree of decision-making and provides a forum for discussion of the most important aspects of health care that can then trickle down and be implemented by the Management Board. We think it is important to do that and indeed we started having the first monthly meeting in August and the Management Board had its first monthly meeting in September and we have gone on from there to discuss the important issues. We are engaging other posts apart from the ones that I have indicated already. We have engaged, in the last couple of months, an additional pharmacist. The reason for that I will describe later to do with controls that we want to put into place with the GPMS part of the budget. We have engaged a Health Educational Officer to assist in the formulation and promotion of a health education campaign that we launched in February. We are in the process of engaging two more

general practitioners for the Health Centre. Apart from those changes more recruitment of staff is envisaged in other areas and we are discussing those particular areas at the moment and there may be progress during the course of this financial year towards that end. We also intend to assist the clerical side of the Health Authority, not only in creating posts which will create a more efficient support staff and structure to implement the policy of the Health Authority. We also intend, not only to provide them with promotion prospects which we are already doing so by creating a right hierarchy and prospects by creating those posts; we also will during the course of this financial year, be putting in place training packages in health care management so that anyone within the Health Authority can avail themselves of the opportunity to undergo these courses of training and more provision has been included in the Health Authority budget, in the courses of training head, to provide for that degree of training that we intend to set up and the packages that we intend to fund. There are other miscellaneous changes that may be of interest to hon Members that I should just indicate we intend to undertake in the next few months. We are looking at setting up separate management groups in primary and secondary care. The point about this is that the issues of primary care are so different to the issues of secondary care that once we have a Primary Care Manager I think it might be more interesting for an efficient system to be put in place for the primary care system also to have its management team. That will not involve recruitment of further staff, it can be done once the Primary Care Manager is put in place, he or she can be at the head of a management team with a part-time Medical Director from among one of the GPs, we can explore that idea and we are in fact doing so and I intend to explore it further once we put in place the Primary Care Manager and that, hopefully, will be in place within the next few months. We intend to commission a review of the dental services for the reasons highlighted in the Review Team's Report. We have already taken steps to redecorate the entrance of the mortuary area and want to do that at the Hospital. We will re-designate the Specialist in Community Medicines as Public Health Director so that description is more commensurate with the duties that he must undertake. We have already set up a sub-committee of the Gibraltar Health Authority to review mental health legislation and I intend to task the Personnel Officer, once one is appointed, with producing a plan to ensure continuity in key specialist posts and to maximise the localisation of such posts. We need to plan for the future; if vacancies arise during the next five years there is not a degree of planning that I

would like to see within the Health Authority and I would like to task the Personnel officer with producing that plan so that there is a smooth taking-up of those posts and we maximise the Gibraltarian applicants who may potentially want to seek to apply to those posts. We intend to review the annual report that the GHA makes in accordance with the Ordinance and is laid before the House and to re-instate the Annual Public Health Report that will either form part of the GHA Annual Report or will be a separate report in itself and I anticipate that by the end of this financial year, basing ourselves on work done during this financial year rather, 1997/98, we could produce the first Public Health Report some time during the next financial year, based on the figures and statistics which will be collated during this financial year. We also, as has been indicated in the House before, intend to take a decision on the relocation of the Health Centre during the next couple of months. We have now progressed towards weighing up all the different options and while a decision has not been taken as yet we intend to do that quite soon. Apart from the structural nature of some changes that will be put into place, we are reviewing and have indeed been doing so for the last few months, we are reviewing the Medical and Health Ordinance with a view to consolidating and presenting a new Bill before this House which consolidates changes that have been put in place over the last few years and indeed to transpose EC Directives on mutual recognition of qualifications insofar as doctors, nurses, dentists and pharmacists are concerned. It will also change the registration system. It will add certain parts to the registration system with that in mind, and it will also change the composition of the nurses and midwives registration board and alter slightly, on the advice of nursing management, the conditions under which nurses are asked to register to provide a system of re-registration which both nursing management and the unions favour. As a result of changes made after the presentation of the Medical and Health Bill we will also amend Regulations made under that Ordinance to amend the Register of Nurses and Midwives to enact parts more along the lines of the UKCC parts to create a more parallel system which is easier to utilise. One of the difficulties that I put a finger on when I last spoke in this House back in July last year on the issues I thought we had to tackle in the next 12 months was the possibility that there was not enough communication and certainly not enough consultation in the past in the Health Authority. That was identified by me as a potential problem and I think to a large extent we have taken firm action to provide more communication and more consultation to all the relevant bodies. Indeed I have made a Ministerial statement in this House on an

important issue, it is something that has not been done for many years. I have been keeping the staff up-to-date with circulars on the more fundamental issues that the MOD, the launching of the review, the announcement of the changes; I think it is important to keep the staff involved. I am a member of staff as well, I may be the Minister but I think the staff also deserve to keep tabs on what is going on which will importantly affect the Health Authority and I am continually very keen to do that. I meet regularly with anyone in the Health Authority who wishes to discuss any burning issue. The unions have regular access to me. The Gibraltar Health Authority now meets monthly as does the Management Board and I think that has provided that forum, as I said before, of discussion of important issues that was not there before and key personnel are now far more involved in decision taking than they were previously. I anticipate, Mr Speaker, that by the end of this financial year we will have been able to implement about 35 per cent of the Review Team's recommendations. The balance and the remainder of the recommendations that Government have accepted and intend to implement, it certainly would be premature for me to describe the manner in which we intend to implement them during successive financial years. The purpose of restructuring, to a large extent, has been to create the right management team with a Chief Executive at its head that can now strategise for the future and decide how to implement the remainder of the changes that we now think need to be implemented beyond the 35 per cent that will have been achieved by the end of this financial year. It certainly is not a process that can take a few months beyond that, it certainly is a process that will take perhaps another couple of financial years but we would expect that by the end of our first term in office we will have implemented a majority, if not all, of the things that we set out to do when tackling the recommendations of the Review Report. I do place a minor observation on the agenda, I flag the minor observation that I personally have in contemplating all these structural changes that we intend to implement and that is that they are perhaps not tangible. When we try to describe to patients and to the community at large what we are trying to do in the health care system, what we have set out to achieve is quite radical and yet it is difficult to explain because much of what we are doing is of a structural nature; it is intended that much of what we are doing will lay the base for a difference in quality of health care that people will receive but I appreciate that at the moment it is not tangible to see results because the changes are of a structural nature. But I do say that I expect and I am confident that the structural changes that we are going to make in

the next few months and the changes that we are making in the next 12 months as a result of the Review Team's Report will allow us to found the basis to make sure that that health care that the patient ultimately receives at the end of the production line will be far better in a few year's time than it is with the limited management resources that the management currently operates under. There are other fundamental issues some of which are tackled in the Review Team, some of which were tackled in our manifesto, some of which are not related to the Review Team's Report but I think need to be highlighted so that hon Members are aware of the fundamental issues that we intend to tackle over the next 12 months. We said in our manifesto that we would set up and establish a patients charter of right. In the last 12 months I tasked a sub-committee of the Health Authority to draw up a patients charter; a first draft has indeed been drawn up and now it is going through the consultation process, the first draft has been seen by the unions, by management and at present the Health Authority is collating all the different comments and I would expect substantial progress to be made during the next 12 months to finalising the patients charter and indeed to up-date the complaints procedure in line with the aspirations that are to be included in the patients charter to achieve all of that. On private practice, Mr Speaker, I did highlight last year that it was an area that had to be investigated, indeed it is an area where I receive many comments from the public, many people who come and see me talk about issues of private practice and their concerns in relation to private practice. The Government policy is that we are committed to regulate private practice and I am currently in discussion with consultants to achieve a framework which would enable us to achieve this and I expect progress to be made during the next financial year towards this end. I mentioned earlier that we had engaged an additional pharmacist and that was related to a degree to the controls that we want to set up on the GPMS side of the budget. I think that Opposition Members identified the fact that there were concerns that needed to be investigated in relation to the GPMS side of the budget some time ago, indeed in 1995 on instructions of the previous administration Price Waterhouse undertook a review into the Scheme Pharmacists' Contract and the workings of the prescription system and recommendations were made and indeed the Principal Auditor, in the last accounts that I laid before the House of Assembly some months ago, made particular comments in relation to the Price Waterhouse Report and its recommendations and urged that action be taken to at least examine the workings of that system and the changes that could be brought

about to better administer it. The role of the additional pharmacist, to a certain extent, is precisely to do that. We are presently discussing the possibility of linking up as highlighted in the Price Waterhouse Report with the Price Prescription Authority in Newcastle to establish a system of pricing prescriptions and we are looking at generic prescribing and establishing a formulary for Gibraltar which will better administer the system and with the assistance of the doctors will certainly produce substantial savings; substantial savings according to the Price Waterhouse Report and certainly substantial savings would be expected to be made as a result of the changes that we wish to bring about in the system of the administration of the pricing of prescriptions. I would expect to have the systems in place within the next six months, it may have an effect this financial year but they may come partly too late for this financial year but I would hope, certainly, that they will be in place and it will start to have an effect on this financial year towards the tail end of it but I do expect, I say to this House, to make savings in that regard and indeed I think Opposition Members will agree that savings need to be made as highlighted by the Price Waterhouse Report commissioned by their administration.

Mr Speaker, I said during the last budget meeting that one of my concerns also was that we needed to set up a vigorous health education campaign. I said that at its root, it was an issue that was being discarded and disregarded and could provide a strong indication basis for the community and towards tackling many health care issues that need not go to the doctor or indeed if people took care of themselves a bit better certainly we could find that it would eventually save cost. Indeed the rationale in modern western health care systems is that if one runs a vigorous health education campaign it eventually trickles down and saves costs in that one has a fitter population, a better looked after population because they are more aware of the issues that need to be taken into account, and that indeed eventually tends to save costs. I agree that it is a long-term issue, it is not an issue that can be tackled on a short-term basis nor indeed is it an issue that can expect us to make savings during the next or any financial year during our first term of office but it is important as a tool towards providing a better system of health education for the future. The Health Education Campaign Group that we set up under the Health Authority has been working very hard on the campaign and a Health Education Officer has been engaged for that task. In December 1996 we launched the order of the health education campaign, the drink/driving advert, and said that in February we would

launch the campaign. We did so, it targets preventive medicine which is the link towards eventually having a better looked after population; it tackles self-induced conditions such as alcohol, drugs, etc and it also intends to provide more public awareness on target diseases which are the most common target diseases in Gibraltar: cancer, heart disease, stroke, etc. That campaign will continue and that campaign will be conducted on a vigorous basis and while we may learn a lot during this first year because it is the first year of the campaign, it will be continued throughout our term of office because we think it is a valuable addition to the awareness that needs to be created in relation to the topic of health issues that face all of us as we reach the 21st century. That will be coupled, as part of the public health strategy, with the publication of the Annual Public Health Report that I highlighted earlier that we intend to undertake after the completion of this financial year.

Mr Speaker, during the last financial year I had discussed with the MOD the various issues in relation to secondary care that concerns the MOD. Indeed we have been discussing, as I said in my Ministerial statement on 1 April 1997, that the assimilation of secondary care by the Health Authority for the MOD. The MOD have a health population of about 2,200 people. They wish to scale down their health care needs and they are discussing with us the possibility of the Health Authority providing the health care needs on a long-term basis. We have entered into a trial period agreement for a period of nine months, from 1 May to 31 January 1998, for a degree of monthly remuneration. I expect to achieve revenue of £750,000 by the end of January 1998 by way of the monthly contribution of the MOD and discussions will continue throughout this financial year towards exploring the basis and the possibility of the Gibraltar Health Authority achieving a final agreement with the MOD to take over the health care needs that the MOD have obviously on a basis that is acceptable to the Gibraltar Health Authority.

Mr Speaker, during the previous administration it was, I think, the practice of the previous Minister to at length discuss a programme of refurbishment and purchase of equipment that had been undertaken by the Government. I do not intend to go through a long shopping list of issues that have been purchased and works that have been undertaken. Suffice it to say that it is worthy of mention that those two items are items of major expenditure and we have spent during the financial year 1996/97 about £850,000 on refurbishment and on equipment taken together. It is worthy of mention on that basis because it proves a

continuing commitment of the Government to a high quality service and for the provision of high quality resources and we intend to continue with that strategy but I do not think it is appropriate or indeed helpful for me to go through a long list of issues and equipment that has been bought or refurbishment undertaken. The substantial issue on refurbishment that has been undertaken in the last 12 months has been partly accidental due to the major rains occurring in the last few months; Children's Ward now has been substantially refurbished and will re-open in the next month or so. I should mention a couple of matters that have been undertaken that are of a budgetary nature in the sense that they have increased slightly the financial expenditure in the health budget. They are, firstly, that as a joint project with the Society for Cancer Relief a hospice at home service has been launched to assist in the care of the very seriously ill and I am sure that both sides of the House agree that that is necessary and indeed an important expenditure, to care for patients that are terminally ill in most cases. The other aspect that I wanted to highlight is in relation to the Sponsored Patients Scheme. The Government spend nearly £2 million on the sponsored patients aspect of the budget in referring 200-odd patients a year to the United Kingdom on about 600-odd referrals, that is because some patients tend to go more than once. But the maintenance that patients and escorts had been receiving for the last few years has not been updated or indeed increased since 1989. I announced last week and I reiterate that Government are increasing the sponsored patient maintenance allowances by 10 per cent as from 1 July; the reason for the reference to 1 July partly is because the Health Authority will need to formally approve that matter at our next meeting. The next meeting will be held on 17 June and we intend, from 1 July, to increase sponsored patient maintenance allowances by 10 per cent. We do not intend to change the system under which sponsored patients maintenance allowances are assessed, we still will keep the assessments on a means testing basis but certainly I think that this raise in the maintenance levels by 10 per cent will go a long way towards alleviating the concerns of many sponsored patients that have come to see me who feel that because the sponsored patient maintenance has not been raised for eight years, there has been an erosion in real terms of the value of maintenance. As I said, those were the major health issues. Obviously major work needs to be done in other areas but I do not intend to give an exposition of precisely all the areas that we are working on in the Health Authority because that would take, I think, a substantially longer time than allotted to us this evening.

Environment, I said last year, is the natural ally of health to the extent that there is a degree of overlap. I say there is a degree of overlap because there are various areas of environment. In my view there are five principal areas: public health, the environmental EC dimension, local environment, planning and heritage. When considering areas of public health, of course, that is where this degree of overlap exists and indeed the Specialist in Community Medicine had a large responsibility, historically, for environmental health issues and so there has been a recognised overlap with environments that dates back some years.

Mr Speaker, work will continue during this financial year, 1997/98, to try to control the monster that threatens to devour us all, the EC Directive Regulations spitting monster in Brussels. It really does put an enormous burden on the resources of Gibraltar. If I give an indication to hon Members of the Directives and Regulations that the Environment Ministry has been working on in the last few months, I think it will be appreciated the burden that EC work puts on the department. Of course, the list of measures that I am going to outline now do not take account of EC Directives that my hon Colleagues have been working on. I say so because I think environment, to a large extent, is the whipping boy of the Brussels lobby to the extent that we seem to have more environmental directives and regulations to deal with than other departments. But certainly we have been working on a whole string of EC related issues; I will list them for the purposes of this House. We have been working on the Air Quality Directive; the Biotechnological Directive; the Dangerous preparations Directive; the Drinking Water Directive; the Dumping of Waste Convention; the Volatile Organic Compounds Directive; the EC Water Policy Paper; the Environmental Impact Assessment Directive; the Euratom Directive; the Hazardous Waste Directive; the Health and Safety Directive; the Large Combustion Plants Directive; the Ozone Layer Regulation; the Strategic Assessment Directive; and of course the Seveso Directive. Some of those have caused and will cause legislation in the next few months, either by Regulation or by a Bill in the House. But I do say, and it concerns me, that it continues to put a burden on Gibraltar's limited resources both financial, legislative and indeed in manpower, manning resources. I certainly can understand the global concerns and the need for controls in environment and the need for the controls that have caused this EC environmental legislation and the need for us to assist in this attempt to globally control environmental issues but sometimes I think that while

we appreciate the global concerns, the globe does not appreciate our concerns in that probably the whole implementation machinery, the whole Ministry for the Environment and the whole Environmental Agency could probably fit into a double-decker bus and one would not probably get the tea ladies of the Director General on Environment fitting into a double-decker bus. That environmental legislation threatens to divert attention and resources from very fundamental important local environment issues that need to be tackled if we are really going to have a chance at tackling important issues that affect the community on a day-to-day basis. I say issues such as, for example, the perennial problem of litter and here, to an extent, I make a demand on the community at large. I do not think that issues of litter and cleanliness can be tackled and enforced by Government producing an enforcement machinery only. Of course, Government have to produce an enforcement machinery but we need the co-operation of the community at large and I have to say I am not sure whether we are getting that co-operation, at least from certain sectors. I issue a demand and encouragement to all sectors to become house proud because it has got a direct effect on our effort and the Minister for Tourism's effort on creating revenue, on encouraging tourism to come back to Gibraltar. It is one of the concerns that tourists have and we really must address those issues and while Government can set up all the public awareness programmes, and while Government can set up all the enforcement machinery we want, it cannot be achieved without the assistance and co-operation of the public at large and we must have it.

Mr Speaker, one of the issues that I highlighted last year when discussing matters of environment was this concern that highlighted in the Q2 Survey Report back some years ago and indeed voiced by many tourists and members of the community as well, that Gibraltar has become a very noisy place. To a large extent I think it is because 30,000 people living on a very small piece of land, it does tend to create an over-accumulation and a strain on the tolerance of people but it is also true that Gibraltar has descended into being somewhat noisy and legislation perhaps needs to be introduced to curb those issues. Indeed, noise pollution legislation is in preparation and I would hope that substantial progress will be made during the course of 1997 towards the presentation of noise pollution legislation in this House.

Hon Members will have seen an item included in one of the heads of my budget which tends to tackle oil pollution and that is because while

my hon Colleague has responsibility as Minister for Port, issues of oil pollution also have an environmental aspect to it. We saw only last year how a minor oil slick could turn into a major issue in Gibraltar because of the dimensions and the lack of extents of the Port. The funds that have been allocated in my Head will go a long way towards providing training of the relevant staff; of updating of the GIBMOP plan, the plan that intends to tackle oil pollution if indeed it does happen, and it will also provide for funds towards consultancy fees that we may need to expend for those who came and did the old report based on the oil slick to now update the GIBMOP as recommended by that particular committee as well. But we think it is money well spent. I think if we are going to expand the role of the Port because as a money-raising fundamental pillar of the economy we also think we need to set up the correct infrastructure to tackle issues that may arise. If bunkering increases by a massive percentage as has been the case over the last year, there only needs to be one accident for us to have a serious problem and a turn-away of massive revenue and investment in Gibraltar that would otherwise come to be deposited in Gibraltar. So we think we need to provide that degree of infrastructure and forward planning to be able to tackle those issues should they arise.

Mr Speaker, as the Chief Minister has mentioned, Government have an ambitious beautification programme and while much of it will be described by my hon Colleague, the Minister for Transport and indeed my hon Colleague, the Minister for Trade and Industry, I should highlight one issue of beautification which is being driven, at least partly by me and my department. I have been for the last 12 months a trustee of the Main Street Beautification Trust. Government intend to extend the beautification scheme to Irish Town and its side streets. The streets that we intend to tackle during the next financial year are: Irish Town, Cooperage Lane, Parliament Lane, Tuckey's Lane, Market Lane, Cannon Lane and Bishop Rapallo Ramp, Horse Barrack Lane and Irish Place. All of that, and when I say we want to extend it, I mean that all of that will happen back-to-back with the completion of the Main Street scheme. My hon Colleague will discuss issues on Main Street and describe the progress of that scheme and how that is being tackled. But my role really is to announce the extension of the Main Street scheme to Irish Town and its side streets but it will be a scheme on a more global nature than has been the case in Main Street. Main Street, to a large extent, has been repaving with general beautification. We want to add to that a degree of more global planning to it and this is why my

department is leading on it. A planning scheme under the Town Planning Ordinance is in preparation and when I say more global I mean that it will not only deal with paving and furniture, it will also deal with shop fronts, facades, and colour schemes of buildings and we intend to, in the planning scheme, introduce a colour scheme that will be able to guide residents of Irish Town. We also intend to extend the tax concessions that have been given to people in Main Street as a result of the Main Street beautification. We intend to extend that to Irish Town and its side streets, to assist in the beautification of all those areas so that we have, at the end of the beautification programme, a good quality scheme which has not only involved street beautification but has also tackled the more global issues of beautification that will enhance the city centre. I should mention that in Main Street, in the application and workings of the tax relief scheme, the tax relief scheme operates by giving 200 per cent tax relief for the works to applicants after they have gone through the procedure which is outlined in the regulations. The regulations give power to the Minister for the Environment to extend the incentives to other areas. We intend to do so, as I said, to Irish Town and its side streets. At the moment we have had 12 applicants on the Main Street beautification scheme for tax concessions. We hope to have more because we would like to encourage and the purpose of these measures is precisely to do that, to encourage people to work on their facades; to repair, enhance and beautify their facades so that it compliments the expense to which Government are going to make the city centre and, indeed, the rest of Gibraltar beautiful to create that degree of revenue and assist in the creation of revenue by encouraging people to come to Gibraltar, not once but to come back time and time again. We expect to spend over £1 million on this extension of the beautification scheme, the precise sums are as yet unclear because much work needs to be done in the next few weeks to identify precisely what we are talking about, but certainly I hope in the next couple of months to be in a position to give precise details to the House, if required, on the scheme and the financial expenditure that we expect to go to to tackle those particular matters.

I should mention, on passing, and I say on passing because I know it is an issue of concern to people and while not strictly budgetary it is perhaps interesting for people to note that the Ministry of the Environment are working on it. Much controversy has arisen in relation to seagulls and the expense or the booming population of seagulls and

Government are currently considering what controls can be put in place to at least try to address the booming population of those birds. I have to say, as an aside, that with all the seagulls, cats, dogs, other wildlife, goats and even a cow, that I understand lives in Gibraltar, I sometimes wonder why we were excluded from the Common Agricultural Policy.

Mr Speaker, I pass on to my final comments on planning and heritage, I left that for last because I think that is indeed an important aspect of environment that needs to be tackled within the next 12 months. We said in our manifesto that we would create a Heritage Commission; we have done so. We said that we would give it a statutory footing, that has been missing but it is intended to give it a statutory footing in due course. We have formed a Heritage Commission, we have also formed an Environment Commission because we think that the advisory nature of those Commissions are quite different; one looks at planning and heritage and the other looks at very different issues of wildlife, nature and marine life, etc and one can physically separate those Commissions. It also assists me, because if I had to put on one single Commission everyone that is on both Commissions then I would have a very cumbersome volume of about 25 people and it would simply not work. At the moment the Heritage Commission and indeed the Environment Commission are looking at the formulation of strategies and plans that Government intend to adopt as a strategy for heritage. Within all of that, of course there is a greater role for the Heritage Trust in the discussions that are taking place. I think someone in the Heritage Trust the other day mentioned to me that as Minister for Heritage I was like the father of heritage and they were the children of heritage and to a large extent I think that may be true and while a father may not always agree with his children, and this perhaps has been evident in more controversial aspects than hit the press from time to time, I think we have a good workable relationship, we have far more consultation than used to be the case and certainly I think there is a greater role for the Trust in future and that is being discussed. Legislation in planning and in heritage, will hit the House some time during this financial year. We are at the moment preparing two Bills that will be brought before the House; one is an amendment to the Town Planning Bill, in other words, the Heritage Bill. The purpose of the amendments is to inject that degree of public participation into the planning process which is not there at the moment. The purpose of the Heritage Bill as well is, in conjunction with the Town Planning Bill, to change the role of the Development and Planning Commission, to create new structures, to monitor list of

buildings and to render advice and to give the Heritage Trust more power than they have at the moment and more involvement in direct consultation and discussion on issues as to conservation areas and list of buildings and also, indeed, to list far more buildings than are listed at the moment but at the same time provide an appellate framework so that if by notice in the Gazette intention is given that the Government want to list a particular building, people can by that appeal mechanism proceed to contest that decision so that a fair hearing is given to that particular applicant in relation to those issues. We will also, against the background of the amendments of the Town Planning Bill and the Heritage Bill, be examining the enforcement resources that the Ministry has to provide, the degree of people on the ground that will investigate illegal works and will investigate whether people are conducting work in accordance with planning permission and that will enforce the Heritage legislation once it is in place. To that end we have already engaged two environmental monitors who have different roles. Being in the Ministry for the Environment and Health they have a role in helping enforce such heritage legislation which may, from time to time, exist in Gibraltar; they also have a health education role and a role in enforcement and monitoring of the cleanliness structures that perhaps need to be slightly tightened so that with the co-operation of the public we can address those concerns.

I am, for the first time, the Minister for Heritage. I think the previous Minister for the Environment, to a large extent, dealt with the Heritage Trust but he never styled himself nor indeed the previous administration never really had a specific responsibility for matters of heritage and to that extent I am happy that this year, for the first year, there is a specific reference to heritage in the Estimates. It is a recognition of the commitment that Government have towards giving heritage its proper place. I do not pretend to say that it is the end of what we want to achieve; it is only the beginning of what we want to achieve because what we want to achieve has to be seen against the background of the planning of the heritage strategy and it is difficult to expend specific amounts on heritage matters when the strategy has as yet not been formulated because it is still being discussed by the Heritage Commission. The strategy is at an advanced stage and I hope to be able to produce, by the end of this financial year, a document that includes the short, medium and long-term targets of the Government with a view to that providing the basis of a heritage strategy and tackling all the issues that concern us. There are specific budgetary matters that

can be isolated from the heritage plan for which expenditure has already been budgeted and identified. I should say, on passing, that the reason that there is a £1,000 reference to the heritage plan in the Estimates is precisely because as the plan has as yet not been published, it is difficult to foresee the specific expenditure that will be envisaged by that plan but once it is indeed agreed, formulated and published, we may have to allot supplementary funds for doing projects under that plan. But there are specific matters: Heritage Conferences, in August this year Gibraltar is hosting a history conference, we hope to make that an annual event, indeed, and I will go into it in greater detail next year, but next year is the 150th Anniversary of the finding of the Neanderthal skull in Gibraltar and we intend to have that as a central issue in the 1998 Conference; there are specific heritage projects that I want to undertake; the publication of specific brochures and leaflets and so on, on heritage buildings in conjunction with the Ministry for Tourism so that when we have walking tours of the City of Gibraltar, members of the public and tourists can take leaflets on the history and the beauty of Gibraltar which at the moment is difficult for them to do as none or very little of them exist. The archives is now within my budgetary head; it used to be in the Secretariat head. It is a recognition of the fact that we want to, as part of the heritage plan, transform the archives, update them and indeed move towards trying to have a form of public record office for Gibraltar and I think it is appropriate for archives to be placed within my particular budgetary head. There is also some, hon Members will have seen, for archaeological matters. To an extent that is because of the continuing extremely important excavations at Gorams Cave that is now internationally renowned and indeed has led to the National Geographic producing a documentary which I understand has been screened in the United States; I think it is important because it gives Gibraltar a good profile and we are assisting in that. But it also is a budget to which we can rely when we uncover archaeological remains to enlist the support of experts in particular fields because we have found, over the last 12 months, that with the beautification programmes that we are undertaking in Main Street and in other places, that Gibraltar being a very rich place in heritage will lead us to uncover specific findings and it is important to preserve dates and record them for posterity and indeed to maximise the matters that have been uncovered. In short, Mr Speaker, I expect that all the changes that are being undertaken in matters of heritage will certainly provide a basis. I do not, I emphasise, for one minute pretend that they are the be-all and end-all of the changes that need to be undertaken if we are going to be serious about

heritage but certainly they will give us the direction, together with the work that is being conducted on the heritage plan, which together with the new structures that are being set up will allow us to maximise the heritage assets that Gibraltar has for the benefit of the entire community. Mr Speaker, I have nothing further to add.

MR SPEAKER:

We will now recess for 10 minutes.

The House recessed at 8.45 pm.

The House resumed at 8.55 pm.

HON MISS M I MONTEGRIFFO:

Mr Speaker, the GSLP was in the Opposition benches from 1984 to 1988, then in office from 1988 to 1996, now for over a year we are again the Opposition party. During all of this time we have always shown consistency in policies we have adhered to. As far as the Health Services are concerned, today in 1997, we still maintain the same position. For the benefit of this House, I will refer to a short extract of my first budget speech as Minister when referring to the Report of the Review Team of 1987. This review was commissioned by the AACR. I then said; "With the Health Authority the first problem we were confronted with was the new management structure. Here we found the incredible situation where the previous Minister for Health, in the first meeting of the Health Authority, gave the green light to a structure to be implemented in four phases. Government clearance was only given for the first phase and instructions were issued by the then Chief Minister to take account of financial considerations. The GSLP immediately froze even the first phase because we wanted to be absolutely sure that the money would be spent adequately when compared to other more important areas within the Medical Services, but in so doing, we gave a commitment to the Health Authority that essential posts could be filled straightaway". Then I went on to give details of the posts we had given the green light to. I continued by saying, "Soon after, Council of Ministers closely studied the first phase of the management structure and we have allowed it to proceed with gradings comparable to the Civil Service and GSL. If in the future we find there is a real need for more managerial or clerical posts, these will be authorised. The proposed

management structure means an additional funding of £0.25 million and this Government is concerned with how best to use the money available primarily for the benefit of the patients". That position, Mr Speaker, is consistent with the one we maintain today, and we were commended for our efforts by a member of the 1987 Review Team, Professor Jarman, when we invited him to visit Gibraltar in 1992. The Minister has said that there is a statutory requirement for certain posts to be filled. We do not think that we broke the law because the Government have just announced new posts that are not filled and, of course, it is also a matter of judgement whether more posts will produce a better service. We have complete confidence in the people running the service and it never fell, as predicted by the GSD Government when they were in Opposition, to Third World standards, on the contrary, we tried it and it worked without the new posts the Minister.....

HON K AZOPARDI:

Will the hon Member give way? I seem to think that the reference to Third World standards was a press release issued by the BMA in 1991, they had that fear. That fear may have been taken on board by the GSD in Opposition but I think that if the hon Member looks at that press release she will find that it was a reference in a BMA press release.

HON MISS M I MONTEGRIFFO:

Mr Speaker, the GSD did echo the concerns of the BMA and our contention is that it never occurred. When the GSD Government decided to set up another review of the Health Authority we were invited by the three man team composed of Dr Benady, Dr Nemey and Mr Stokoe from the UK to give them our views. We told them, in the strongest possible terms, that we were opposed to the Health Service being taken out of the civil service. It had been tried by us but we had found that it had created a lot of problems. There had been comments made through the media that there was a great demand to divorce it from the civil service. The pressure certainly did not come from us and we went to great lengths in giving this new Review Team a detailed account of all the problems we had had to face. We believe that the Health Authority already enjoys a high level of independence. The management prepares its own budget and administers it without any interference from the civil service. A more independent Health Authority might work in an area far bigger than Gibraltar but in a small place such

as ours the Health Authority we believe is best served by being part of the pool and the extra resources the civil service can provide. For all the problems we encountered and the reasons I have given, when we were in office, we then soon after brought everyone back to being employees of the Crown and they were seconded to the Health Authority. This policy, as I have said, we continue to maintain today. What we find is most regrettable is that no mention is made of our representations in the report of the Review Team of 1996 and that the Minister in public has mentioned that he is aspiring to a self-standing Health Authority but, if my memory serves me right, he has not made a contribution about the issue when he spoke on the Health Authority. If the decision is going to be reversed by the GSD, they are not taking into account what happened 10 years ago. We believe that if it did not work then it will not work now. As I mentioned in the last meeting of the House, we are also against the post of Chief Executive for the Health Authority. There was a Chief Executive post before in 1987. The AACR administration appointed Mr Ralph Murray when the Health Authority was being launched. The post of Chief Executive and, for example, the post of Personnel Manager were there on the assumption that the Health Authority would recruit direct from the labour market and not from the civil service. We also believe that for the purposes of implementing the new review, the present General Manager, or for that matter other officers within the Government, are totally capable of carrying out this task without training in the UK as the Minister has mentioned, but only by virtue of their skills which we believe are exemplary, simply because of the performance they have shown in the past. We also informed the Review Team, as I have also mentioned in this House, our programme of continued improvements within the Health Service, for example, the employment of extra GPs; a radiologist; a second theatre; and other works within St Bernard's Hospital that would have provided it with new areas. On the question of a new hospital, when we came into office, it was envisaged that it would be funded by the release of the sites occupied by both St Bernard's Hospital and the KGV Psychiatric Unit for the purposes of private development, when the Government would be in a position to fund it. However, developers were not forthcoming and in view that a new hospital would amount to something like an extra expenditure of £30 million to £40 million, we took the decision to upgrade significantly the existing facilities. So much so, Mr Speaker, that in the first financial year of the Health Authority we provided over £339,000 for works and equipment and during the following seven years, the figure went up to

£812,000. I did not at all interfere, as the Minister has said, with this item of expenditure. What he has provided in the present Estimates is a figure of £814,000 but in the explanations for the items there is an extra sentence to it which says, "for equipment and related expenses". Perhaps when we come to the Committee Stage the Minister will be able to explain what the related expenses refer to. The Government have said publicly that the new hospital is being shelved because of the Harbour Views bill. We believe that to be a complete smoke screen. Their views were published in the Gibraltar Chronicle issue of the 19 May which attributed the remarks made by the Chief Minister in an interview on GBC. However, I agree with the statement made by the Minister for Health in an interview published by the Gibraltar Chronicle, soon after the Report of the Review Team was made public, that the concept of a new hospital was long-term. Surely, then the Government already knew of the Harbour Views bill when the Minister made this statement, so I agree with his view and not with that made public by the Chief Minister. I would therefore expect the Minister for Health to continue with the refurbishment works as we started them in 1988. The Minister has gone a long way to say that they are starting a health education campaign, this we started in 1988. And as far as the GPMS budget is concerned, we contracted the services of the UK Pricing Authority, something which he has mentioned today but he has not said that we initiated that contact, not them. If we now look at the budget for the Health Authority for the forthcoming financial year and compare it to the level of spending of other Government departments, it is quite astonishing that the Government are increasing expenditure in so many areas and, on the other hand, cutting down on the Health Authority budget. We were doing precisely the opposite, keeping a control on public spending, but we never sought to cut down on the funding for the Health Authority.

HON K AZOPARDI:

If the hon Member would give way. The position is that we spent £22.1 million last year and we tend to spend £22.8 million this year, we are not cutting down, it is an increase of about 3 per cent or 4 per cent.

HON MISS M I MONTEGRIFFO:

If the Minister will allow me to continue with the figures that I will give him perhaps I will be able to convince him. The Health Authority

received on an annual basis what the management requested, whether for equipment; whether for works; sponsored patients; wage increases; or for whatever. Ever since the Health Authority started we increased its budget by between £1 million to £2 million a year. In the overall budget of the Health Authority we started by providing them with £8 million in 1988 and by the end of the financial year 1995/96, we provided them with £20.5 million. For 1996/97, we left an estimated budget prepared on the same basis as we had always done and indeed the Minister for Health in answer to Question No. 35 of 1996 confirmed our figure was £23 million. However, in answer to Question No. 72 of 1997, he states that their estimated expenditure is £22 million. Already nearly £1 million less in their first term in office than what we had provided for. We never under spent but we overspent from what we estimated. For this forthcoming financial year they are providing, as the Minister has said, £22.8 million. When one takes into account that in these new Estimates before us they have included for the first time an expenditure of £345,000 for pay settlements and the figure for personal emoluments includes new posts, plus they are receiving a contribution on the revenue side from the MOD of £745,000, when one compares like with like, there is less money being provided for the Health Authority. In the scenario, as I said before, when the rest of the Government budget is being increased. Moreover, now that MOD personnel will be accessing our health services, surely more resources will be required. This is, Mr Speaker, the first year in the history of the Health Authority that its budget is not going up at the same level it has gone up in previous years. We never placed any financial restrictions on our health services and the Minister in his contribution has said that he intends to make savings within the Health Authority budget, something we never sought. This Government have decided to include the Authority's estimates for 1997/98 in the Government of Gibraltar's Estimates. However, when we were in office we continued with the system that was already there but I nonetheless continued to provide the House with a detailed account of the Health Authority's budget in this House. Indeed, I even provided more information than what the Government have chosen to publish. They have changed the traditional format that has existed for years, well before we were in office, to the extent that we are unable to identify items that have gone up and items that have gone down. This is the reason why I wrote to the Minister for Health on the 14 May requesting that he provides me with a breakdown of the operational expenses of the Health Authority on the same basis as previous outturns. The Minister, this morning, confirmed to me that he had replied to my letter

but only yesterday, and I still do not have it in my possession. The Minister for Health has announced a 10 per cent increase on the allowances that is provided for patients requiring specialist treatment outside Gibraltar. What I cannot understand is that he should not have reflected this in the budget when I think he had ample time to do it. The maximum rate of the allowance is £189 a week, so 10 per cent means that on the maximum allowance patients will be receiving £18.90 a week extra. However, it depends how many people will be getting the maximum rate. Again, the Minister is intending to spend less in sponsored patients than what was the expenditure in 1996. In this budget the Minister has provided £1.8 million. We provided £1.9 million for 1995/96 and £2.2 million for 1996/97. Their outturn for 1996/97 was again £1.8 million, less than in 1995/96. So in fact, we provided more money for sponsored patients with the same rate of allowances all the time and the Minister has not only spent less for 1996/97 but is planning to even spend less for the forthcoming financial year as shown in the budget before us. However, we will monitor the situation and see what the final outturn will be for 1997/98 because if it does not increase, it can only mean either of two things: that less people will be getting the maximum rate, or less people will be sent for specialist treatment. Finally, Mr Speaker, on health, I would like to touch upon the enrolled nurse grades. We believe that this grade should continue. The recommendation in the UK is that it should be phased out, but it does not mean that we should follow everything that is done in the UK. We believe that there should be a balance between the staff nurse and the nursing assistant. In fact, when in office, we asked the Heads of Sheffield University and the UKCC to visit us. Both commended us verbally and in writing for our continued commitment on nurse education and the structure that we had implemented. They also agreed with our policy to continue with enrolment training, which we started in 1994. In fact, I was pleased to see recently the Health Authority's efforts in the recruitment of this grade, a policy we would have continued with. However, what we do not agree with is the new policy that there should be a requirement for applicants to be in possession of GCSEs. In the past, this has never been a necessity, and nobody has ever questioned the quality or the dedication of those already in the service, most of whom entered without these qualifications. Mr Speaker, the GSD Government's first year in office has produced two reviews, the medical and the nursing one, and the level of funding, as I have said previously, that they have provided in one year falls short of the trend that used to

happen in the past. Savings in the Health Authority can only be detrimental to the patients themselves.

As regards Sport, I am concerned at the slow process in which matters are dealt with by the Government, notwithstanding the number of questions I have put to the Minister for Sport in this House, most of which have indeed been related to matters which we had already put in motion before they took up office. If the House will recall in last year's budget, I told the Minister that we would evaluate the results of his performance over a one year period. We are now at that stage and if we look, for example, at the question of premises we provided to the Gibraltar Football Association, it is regrettable that it has taken this Government such a long time to honour our commitment. In fact, it was also regrettable to have heard the Minister for Sport in an interview on GBC when he finally announced that the GFA would be handed over the premises in question in the South Barracks area saying that if the GFA were to have approached him now out of the blue requesting those premises he would not have handed the building over to them. So, in effect, he was saying that he had reluctantly handed the building over to them, small wonder it took him nearly a year to take the decision. Still on the question of premises, Mr Speaker, we have been monitoring the progress made with regard to the 76 sites we provided to sporting, cultural and charitable entities. Again, during questions and answers sessions in this House I have been disappointed at some of the answers given to me by the Minister for Sport. As recently as the last House of Assembly meeting, he was unable to confirm how the Government would be honouring those commitments given by the GSLP administration in relation to the support some of these entities would be receiving. After a year in office, in the Estimates before us in this meeting of the House, there is an amount of money in the I&D Fund for the provision and refurbishment of vacant premises for clubs and associations and shooting ranges. Some of these clubs and associations, I believe, have been informed that the works will be carried out by the Government. However, the Minister was unable to tell me in the last House of Assembly meeting in April as to whether they would be using Government employees for these works or contracting them out to private companies. He asked me to write to him when he was unable to confirm who would be constructing the indoor shooting range at Europa. In the meeting of the House of Assembly of last February, he stated that the works would be carried out from within Government resources, at a saving when comparing the initial costings

that had been presented to us when we were in office. I did write to him, Mr Speaker, on the 14 May so that he would clarify the position because what he said in the meeting of February in this House was not what he said in April. However, only this morning I did receive a reply from him stating that Community Projects would be undertaking the works. I would therefore like him to confirm whether the same criteria will be used for other associations and clubs as that which will be used for the Gibraltar Rifle Association.

HON LT-COL E M BRITTO:

Would the hon Member give way? Can she explain what she means by what she has just said? What does she mean will the same criteria be used for other clubs and associations as for the Gibraltar Rifle Association? Is that an implication that the Gibraltar Rifle Association have been treated differently?

HON MISS M I MONTEGRIFFO:

Not at all, Mr Speaker. What I am asking the Minister is to clarify whether Community Projects will be undertaking other works for other sporting associations and clubs as he confirmed to me in the letter that I received this morning, that is what I meant.

HON LT-COL E M BRITTO:

If she gives way I can answer it right now. The Government decide who to allocate the work to as a contractor to the Government. The larger part of the work that has been done on premises for sporting associations has been done, in the first instance, by SOS and subsequently by Community Projects and the Rifle Association are no exception to that rule. The indications are that I will continue to use Community Projects if they are available but if for some reason they are not available then I will use whatever contractor is available to me, either in the private sector or from within Government services. That is my first point. The second point on this question of having given different answers, I think if the hon Member looks at Hansard she will find, contrary to what she has been saying both publicly recently to the press and now at this moment, that what I said was that the funding would not be coming from the fund allocated to sports associations travelling away from Gibraltar and that is, in fact, still the case. The

funding that I have been providing comes from Government funds but not from that particular fund.

HON MISS M I MONTEGRIFFO:

I am grateful for the clarification that the Minister has just given on the first point which is something that I wanted him to answer and which he has now answered. But on the second point I never, in fact, informed the press about any funds coming out from any other budget because I am here specifically referring to the construction of works for the shooting ranges at Europa and not for any other purpose.

Mr Speaker, the Minister for Sport when in Opposition had always challenged the manner in which the GSLP administration had constituted the Sports Advisory Body. He announced on several occasions that if elected he would create a totally democratically elected Gibraltar Sports Advisory Council. I recall that in last year's budget he brought up the subject again in his contribution. I informed him that I had not elected any of the representatives of our Gibraltar Sports Advisory Body, but that indeed the associations themselves had elected their representatives. His reply was to say that it went too far back for his memory but that his Council would nonetheless be democratically elected by the associations choosing their own representatives. But it is an inescapable fact that during my term in office he was making a totally irresponsible and false accusation about the manner in which I had gone about constituting our Sports Advisory Body. I wish to bring up this point, Mr Speaker, because in constituting his Sports Advisory Council, the Minister then proceeds to do something which he wrongly criticised me of doing; he personally nominated four members for his Council. I have no doubt that all members of his Council, including the four he personally elected, are well-known and respected in the field of sport and can contribute effectively to its development but the Minister has acted contrary to his preachings.

HON LT-COL E M BRITTO:

Mr Speaker, on a point of order. A point of order is clarification of a statement that has just been made.....

HON MISS M I MONTEGRIFFO:

That is not a point of order, Mr Speaker.

HON LT-COL E M BRITTO:

Yes, clarification of what has just been said, Mr Speaker, it is Standing Order 45. Mr Speaker, I cannot accept what has just been said as correct. Firstly, the statement that the Sports Advisory Body is not democratically elected is incorrect. The majority of the members were elected at a public meeting and therefore it is a democratically elected body and not the statement that has just been made. The additional appointees by me does not affect the fact that the majority of them are democratically elected.

HON MISS M I MONTEGRIFFO:

That does not alter the point that I am making, Mr Speaker, that he personally appointed four when he was accusing me that I did not have a democratically elected Sports Advisory Body, that does not alter the point that I was making.

Mr Speaker, in this Estimates before us there is one new item under "Other Charges, item 5, Sports Development - General Department £50,000 and Sports Development Unit - £10,000". In answer to Question No. 131 of 1997, the Minister stated that an official offer of employment had been made to Mr Paul Holden for a new post of Sports Development Officer within the Sports Department but that until Mr Holden communicated his intention to accept the offer, he considered it inappropriate to make public details of the conditions of his employment. We do not have anything against Mr Holden but we disagree with the Government in the manner they have gone about recruiting such an officer. To give the House a brief background on the subject of coaches, when we acceded to the request of the Gibraltar Football Association for a School of Excellence, they then asked us to provide them with funds so that they could acquire the services of a well-known professional football coach from the UK so as to improve the standard of this sport. Consequently, in a meeting I then chaired of our Sports Advisory Body, I gave a commitment that if and when we saw tangible results emanating from their School of Excellence with such a coach we would provide the same assistance to other sports.

This was a totally different approach from the one taken by the Government. They have decided to create a new unit with an officer who has a certain amount of knowledge in several sports. Our contention therefore is that now that this unit has been created, surely there are people in Gibraltar who can take on this task as it is not a highly specialised job and hence we strongly believe that the post should have been advertised. If the persons applying would have required further training, surely they could have been sent to the UK for this purpose but persons within our community should have been given the opportunity to take on a job we are sure they could have undertaken. Sport, Mr Speaker, is a way of life for a great number of Gibraltarians. Our sports people represent us as a nation, they put us on the map and against so many obstacles from Spain, they continue to prove to the world that we are a separate people with our own identity. For all these reasons, I urge the Government to continue placing the same importance and level of support the GSLP gave to our sports people, and once again I urge the Minister to act more expeditiously than what he has done hitherto.

The House recessed at 9.30 pm.

THURSDAY 29TH MAY, 1997

The House resumed at 10.00 am.

PRESENT:

Mr Speaker(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the Disabled, Youth
and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for Government Services
and Sport
The Hon J J Holliday - Minister for Tourism, Commercial Affairs and the
Port

The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training and Buildings
and Works
The Hon K Azopardi - Minister for the Environment and Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

THE APPROPRIATION (1997/98) ORDINANCE 1997 (Continued)

HON J J HOLLIDAY:

Mr Speaker, Head 6 in the Estimates of Expenditure covers a new grouping, that of Tourism and Transport. My newly acquired responsibility for Transport is logical as there is a direct link between tourism and the means of communication to Gibraltar by sea, land and air. Internal matters of traffic circulation and the condition of the road network form part of this responsibility. I will cover these items in detail during the course of my submission.

The other area of my responsibility is the Port Department, because the Port has a dual role: as a commercial centre and as a tourist resource, given the importance of the cruise liner industry and yachting. I will touch on these matters in due course.

Immense importance is attached to the development of tourism as part of Government's economic policy. It is a sector that was not supported

to any great degree in recent years until this Government came into office. We inherited a tourism product which needs a great deal of work to bring it up to adequate standards; a hotel industry in severe decline; and a general lack of direction and absence of a coherent tourism development strategy.

The funding for the Tourism Ministry for 1996/97 was essentially that which the former administration had allocated for this purpose, albeit the marketing budget for 1996/97 was doubled from £300,000 to £600,000. The budget bid which I am presenting today represents the new emphasis that the Government wish to give tourism. This is not to say that success has not been achieved in the field of tourism during the last year. I have personally led tourism promotions in various fields, from that of the cruise liner industry, through trade fairs such as the World Travel Market in London and FITUR in Madrid. I would like to highlight in particular the success of the Gibraltar stand at the London Boat Show, when much sterling work was done to reverse the damage caused to the yachting industry in Gibraltar by the fast launch activity of a few years ago. In addition, the hotel industry has been given an injection of morale which is being followed by a Government Assistance Scheme. One must not lose sight of the fact that almost one in seven persons in employment in Gibraltar works either directly or indirectly in the tourism industry. I believe this figure is capable of growing considerably and Government will be working to achieve this end. The catch-phrase of the day must be "Tourism Means Jobs". The private sector is being called upon to contribute to the development of Gibraltar as a tourist destination. For our part, the Government are making available considerable funding for the enhancement of the tourist product and for marketing it. Already the first signs of the effort that has been dedicated to developing the Gibraltar tourism industry are being seen. It takes time for results to be noticed, because of the long-lead in times. Monarch Airlines commenced scheduled operations to Gibraltar on 2 May 1997. This was an important day for the tourism industry in Gibraltar. The hotels are reporting higher occupancy figures for 1997, and the prognosis for the rest of the year is reasonably good. The Conference Bureau is succeeding in attracting some business for Gibraltar. There is now an air service between Gibraltar and Tangier, which is provided by Rock Air. Good press is being enjoyed by Gibraltar as a tourist destination, and the list could continue. What is important to highlight is that Government inherited a tourism industry in decline, and this decline has not only successfully been arrested but we are in a

position where we are starting to detect increasing signs of growth. The Chief Minister yesterday, during his address, detailed statistics which clearly show these factors. Therefore I do not intend to repeat these figures again.

Mr Speaker, I shall now examine in detail the budget submissions of the Ministry of Tourism and Transport, commencing with Head 6-A, Tourism. A distinction has to be drawn between the staff of the Ministry for Tourism and Transport and the staff of the Gibraltar Tourist Board. The former are civil servants, numbering four posts and the latter are employees of the Gibraltar Development Corporation. A decision was taken by Government not to restore the Gibraltar Tourist Board to the structure of the civil service so as to allow some employees of the former Gibraltar Information Bureau, who had tourism functions, to continue to perform their jobs within a new framework. I greatly welcome the restitution of the Gibraltar Tourist Board as there will now be properly qualified, experienced and dedicated staff who will work within a clearly defined structure and will ultimately be accountable to me. When I took office as Minister for Tourism, I had no staff working directly to me, this has now been rectified. It has not been easy to arrive at a proper submission for the Gibraltar Tourist Board. On the one hand, the staff structure which I am implementing - headed by the Commercial Director of Tourism - has to be tried and tested. There may be need for an element of tuning of this structure in the light of experience. The £329,000 which has been bid for under subhead 11, Contribution to Gibraltar Development Corporation - Gibraltar Tourist Board of Head 6-A, Tourism, consists of the salaries for the following posts which will form the new structure of the Gibraltar Tourist Board:- the top managerial posts will consist of the Commercial Director, the Sales and Marketing Manager, the Product Manager, and the Administration and Finance Manager. Each of the three managers will have an assistant. There will also be a Coach and Cruise Terminal Supervisor. In addition there will be an information section, which will be led by a Senior Information Officer. Information Officers will provide tourist information at points of entry into Gibraltar; at the airport for incoming flights, something which has not been done for years; and at the coach park and the cruise liner terminal, something which has never been done. They will also visit hotels within a structured programme, to provide visitor information to hotel guests and will man Information Offices at the frontier, the Piazza and at Duke of Kent House. The running of the GTB information service currently under contract will

therefore cease. Within the administration section, the department will have an officer dedicated to gathering visitor statistics and conducting surveys and analysing their results, in order to monitor visitor perception and opinions on the Gibraltar tourist product. The total number of persons who will be employed in the Gibraltar Tourist Board offices will initially be 21. It is policy to employ some young Gibraltarian graduates in the field of tourism and to take on school leavers and train them as tourist guides. Mr Speaker, the House will be pleased to learn that the final interviews for the posts of Commercial Director of Tourism, Sales and Marketing Manager and Product Manager are scheduled for Friday of this week. There has been fierce competition for these posts and this augurs well for the future development of the Gibraltar tourism industry. The importance that Government give to training for the industry is not mere lip service. During the course of this financial year Government will be setting up a School of Tourism, which will be based at Bleak House. Discussions are at an advanced stage with a United Kingdom firm which provides training for the hotel industry. Trainees will receive an element of theoretical training and will then receive practical, on-the-job training and a recognised international qualification at the end of their course. The Hotel Association will play an important role in the training programme. Government sponsored training will also be given to staff presently employed in Gibraltar hotels, as part of the Hotel Assistance Scheme. This assistance scheme covers the provision of soft loans for hotel refurbishment and for the provision of new facilities by hotels; the introduction of special tariffs for electricity, water and Government rates; a waiver of import duty on materials imported into Gibraltar for the purpose of refurbishing hotels; and a small element of direct grants for specific projects. The assistance for hotels is within the parameters allowed by the European Union for Government assistance to industry. At Head 106, subhead 6, of the Improvement and Development Fund estimates, it will be seen that £2 million have been earmarked for hotel assistance for this financial year. A further £3 million will complete the value of the package. These funds are mainly for the purpose of soft loans which will be repaid to Government over a period of time. The implementation of the assistance to hotels will be closely monitored by Government and therefore a Hotel Assistance Scheme Administrator will shortly be appointed by Government on a two-year contract to ensure that the funds which Government are making available are used only for approved projects and that optimum use is made of the Government's assistance in this area.

I do not believe that it is necessary to run down each of the subheads at Head 6-A, Tourism, as most items are self-explanatory. I will nevertheless comment on some of these subheads. The £150,000 for general embellishment includes elements such as painting of names on historic bastions; clearing the historic city walls of vegetation and in particular trees that are growing out of certain walls; painting and refurbishing public benches; provision of new benches; maintenance works to keep beautified areas attractive; removal of certain eyesores; and so on. The main purpose of this subhead is to create maximum impact from small projects, both for the benefit of tourists and for Gibraltar residents. I believe that attention to detail will pay dividends. This brings me now to the largest single item of expenditure, the £750,000 which will be spent on tourism marketing, promotions and conferences. This represents an increase of 150 per cent over the budget proposed by the GSLP administration for 1996/97 and an increase of 25 per cent over the £600,000 which were eventually allocated by the Government when coming into office in May 1996. Essentially the programme which I intend to implement during the course of this financial year is designed to capitalise on the initiatives of the last 12 months, which have seen major product improvements and the launch of a new tourism image and identity. The strategy for the coming year combines an investment in promotional activity in addition to increased support for the component sectors of the travel and tourism industry, both in Gibraltar and in our source markets. In addition to continuation of successful 1996/97 activity, there will be some additional emphasis on the following:

1. The building up of awareness of the Gibraltar tourist product in our main source markets, which are principally the United Kingdom and Spain. However, there will be some marketing activities carried out in the Algarve in Portugal and in Morocco.
2. There will also be an increase in UK travel trade communications and a trade support scheme including advertising, trade journals, roadshows and familiarisation trips for travel agency staff and travel journalists.
3. There will be support for the promotion of special tourism products, such as yachting, heritage, military history, diving, etc.

4. We will also be supporting Gibraltar events, such as the First Gibraltar International Regatta which will be staged in July.
5. We will also be promoting Gibraltar as a conference and incentive travel destination.
6. We will be increasing the cost-effective targeted response advertising programme. People who clip coupons which appear in our advertisements are sent information on Gibraltar by the Gibraltar Information Bureau in London together with a copy of the UK/GTA brochure which contains priced programmes offered by the different tour operators who offer inclusive package tours to Gibraltar. This method of direct selling ensures that people who are interested in a Gibraltar holiday can book without any problems. It is impossible to have every travel agency up and down the United Kingdom knowledgeable about the Gibraltar tourist product and the companies which offer Gibraltar packages. Direct sale is a useful substitute. Nevertheless, a Tourism Development Executive has been newly recruited by the Gibraltar Tourist Board in London. His primary duty will be to contact travel agents direct, particularly independent travel agents who do not form part of large chains, and increase their product knowledge of Gibraltar tourism so that they are better able to sell holidays to Gibraltar to their clients.
7. We will be developing a programme of local marketing, to make every Gibraltarian aware of the needs of the tourism industry. We are a proud people. We have every reason to be proud of what Gibraltar has to offer visitors. What we need to be reminded of is how to best look after tourists who come to Gibraltar and whom we need to entice back for further visits. Repeat business is a crucial element of the travel market. Every person in Gibraltar, from our most senior citizens down to our youth, must help in the communal task of making our visitors welcome.
8. There will also be increased trade promotional activity in Spain. The Spanish market has been neglected in the past to a very great degree. As the Chief Minister has already announced, as a first step, we will be opening a proper Madrid Office in order to be able to project an appropriate image in Spain. The Madrid Office arrangements which we inherited from the previous

administration falls short of our aspirations for this market. Provision has been made for the Madrid Office under expenditure Head 8-A, Secretariat, subhead 13(d) in the sum of £80,000. We will be aiming to put in place packages for inbound visitors from Spain, and will promote Gibraltar not just in Andalucia but also in Madrid and other parts of Spain. A start of the programme will be an advertising campaign which is aimed at the consumer and will commence in early June. Billboards along the Costa del Sol and in neighbouring Spanish provinces will promote the Gibraltar shopping experience. Then, during the months of September and October, consequent on the Ryder Cup Competition, there will be a dedicated campaign aimed at the golfing fraternity. The billboard campaign will be complemented by a series of advertisements in specific journals, some of which will be in golfing magazines.

9. There will be a trade marketing programme relating to the promotion of Gibraltar's port as a leisure centre for yachts and in particular cruise liners.

The promotion of cruise liner visits to Gibraltar is essential to our tourism strategy. It is one of the kingpins. To this end the assistance of the various parties in the transportation sector has been sought so that an agreement can be put in place which will cover all aspects of transportation. Both the Chief Minister and I have dedicated many hours in order to bring all parties together for the good of Gibraltar. Our success in attracting more cruise liners to Gibraltar will mean prosperity for all. If an agreement is not in place very soon indeed Government will have no option but to impose a solution through legislation. I am confident that all parties will pull together. Government will ensure that all transportation matters are placed on a proper footing and that there is a level playing field with opportunities for all. In addition, there will be close Government policing to ensure that our solutions in this area are workable. The cruise liner industry is a sector of the tourism market which does not require Spanish goodwill. The Mediterranean is set to receive a greatly increased number of cruise ships over the next few years. In order to try and benefit from this projected increase Gibraltar has already joined the Association of Mediterranean Cruise Ports, known as MedCruise. The Tourist Board has even got a representative on the Board of Directors of the association. The new Cruise Liner Terminal will be officially opened on 28 July 1997, when the Royal

Yacht Britannia is in port. That will be a red letter day. A programme of beautification of the area of the North Mole from the Cruise Liner Terminal to the entrance of the city is under way. Funds for this project form part of the bid under Head 103 of the Improvement and Development Fund, subhead 2. We are planning ahead. Unfortunately, we have already missed out on opportunities to expand our cruise industry. The Mediterranean has seen a staggering 400 per cent increase in cruise liner visits over the last four years. This compares with only moderate increases and indeed decreases for Gibraltar this year. No one owes us a living, we have to fight for our market share against strong competitors. I believe that there are two major issues on the cruise liner front: Gibraltar is perceived as a problem Port, arising from the transportation issue; and cruise operators want a revamped cruise visitor experience for Gibraltar. Whether or not Gibraltar is a problem Port, the fact is that that perception exists today. This perception therefore needs to be changed. Cruise operators are a closely-knit circle. If one operator has a problem then all others immediately know about it. By the same token if something is going well for one operator, then all others will want to jump on the bandwagon. I believe that we have gone a long way towards resolving the transportation issue. Both the Taxi Association and the public service vehicle providers agree in the principle that there must be freedom of choice for Rock Tours. This is something which is crucial for the cruise liners. This freedom of choice will only be restricted by geographical limitations imposed by any of the tourist sites and by a cap or quota system which will be monitored by the Gibraltar Tourist Board, which means that both taxis and minibuses will derive benefit from cruise calls at Gibraltar. I have spent much time talking to cruise liner operators at Genoa and at Miami at the Seatrade exhibitions, and in London trying to convince them to look at Gibraltar through fresh eyes. I believe that I am making some headway and I am discussing with one operator, in particular, the possibility of commencing and finishing cruises at Gibraltar. This would have great importance for the whole of the tourism industry. Cruise passengers would fly into Gibraltar and board the vessel here. The cruise liners would need to buy all their provisions locally; take bunkers; some of the passengers would probably opt to stay at Gibraltar hotels before or after the cruise, and there are many potential spin-offs as a result. Promotional activity on this front therefore forms an important element of the marketing budget.

The demands being made on our promotional budget are legion: every effort is therefore being made to obtain the maximum value for our spend. One example of this is a 30 minute television programme on Gibraltar which will be screened nation-wide in the United States to an audience of 55 million viewers, and via satellite to many millions of viewers in Europe. The programme will be screened on a number of occasions at peak viewing times. The cost of producing such a programme and securing peak airtime viewing is \$750,000. However, sponsorship has been obtained which will cover the bulk of the cost; the actual cost to Gibraltar will be \$70,000. Included in this package is a full page colour advertisement for Gibraltar in the prestigious National Geographic Magazine, at no additional cost. In addition, American viewers of the programme will be able to request literature on Gibraltar tourism from the Gibraltar Information Bureau in Washington. This television programme will promote Gibraltar as a tourist destination for the USA market. In addition, advantage will be taken to promote Gibraltar as a cruise destination. Filming is expected to take place in Gibraltar in June. I will be giving a full detailed presentation on the tourism promotional budget for the benefit of those working in the travel trade in Gibraltar and also for anyone in the general public who cares to attend, at the John Mackintosh Hall theatre on Thursday 19 June 1997. At that presentation I shall detail the different options available for the marketing of Gibraltar and the way in which the Gibraltar Tourist Board will precisely be carving up its spending.

Reverting to the budget bids under Head 6-A, Tourism, I would like to place in context the cost of the contracted services which appear at subhead 10. The management contract for the tourist sites is in the hands of Sights Management Limited and will cost £1.2 million and will cover a wide range of responsibilities. Against this, it is necessary to offset tourism sites receipts which are estimated to be £1.22 million and appear as Revenue Head 6, subhead 40. An exercise will shortly commence which will assess the Sights Management contract to evaluate the objectives and responsibilities of this contract. I foresee some fine tuning. One matter is already clear, control of the coach park will revert to the Gibraltar Tourist Board.

The second of the contracted services is the coach park security service. This is provided by KIJY Parkings Limited. With the plans for a new coach terminal and centralisation of the control of Rock Tours at the coach park by the Gibraltar Tourist Board, I no longer foresee a

need for this service. The purpose of the security service was to ensure a fluid working of the pre-booking system for Rock Tours for visitors aboard incoming coaches. Provision for this service to continue for the short-term has nevertheless made it necessary to include this in the Estimates as at this stage we do not know when the new system of operation for the coach park will come into effect. In addition, the security services may be required at specific times in the future.

The third contracted service, in the sum of £6,000, relates to the maintenance of the sound equipment at the John Mackintosh Hall so that the hall can be used as a conference centre.

Before leaving the subject of tourism, I would now like to comment on the subheads of Head 103 - Tourism and Transport, of the Improvement and Development Fund, which relate to tourism. The first item is an annual expenditure item in the sum of £245,000. This covers, first of all, the annual spending on improvement to the beaches to ensure that all beaches are in an acceptable state of repair for the start of the bathing season and that on-going damage caused by the vandalism of a small minority is put right for the benefit of our many beachgoers. The changing rooms at all eastside beaches and Little Bay have been repainted and the shower facilities replaced. Temporary changing room and toilet facilities in portacabins for Camp Bay have arrived and they will shortly be installed in time for the 13 June start of the official bathing season. I believe that our beaches have been kept in a cleaner state during the winter months than was previously the case. In an effort to improve this even further, a new beach cleaning machine is on order and will shortly arrive. This machine will enable us to maintain high standards of cleanliness and hygiene throughout the year and particularly during the summer months. Beaches will be cleaned by this machine daily during the official bathing season. A new facility is being introduced this year at all beaches, the provision of open air salt water shower or foot bath facilities by the beach to allow beachgoers to shower away sand. They will complement the potable water showers in the changing rooms.

A further item covered by subhead 1 is improvements to planted areas. Already much work has been done to make Gibraltar a more attractive place. The planned programme of works to this end will continue.

The third item is improvements to tourist sites. This will include provision of improved toilet facilities at St Michael's Cave; introduction of a comprehensive system of tourism signage; and the production of suitable souvenir literature on our major tourist attractions. Finally, although the Museum is now the responsibility of the Ministry for Heritage, the annual spending on improvements to the Museum will continue to form part of this subhead.

Subhead 2 of this Head of Expenditure in the sum of £861,000 covers enhancement of tourist entry points at North Mole and the land frontier. Government set as a priority last year the improvement of tourist entry points. First impressions are important. Similarly the last view of a place is what will linger on in the visitor's mind. It is therefore essential that a positive impact be created on persons who come to Gibraltar. The Airport Terminal refurbishment programme has almost been completed and the Cruise Liner Terminal will be operating shortly. The focus is now on beautifying the road between the Cruise Liner Terminal and Waterport. Tenders have been adjudicated and the successful tenderer will shortly be commencing work with a view to having the road beautified in time for the opening of the Liner Terminal in two months' time. The road itself will be resurfaced and there will be a wide pavement with benches, trees and plants. Eyesores, such as buildings in a poor state of repair and portacabins in the area of the Port Office, will be removed. In addition, works will be put in place to fence off the Port security area. This is a requirement for cruise ships calling at Gibraltar and is advantageous within a working commercial port. The other item which will be covered by this subhead is the proposed works to embellish the land frontier and to make the frontier building more attractive and welcoming, particularly on the inside. Plans are still on the drawing board and will be put to Government shortly for approval. The concept is that the frontier hall should have the atmosphere of an airport lounge with visitor seating accommodation and proper public toilet facilities and an adequate tourist information facility. At this point I would like to publicly thank the members of the Tourism Advisory Council for their assistance and guidance. The final tourist project under this Head for which funds have been allocated is subhead 3, City Walls Lighting, in the sum of £50,000. It is rightly said that familiarity breeds contempt. We tend to forget that Gibraltar is a medieval walled city and that our city walls are in a remarkably good state of preservation. Floodlighting of sections of our walls will enhance their appeal and

impact. The first stage of the project is now nearing fruition; the floodlighting of the fountain at Waterport.

I should now like to comment on subhead 16 of Head 104 of the Improvement and Development Fund - Infrastructure and General Capital Works - which includes tourism projects which will produce significant improvements to the tourist product. The projects which have been identified for funding during the course of this financial year form only a part of the general overall short-term and medium-term strategies to revitalise the Gibraltar tourist product. This covers a bid in the sum of £2.928 million which will include the second phase of the beautification of the centre of the old city. My hon Colleague, the Minister for the Environment and Health, has already given details of the beautification programme for the inner city for this financial year. With regard to the city centre beautification scheme, I am pleased that the current project will be completed in June 1997. I believe that the section of Main Street that has been beautified has attracted a wealth of favourable comments, despite initial worries by some traders that the scheme would adversely affect business. It is a scheme that is worth continuing and will be extended. Several future phases are planned. The scheme is not only beautifying the city centre, it is environmentally friendly and brings new life into the shopping experience we offer visitors. Gibraltar has been seen to follow the lead of progressive European cities in revitalising the city centre, and keeping abreast of what is sound in such schemes. Inevitably, such beautification schemes mean change, and it takes time to adjust to this. As the first phase comes to fruition, I am aware of the public concern with regard to traffic issues in the area of Main Street: the question of traffic flow; vehicle exemptions; access to the beautified areas; access via the beautified areas to streets such as Crutchett's Ramp; and so on.

Government will be taking decisions shortly on these traffic matters and a public announcement will soon be made. The beautification scheme is not something which should be viewed in isolation but as part of a strategy. When the full Gibraltar Tourist Board team is in place I will direct that a complete strategy for the development of the whole tourist product be arrived at with short, medium and long-term objectives clearly mapped out. The present initiatives will be incorporated within a wider spectrum. The net effect is that every penny that is spent will go towards the creation of a total Gibraltar experience.

Finally, I wish to comment on the question of subsidies and assistance for airlines. At item 3 of Head 6-B, Transport - Airport - £152,000 is the bid for Departure Tax Rebate. This was a commitment entered into by the previous administration. The Minister for Tourism in the GSLP administration agreed to grant a £1 rebate in respect of the departure tax payable by each passenger flying out of Gibraltar airport in respect of any airline which operated two or more scheduled services per day, other than during the Christmas and Easter peak periods when no rebate was applicable. This was agreed on 17 January 1994, with retrospective effect to the 1992/93 financial year. When this Government took office in May 1996, there was outstanding to GB Airways the sum of £151,008. This will now be settled as the Government have agreed to honour the commitment of the previous GSLP administration on this front.

Head 106 - Industry and Development; subhead 5 - Airlines Assistance Scheme, makes provision for £365,000 to cover the cost of the package of measures which were put in place by Government to entice Monarch Airlines to commence operation on the Gibraltar route and also for a package of measures for GB Airways in order to provide a level playing field. Assistance in the form of departure tax rebates will also be provided for Rock Air, which has commenced an air service between Gibraltar and the north of Morocco. The same level of support will be made available to two other airlines which are proposing to commence Gibraltar-Morocco services, once their operations commence. The proposed Government spending on tourism is therefore intended to consolidate Gibraltar's position as a tourist destination by providing improvements to the tourist product as part of a strategy; by beautifying Gibraltar; by enhancing Gibraltar's tourism infrastructure through training and provision of assistance to hotels; by providing incentives to new operators, such as Monarch Airlines; and by developing those sectors of the tourism market, such as cruising and conferences, which can sustain considerable growth in the immediate short-term.

I shall now turn to the second area which falls under my Ministerial responsibility, Transport. I have already made reference to subhead 3 of Head 6-B, Transport - Airport. There is only one further item in this Head which is subhead 4(a), the cost of the management agreement with Terminal Management Limited for the managing of Gibraltar airport. The value of the contract is £780,000. The proceeds which will accrue under Revenue Head 6, Departmental Fees and Receipts,

subhead 43, Airport Departure Tax; and subhead 44, Fees and Concessions, need to be offset against the cost of this contract. It is estimated that £650,000 revenue will be generated through airport departure tax and £500,000 through airport advertising fees and concessions. In line with Government policy, an exercise will be undertaken during this financial year to evaluate the objectives and responsibilities under this contract.

Mr Speaker, with regard to Head 6-C, Transport - Roads, I wish to state that it is not Government's policy to privatise the Highways and Sewers Section. The men employed in this section do good work and it is intended that they should continue to do so. A human resource audit will be carried out to establish the appropriate manning levels for this section. One area I will be looking at is that of overtime. There are two bids for this: one is for £50,000 in respect of the 13 members of non-industrial staff; the other is for £120,000 for industrial staff. The overriding principle which I will apply is value for money. The sum of £57,700 for industrial bonuses is in respect of Job Price Contracts under subhead 2(d). JPCs provide that if a specific project is completed in less time than that stipulated in the contract for the job then a bonus, on a sliding scale, is payable to each member of the team working on the project. I support the concept of JPCs; they provide a financial incentive, through the bonus scheme, for the workers involved and at the same time encourage productivity.

The two major items of expenditure under Head 6-C are subheads 5(a), Maintenance of Highways, in the sum of £145,000 and subhead 5(b), Resurfacing Roads Programme, in the sum of £551,000. The figure under subhead 5(a) is made up of two bids as follows: £196,090 is for the purchase of materials and other costs for the maintenance of highways; and £38,910 for the maintenance of sewers. The "other costs" attributable to this subhead cover the hire of equipment such as cranes and heavy plant; the purchase of small tools and plant; and the safety maintenance of breathing apparatus. I am now in discussion with the Highways Engineer to produce a strategy or programme for the resurfacing of all Gibraltar roads over a period of time. The resurfacing cycle is likely to be 10 to 12 years, which I am advised is a reasonable life expectancy for an average road surface. I believe that resurfacing works need to be done in a concerted, planned manner. This will be the case for the future. The figure of £551,000 under subhead 5(b), the resurfacing roads programme, will be allocated to the resurfacing works

required for the following works which will be carried out during the course of this financial year. The roads that will be resurfaced using the department's labour force include the following: Naval Hospital Road; Prince Edward's Road; Flat Bastion Road; Red Sands Road; Europa Road, from Boyd Street to the junction with South Barrack Road; Fish Market Road; Market Place; Upper Witham's Road and St Joseph's Road; Glacis Estate; Moorish Castle Estate access road; Calpe Road; and Parson's Lane. In addition, works on building a pavement at Catalan Bay will be completed. Ramps for the disabled will be incorporated into pavements at Glacis Estate. A pavement will be constructed in the vicinity of the RSPCA kennels at Rosia Road and the pavement will be reconstructed along Rosia Road, from the junction of Scud Hill to New Mole Parade. Finally, this figure will also cover the cost of road marking for all the resurfaced roads. Further funds for roads in the sum of £285,000 will be made available from the Improvement and Development Fund. These projects, funding for which will be provided under subhead 5 of Head 103 of the Improvement and Development Fund, and using contract labour, are the following: the resurfacing of the roads on the Upper Rock; the completion of the Europort Road car park; and the construction of a centre reservation and embellishment of Europort Avenue. The construction of a centre reservation at Europort Avenue is a safety measure. The funds bid under this subhead cover the cost of materials for the three projects.

Under subhead 10 of Head 104 of the Improvement and Development Fund is the £525,000 earmarked for storm water drains and sewers replacement. The funds will cover the following four projects:

1. Replacement of the collapsed sewer from Convent Place to Referendum Gates. The whole of the collapsed sewer needs to be replaced and the sooner this is done the better; it is cheaper than patching up each time a hole appears in the road.
2. A new surface water drain needs to be laid from the junction of Main Street with Cooperage Lane to Landport in order to prevent flooding at the north end of Main Street.
3. Specialised contractors need to undertake desilting of the main sewer and storm water large diameter culverts.

4. Funds will also be devoted to emergency repairs and minor improvements to the sewer and storm water network.

Mr Speaker, I shall now comment on Head 6-D, Transport - Traffic. The sum of £96,900 at subhead 1(c), Allowances, requires explanation. There are many calls for driving examiners to test drivers outside normal working hours thereby securing an early date for a driving test instead of the usual wait of several months. Much of the demand comes from foreigners who have been prepared for their driving test by Gibraltar driving schools. There is a fee which accrues to Government from driving tests which are taken outside office hours. However, the driving examiners need to be remunerated for the extra hours they are called upon to work. This has been covered by overtime. For the future Government wish to put in place an allowance which will be payable to the driving examiners. I have given instructions that the introduction of this allowance must be expedited.

The other items on which I would comment come under subhead 4 of this Head, Traffic Security Services. The Miscellaneous Expenses of £34,500 under subhead 4(a) are in fact the running expenses of GSS. The figure of £300,000 under subhead 4(b), Parking Tickets and Tows - Gibraltar Security Service, covers the cost of salaries and allied payments due to employees of Gibraltar Security Services. There are 24 employees. The final item under this subhead, subhead 4(c), Traffic Compound - KIJY Parkings Limited, in the sum of £23,500 covers the fees incurred when GSS remove derelict vehicles at the request of the Police. They are placed in the KIJY compound until the Police gazette that vehicles will be disposed of. The fee for storage is £2.50 per day per vehicle and the monthly bill in this respect is about £2,000. There may be merit in scrutinising the benefit to Government of this contract and examining more cost effective substitutes. In fact, I would like to see GSS functioning much closer to the Royal Gibraltar Police and having its own compound. Other items of revenue which will accrue to Government in respect of the Transport - Traffic Section, are at subhead 46 to 48 of Revenue, Head 6. They are as follows: £55,000 in respect of vehicle testing; £55,000 in respect of vehicle registrations; and £60,000 in respect of traffic security services. Of greater concern to me is the fact that European Directive 91/328 of 21 June 1991 comes into force on 1 January 1998, and Gibraltar must comply with this Directive. Little progress was achieved by the previous administration to prepare Gibraltar for this. In essence, what Directive 328 of 1991

provides is that every motor vehicle with not more than eight seats excluding the driver's seat needs to be tested by a Motor Vehicle Examiner four years after the date on which it was first registered and thereafter every two years. In general terms, an MOT is required for all vehicles which are four or more years old. The Government have taken urgent measures to ensure that Gibraltar complies with this Directive. In the first instance, the old desalination plant is being prepared for use as a temporary MOT vehicle test centre. Provision is also being made under Head 103 of the Improvement and Development Fund; subhead 4, Refurbishment of Motor Vehicle Test Centre, to add an extension to the existing Motor Vehicle Test Centre which will be able to cater with the much larger volume of work which will result due to the EC Directive. The funds bid for under this subhead total £414,000. It would have been particularly helpful if there had been a phasing in of MOT tests on cars which are four or more years old. I believe it was irresponsible for the previous administration not to have taken appropriate steps to ensure that compliance with this EC Directive will not cause undue burden.

The final Head of Expenditure which comes under the Ministry of Tourism and Transport is Head 6-E, Transport - Port. I do not believe there is anything particularly contentious in the bid for expenditure in respect of subheads 1 to 4. They follow the pattern of previous years. The Chief Minister highlighted yesterday during his address statistics which clearly indicated growth in the Port. In fact, the Gibraltar Port is now the most important Port for bunkerers in the Mediterranean by a long way. Mr Speaker, the Government attach great importance to the re-establishment and development of Gibraltar Category 1 Shipping Registry both from the point of view of Port services development and the finance centre. The Government have now retrieved the Shipping Registry back into the public sector not being satisfied with the privatisation agreement for 20 years signed by the previous administration. This was not in the interest of either the taxpayer or finance centre professionals. The delay of re-establishing the Registry has been due to the process of cancellation of the privatisation agreement which has now been done, as announced earlier this year, at the time of the debate in the Supplementary Appropriation Bill. Opposition Members will be aware the Government agreed with the British Government to recruit a Maritime Administrator. Interviews for that recruitment took place earlier this week. Government expect the Registry will be fully operational within four to six weeks.

Turning now to the Improvement and Development Fund, Head 103, subhead 6, I am pleased to announce Government support for the Port Department in a very concrete way in the sum of £770,000. The Port Department has always considered itself to be the Cinderella of the disciplined, uniformed services. When this Government took office morale was low. This was partly attributable to a perception of Government under-funding of the Port Department which was translated into a sense of lack of interest in the issues of importance to the Port. I believe that the Port is a valuable, under-used asset. Already, during the course of the financial year ended 31 March 1997, some important works were commenced on the Port Lookout facility. These works will be completed shortly. A Port Study has been commissioned by Government so that appropriate strategies can be put in place for the development of the Port in the short, medium and long-term. The consultants chosen for this purpose were MDS Transmodal, who have considerable international experience in this field. The strengths of the Port will be built upon. Government will be pressing the MOD to release the portion of the detached mole which is still under MOD control and which is required for development of the facilities under the Port. The role of the Port Department staff will be changing in some respects. More emphasis is now being placed world-wide on pollution control mechanisms and strategies. The Port Department has a key role to play in this field. Members of the department are training as divers, adding a new capability to the department. Other changes will follow consequently on the opening of the Cruise Liner Terminal. There is a need for a proper security area in the Port. The infrastructure of the Port will be enhanced during the course of this financial year by the purchase of a new Port launch. The functions and roles for which the launch will be required will ultimately determine which vessel should be purchased. In addition, new fenders will be purchased and berthing catamarans. Works will also be carried out to build a security cabin in advance of the implementation of a Port security system. Security cameras will be installed at strategic points in the Port as part of the security system. With regard to revenue which will accrue from the Port Department, this appears under subheads 49 to 56 of Revenue Head 6 and totals £607,000. I would like to comment on one aspect of the revenue estimates. £180,000 is the forecast revenue from tonnage dues, as vessels calling for bunkers pay no tonnage dues. This helps to make Gibraltar competitive and provides healthy business for other areas of the Gibraltar economy. However, one of the items in the remit of the

Port consultants is to examine the structure of the fees presently in place and to make recommendations on what changes should be introduced. When the recommendations are studied and Government implement new strategies for the Port, there should be additional revenue which will accrue.

In summary, the Port Department is surging forward this financial year with added energy consequent on Government's commitment to bolster the role of the department. There is a considerable Government spend projected for Port infrastructure projects and the recommendations of the MDS Transmodal consultancy will ensure that the Port of Gibraltar is posed to enter the new millennium with plenty of commercial clout led by a properly resourced Port Department. Mr Speaker, this concludes my intervention.

HON H CORBY:

Mr Speaker, much has been said about the housing problem in Gibraltar and how the previous administration had claimed to have solved single-handedly the housing problem. However, after being elected into office and on assuming the responsibilities of Minister for Housing, I soon found out that this was far from the truth. Long-term contracts had been entered into with third parties who were now empowered with an essential aspect of housing, a role which was always entrusted to civil servants. As I said earlier, we still have a serious housing problem. There are still families living in Third World conditions.

There are a total of 286 applicants on the housing waiting list and a further 164 who have been categorised as either medical or social cases. In addition to this there are 226 applicants who are pending approved status in the housing waiting list. Some housing applicants have been waiting for over 17 years and it is time to give this matter the impetus and drive it so rightly deserves.

I am happy to announce that to ease this situation this Government will use Edinburgh House as part of the Government's rental stock. To this end Government have committed the sum of £1.5 million to refurbish this property. Negotiations with the Ministry of Defence for the hand-over of this Estate are now nearly completed.

HON J L BALDACHINO:

If the Minister will give way. How many people did he say were in the waiting list and how much money did he say he is going to spend in Edinburgh House?

HON H CORBY:

There are a total of 286 applicants on the housing waiting list; 164 who have been categorised either medical or social cases. In addition to that there are 226 applicants who are pending approved status. That means that they have to wait for two years to be on the housing waiting list. We will spend £1.5 million to refurbish Edinburgh House.

Another problem that has been encountered is the poor state of repair of Government flats. For the past few years little or no maintenance has been carried out to Government flats. This has resulted in the deterioration of the Government housing stock to such an extent that a great percentage of the housing stock has fallen into a poor state of repair. Unfortunately, the money that was allocated in the last few years for the refurbishment and repair of Government flats has not been used to this end by the Buildings and Works Department. A situation that we are determined to resolve. The Minister for Buildings and Works will expand on this in his intervention.

Another area of housing that needs to be tackled is the provision of housing specially tailored to meet the needs of the elderly. In order to rectify this shortfall, this Government will build a block of flats to meet the requirements of the elderly. These flats will be allocated solely to elderly people and no other persons will be allowed to live in these flats. As you can see from the Estimates of Expenditure there is a subhead within the Improvement and Development Fund to meet the cost of this project.

Another very critical housing problem we have inherited concerns the dilapidation of Westside II. As previously announced, Government will take the necessary steps to correct the situation and, as reported in the press, the total estimated bid may reach £32 million. Clearly this is a catastrophe. The list of defects in what is, to all intents and purposes, a new building are endless. Whilst the cause of these difficulties are yet to be fully determined, there is no doubt that this episode is Gibraltar's

major building catastrophe which we have inherited and we are now trying to rectify. Our concern now is to win back the confidence of those home buyers whose lives have been made miserable by their living conditions, the uncertainty of it all, and the very real cost of maintaining mortgage repayments throughout. We ask them to be patient and we offer them our determination and commitment to put the matter right once and for all.

Turning now to the Department of Social Services. When I assumed responsibility for this important department which I have the honour to represent, I found it to be hopelessly under-resourced. Morale was low; the department was equipped with outdated systems that are not cost effective and provoke over-stretching in staffing and man hours. All entries are recorded manually and logged in registers which belong more properly to the last century. To illustrate this if one asks for statistical information, as the Opposition Member recently requested, say, "How many persons will be eligible for pension receipts within the next two years?" The answer to any such question must be researched by reference to these registers; 15,000 entry searches later one has the answer. This state of affairs is not good enough, the time wasted in attending to these questions is considerable, and yet we know that the advances in computer technology can provide us with a cost effective alternative. My commitment is to modernise and adequately resource the DSS up into the new millennium.

At the moment we are looking at new technology which will enable Swipe Cards to be used. The Swipe Cards will include identification photographs and other information. This will avoid duplication or wrong payments and which, we are confident, will also stamp down on DSS fraud and errors that have cost the Gibraltar taxpayer many thousands of pounds. We are confident, however, that the Swipe Card system will result in a better and more efficient service to our customers. Computerisation will enable quicker access to statistical information and better use of human resources; a more reliable service and better cost effectiveness.

My portfolio also includes one of the most ancient buildings in our care; the Prison at Moorish Castle. This prison has been continuously underfunded and ignored since time immemorial. Surprisingly, or maybe not, just before the elections the previous administration thought fit to undertake remedial works. No tender was sought for these works, no

provisions were made for these works in the Estimates; the Superintendent of Prisons was not consulted and neither, for that matter, was the Heritage Trust. On my appointment I found the works in hand. These works were found to be inadequate and did not fulfil the needs they were designed for. Consequently, the works were stopped. Our administration is proud to announce, however, that we have not stopped resourcing the prison. This time, however, we approved the works in consultation with the Superintendent of Prisons. The works undertaken included modernised surveillance posts for the Prison Wardens and an upgraded electricity and water supply to the prison. There is also a provision in the Estimates for the upgrading of security cameras. I would also like to announce that the Heritage Trust has been consulted in connection with remedial works that need to be carried out to the old walls in order to make them safe.

Finally, Mr Speaker, and often closest to my heart, I turn to drugs rehabilitation. I am proud to announce that we have had very successful and supportive discussions with the MOD leading to an agreement for the use of Upper Bruce's Farm. This property, in excess of five acres, is located on the Upper Rock and will, I believe, prove an ideal location to deal with the growing problem of drug abuse and the repercussions it has both in the family and in our youth. I expect that the centre will be operational within three or four months and that, additionally, an affiliated branch of Narcotics Anonymous will be opened at the same time to provide after care and counselling as may be required. Thank you, Mr Speaker.

HON R MOR:

Mr Speaker, speaking on the general principles of the Bill, before I move on to make some comments and remarks on my shadow responsibilities. Yesterday the Chief Minister spent about over two hours talking about the presentation of the Accounts, talking about the clarity; the openness and after two hours he somewhat spoiled it when he suggested that the revenue might be too low and the expenditure might be too high. That is something, in my view, which is very much like a clock which one can see right through to the clockwork mechanism but the time could be anything between midnight and six o'clock. I think by saying that what the Chief Minister is showing is lack of confidence, lack of ability, uncertainty in being able to attract extra revenue to Gibraltar because the reality is that this last year and this coming year all the

money that they are spending and all the money they are talking about is not money which they have generated, it is not money they have made in revenue and in their policies; it is really money that has been there and which has been accumulated over between 1988 and 1996 by the GSLP administration. So it is indeed ironic that what is permitting the spending power and the generosity with which they are spending the money is precisely due to all the effort of the Opposition and not the Government. The irony in all this lies because we must not forget, Mr Speaker, that according to the GSD when they were in Opposition, we were supposed to have mismanaged the economy. There were claims, in some stages even that we were provoking economic ruin for Gibraltar. There were claims of optical illusions and that our economic plan had failed. Well, what sort of situation would we have today in Gibraltar if indeed we had mismanaged the economy? The Leader of the Opposition yesterday made reference to that, to what the position was in 1988 when we took office. If we were back in 1988 we would still have, not the problem that the Chief Minister has, he would have had a tremendous problem of housing in 1988 when there were, in fact, over 2,500 people waiting to be accommodated. The greatest social problem that we had in those days was in fact housing and we have tremendously improved the housing situation in Gibraltar and it is thanks to our economic ability that many Gibraltarians can now own their homes and in fact is something which the present Government, according to what the Chief Minister was saying yesterday, they intend to continue, in other words, the 50/50 scheme which permitted many Gibraltarians to now own their houses. What is perhaps most noteworthy that we achieved all this; we achieved improving the housing situation stock in Gibraltar not with overseas development paid from Britain which was the practice with the previous administration, but with our own economic ability and our own money. It was with our own money and our economic ability that we carried out an ambitious land reclamation which permitted three housing estates to be built; one superstore; two magnificent rowing clubs, and the greatest foreign investment in Gibraltar, an investment of £120 million. And this, Mr Speaker, created where only sea water existed before - the optical illusions which the GSD kept referring to. Had we mismanaged our economy and had our economic plan failed, there would have been no possibility at all of carrying out the enormous amount of infrastructure that we carried out throughout Gibraltar, not only to service the new buildings but also replacing old and outdated infrastructure. Had we failed, we would not have the excellent modern telecommunications that

we have today; we would not have the present incineration plant that we have today; we would not have the present extended air terminal facility; and the new planted green areas which the Minister made a reference to yesterday, he made a reference to Greenarc. Well, Greenarc was put there by us and the results, as can be seen, can be very much appreciated. Had we mismanaged our economy and had our economic plan failed, Mr Speaker, our students would still have to face the challenge of the pointage system. With this system it did not matter whether universities accepted our student's grades, so it is indeed thanks to the GSLP's economic ability that any student who is accepted by a university will now automatically receive a Government grant. Another area which has also been presented on a plate is funding from the European Union. When we came into power, Mr Speaker, obtaining funds from the European Union was considered an impossibility. Again, it is thanks to the GSLP that today we can have EU training funds and EU funded projects and obviously, had we mismanaged our economy we would not have been able to provide matching funds to attract this EU funding.

So coming back to the point I raised, Mr Speaker, as to what sort of situation should we have in Gibraltar today if, as the GSD used to say, we had mismanaged our economy and our economic plan had failed, well the answer is quite obvious that it would not have been possible to have done any of the things I have mentioned. The GSD Government would have therefore been faced with the housing problems in its enormity; old telecommunications which would not have attracted finance service business; sorting out the incineration problem; an inadequate air terminal facility; unkempt and dilapidated green areas; shabby tourist sites; only a few students going to university; no EU funding; no St Bernadette's; the list is endless, Mr Speaker. So of course they would neither have the cruise liner terminal or the Main Street pedestrianisation and no Community Care, obviously. So there was a great difference in the Gibraltar that we inherited and the Gibraltar that the GSD Government has inherited. Not only have we handed over a Gibraltar with the greatest transformation ever experienced in our political history and which will never be matched, as time will show, but after having successfully financed everything I have mentioned and many other things which would take too long to mention, we also accumulated, as my hon Colleague has mentioned, some £130 million in cash which were there when we left Government. Yet, Mr Speaker, as I have already mentioned, the GSD when in Opposition had

the cheek and the audacity to claim we were mismanaging the economy and bringing about economic ruin to Gibraltar. Well, they have had a year in which they have shown how they themselves manage our economy. So far all they seem to be doing is jumping on the bandwagon on any GSLP project that has been on stream and when this has finalised they have rushed over to have their photographs taken and obviously Francis Cantos frantically sending out press releases every day. I remember that on the eve of the last elections, during the Leader's Debate, the now Chief Minister said that if the GSD got into power tourists would flock overnight to Gibraltar. I remember that that is what he said at the time. I have not noticed, it is possible they may have come but I have not seen them, not flocking as the indications that he made. What I can say obviously is that the queues at the frontier continue the same as ever despite all the efforts of the Government to be reasonable, etc, etc - this is not the right debate to go into that at the moment. But in that same debate, Mr Speaker, we heard about the emphasis and priority the GSD was giving to tourism. Now and again we hear and we heard the Minister for Tourism speaking a short while ago, we hear about his travels to Trade Fairs and we hear of how important it is that we should attend and he keeps repeating the word "encouraging" about 10 times in the interview. I do not think it is something to be big-headed about because I can say that I have been hearing that same message over the last 30 years from everyone connected with tourism who have attended Trade Fairs and have had some connection with tourism. In that debate I think there was some indication of a Walt Disney character. Well we know that he crossed the Atlantic but he is still in Paris.

Mr Speaker, if I may just raise a point, during the contribution by the Minister for Social Affairs, he has not made any reference to the pensioners who have a gap in their contribution records which he undertook, about a year ago, that he was doing something about it. I hope if perhaps at the Committee Stage or at some stage we may get some clarification on that. There is something else I would like to raise and that is in connection with the Social Affairs budget. All the expenditure and all the revenue is supposed to be in the Accounts. I have looked and I cannot see any revenue arising from the administration costs of payments to Spanish pensioners. Is it that the United Kingdom is not going to be charged administration costs for the payment of Spanish pensions? I would like to know if the Government can provide some information on that. I would also like to give notice

that at the Committee Stage I will be raising some queries on the cost as to the income and the expenditure related to the Casemates and Devil's Tower Hostels.

Mr Speaker, to conclude, the bottom line of these Estimates is that come the end of the financial year in 1998, the projections are that Gibraltar will be even less economically self-sufficient than we were in 1988. One of the basis on which so much emphasis must be given to self-sufficiency is that if we are not self-sufficient we become vulnerable to political pressures and this is a very worrying factor for the Opposition but, as I say, what this budget is reflecting is that we are in danger of heading that way. Perhaps what is, in my view, not so important is the image as to imagination, economic imagination is I believe what is required and I cannot see that reflected in the Estimates that have been presented. Thank you, Mr Speaker.

HON DR B A LINARES:

Mr Speaker, there is good reason, without falling into complacency, to be satisfied with what is being achieved in our educational institutions and by those engaged in them. Credit is also due to the parents who have placed their confidence in the system and continue to give their support to the educators and teachers. The Government believe that any investment in education is an investment in our future as a civilised, skilled and prosperous community. Our commitment in this respect has been amply demonstrated in a very tangible manner since we came into office and many of the objectives in our manifesto have already been attained, in many cases entirely and in most cases partially or incipiently. Whilst our results in public examinations continue to rank our schools high among the most successful schools in Britain, we believe there are two areas in our schooling provision which require closer attention and development. In the first place children with special learning difficulties and disabilities. Secondly, there are many pupils who are not suited for strictly academic studies and who would greatly benefit from more practical and vocationally oriented courses in our secondary schools, in the college of Further Education and in the training centre. As regards children with special needs, the Government have moved fast and far. In September last year we increased the complement of teachers enabling schools to give more individual tuition to pupils with special needs. At the same time we created a Special Unit in Westside School and improved the staffing arrangements in the

Special Unit in Bishop Fitzgerald's School where 17 children are taught by two qualified teachers and two classroom aides. But this is an area where there is an on-going educational development, for example, in relation to the problems and difficulties of dyslexia and dyspraxia; and the recent OFSTED inspection of our schools was commissioned by the department precisely to assess our current practices and methods from an educational point of view, that is, in terms of planning, delivery and methodology. A preliminary draft report is now with us and as soon as it is finalised by the OFSTED team we shall initiate a process of in-service induction of our teachers along the lines recommended in this report.

Pre-schooling and early learning are recognised today as crucial factors in marking the educational path of children at later stages in their school progress, and this is particularly important for children with potential learning difficulties which need to be assessed at a very early stage. I was very pleased to announce, therefore, only a few weeks ago, that as from September this year, the Department of Education will be able to open at St Martin's School a pre-school assessment unit for children under three years of age. This is something our educators and professionals in this field have been aspiring to for a long time and which places our services in line with the most enlightened educational authorities in Europe. As regards mainstream nursery education, which is also one of our manifesto commitments, the House is aware, but I report here for the record that in September last year we opened a new nursery for 60 children in the north end of town where there was great demand and also granted tax incentive allowances to parents with children in private nurseries.

Mr Speaker, perhaps the most critical and urgent problem in terms of schooling faced by the Government when we came into office in May last year was the lack of accessible primary schools for the hugely increased population in the Westside area in recent years. It was a pressing need and a solution had to be found quickly. By the beginning of the academic year in September, Bishop Fitzgerald School and the reception year of Governor's Meadow First School could be settled in the New Camp complex at Westside. I am happy to report that the initial teething problems raised before in this House have now been overcome and the schools in New Camp are generally recognised by parents, teachers and children as very attractive, safe and well-resourced. This process will be complete when the extensive construction now taking place in the complex, and for which provision is made in this Budget to

the value of £637,000 will enable us to accommodate the whole of Governor's Meadow School which will be moved from their present site in Alameda Parade.

Similarly, the College of Further Education is now well established in the premises vacated by Bishop Fitzgerald School. And this, Mr Speaker, brings me to the point raised earlier concerning the Government's commitment to vocational education and professional training. The College is now equipped with state-of-the-art computer hardware and software to the tune of £100,000 so that the College has become a veritable Information Technology Centre in Gibraltar, able to meet the increasing demands of the finance and business industries. And quite apart from the traditional full-time courses for school leavers, the College is currently running a wide range of professional training courses for nearly 200 adult employees with local firms on a day or time-release basis. Courses such as the Banking Certificates, Accounting Certificates, the Legal Secretary's Certificate, the Private Secretary's Certificate, the Certificate in Office Technology and the foundation course for Chartered Secretaries and Administrators, etc are currently being taught in the College and they are validated, monitored and moderated by the relevant institutions in UK such as the Association of Accounting Technicians, the Institute of Legal Executives, the London Chamber of Commerce and Industry, the Institute of Qualified Private Secretaries and the prestigious Institute of Chartered Secretaries and Administrators. The Government believe that systematic training in basic and professional skills lies at the very root of our job creation policies, and I am pleased to announce that the initiatives already taken in the College of Further Education will soon be greatly expanded and facilitated by establishing Bleak House, once the adult education centre of the MOD, as an institution of further education not only for the private sector but also for civil servants in order to enhance the quality of our public service. We aim that by September this year courses for staff in the hotel industry to which my hon Colleague, the Minister for Tourism, has referred, will have got off the ground in the new facilities at Bleak House.

Mr Speaker, another vital element in a job creation programme must be a fine-tuned careers advisory service for school leavers to ensure they have correct and realistic information about job prospects and opportunities. This service was scrapped by the previous administration in 1990 but we have now taken a big step to re-establish the service by

opening a large and well-resourced Youth Conference Centre at Montagu Bastion and I am pleased to say that it is already widely used by school leavers and youth groups and also by private firms organising staff development seminars.

Mr Speaker, although our youth are now preserved from the scourge of the tobacco trade, Gibraltar is not immune from world-wide threats which endanger the moral and physical welfare of our youth, such as drugs, pornography, violence and vandalism. My Government are committed to genuine preventive action in terms of social education at all levels and healthy leisure and sports facilities. In this context I am pleased to draw the attention of the House to the budgetary provision of £178,000 for the construction of new club premises at the Adventure Playground at Laguna Estate.

Mr Speaker, in order to avoid complacency, my department is ever watchful that schools, and indeed individual teachers, failing to meet the standards to which parents and children are entitled must be called to task. It is for this reason that we have taken the difficult and unpleasant decision to close down St Peter's School at Catalan Bay; we have manifest evidence that, in spite of the efforts of the staff, because of the nature of the school, the children are getting short shrift in terms of what the national curriculum has to offer. It would be unfair and indeed illegal to perpetuate this situation purely out of political or electoral expediency. And to assure continued quality in our educational product the Department of Education has, over the past academic year, contracted top experts and consultants from UK to carry out assessments, inspections and in-service training for teachers and other professionals engaged in our educational services. In order to continue this process of self analysis and staff appraisal and development, £36,000 have been earmarked in this year's Budget for this purpose.

Mr Speaker, I would like now to turn the attention of the House to the cultural scenario where it is also my Ministerial portfolio to perform. On entering this field I have found a situation akin to that described in the play "Six Characters in Search of an Author", a great deal of talent and effort and enthusiasm shown by multiple individuals and groups but whose initiatives are fragmented and sporadic for lack of a coherent cultural policy and programme. For this reason we are about to reactivate the Arts Advisory Council, a body which will represent different areas of artistic interest in Gibraltar and serve to draw a

coherent and co-ordinated policy for promoting and supporting arts development in Gibraltar and also widen the scope of artistic and cultural activities by building working relationships with other authorities abroad. More physically and practically, we will carry out some initial and essential refurbishment to the Ince's Hall and Key and Anchor complex which are worthy heritage buildings and which have been allowed to fall into a sorry state of disrepair over recent years. £121,000 have been budgeted for this purpose and work will begin soon to make of this whole complex a cultural centre twinned to the adjacent John Mackintosh Hall. The John Mackintosh Hall is an institution of which we feel proud. It was bequeathed to the people of Gibraltar by the late John Mackintosh determining in his Will that it was to be used, "only for educational and cultural purposes and generally to promote and strengthen, by educational means, the ties between Great Britain and Gibraltar". The Hall is leased to the Government of Gibraltar by the late John Mackintosh Trust and during the previous administration the management and running of the Hall was contracted out to a private agency funded by the Government. Whereas it is the Government's intention to honour this contractual arrangement, we must see to it that the agents are fully accountable to the Government in terms of the Hall's finances, operations and activities, and for this purpose we have reactivated the Board of Management of the John Mackintosh Hall which has not met since 6 April 1993, that is, since the running of the Hall was privatised.

Mr Speaker, although late in my report, I give great priority to my Ministerial responsibility for the disabled. The mark of a caring and humanistic Government must surely be reflected in its real concern for the welfare of the weakest in our society. Once again, here I have found a situation where there is a great deal of goodwill and genuine dedication and generous devotion among so many persons and, indeed, by the community as a whole but where many have to work often with frustration and ineffectually because of the lack of rational planning, professional backing and coherent policy. I have, therefore, sought the advice and assistance of a prestigious organisation in Britain engaged in services throughout the country, both educational and residential, for persons with mental handicap and multiple learning and physical disabilities, including children and adults showing very challenging behaviour. Experts from this organisation have reviewed our services locally and have only this last week presented a wide-ranging report which looks at our community care as a whole, including not only our

educational, social and residential provision for the disabled but also social work, probation work, services for the elderly and home care services. We shall now be studying their recommendations and proposals and in due course we shall be in a position to carry out an appropriate restructuring and developmental exercise in these vital areas which reflect the quality of our social life as a caring community.

May I thank you, Mr Speaker, and all Members of the House for the attention given to my submission and I commend the items of expenditure under Head 1 and under head 102 of the Estimates of Expenditure 1997/98 for the approval of the House.

HON J GABAY:

Mr Speaker, the Minister for Education has just remarked on the famous modern play of, "Six Characters in Search of an Author". I really think it should be interpreted the other way round, here is an author in search of six characters and in a way that in fact has been the whole spirit of the programme that he has presented to us. One would have thought that nothing has happened in the political field of education since the arrival of this Government and this Minister. As an introduction, I would like to say that the almost £14 million allotted to the Ministry of Education, the Disabled, Culture and Consumer Affairs, in a way follows a pattern that has been very firmly set during the last two years of GSLP administration.

HON DR B A LINARES:

Will the hon Member give way?

HON J GABAY:

I will not give way.

HON DR B A LINARES:

It is a question of figures involved.

HON J GABAY:

It is a pattern that has been set and which of course the Minister has praised in the past in a different capacity. There are, of course, refinements, but these are the natural progression of the pattern that has been set. Even when you look at the allocation of funds, there are little rises here and little declines there, but the overall picture reflects the concern of this community across the political divide, in our concern to the welfare and education of our children. This is why rather than again talk about image, intentions, ideals, morality, I would like simply, since we do not think for one moment that the Government have a monopoly on morality, although there is hardly a day when something is not reported as claiming the high moral ground. In fact, Mr Speaker, I think that if the Chief Minister continues to ride on this cloud of morality, he will soon be reaching the sheer heights of mysticism. We all know that there is a reality, in fact, that we have to assess apart from all these ideas and I think this brings me to my main point, and that is a practical issue and that of course is the issue of St Peter's, which again we are given the impression that for the salvation of the pupils there, we need to close down the school. Let me start by saying that the closure of a school is always a sad occasion and because it is sad it cannot be dismissed as the Minister has done on purely emotional grounds. There is a marked stubbornness in the way the problem has been handled or the problem in fact created. I believe it was announced on the 7 January, that because of the rock falls it would be necessary to accommodate the school in the Catalan Bay Social Club. No mention was made at the time of a possible closure. It was merely a matter of waiting for a definitive solution to the rock fall problem which appeared then that it would be solved by the beginning of the September term. What is transparent in the attitude of the Government over this matter is that they appear to try to use the safety element as the excuse for closing down the school. I say that it is an excuse because nobody would be more concerned about the safety of their children than the parents themselves and they remained totally unconvinced. One would have thought, if we judge the situation by the line taken by the Government, that the rock falls are going to come directly on to the school and nowhere else, the area has not been declared unsafe. A bus stop is used opposite the school which children use to get to school, the houses around the area, there is no talk about relocating them and so on. So, it seems to me some sort of casuistic attempt to close the

school on those grounds when it appeared to the Government of course that the argument was not having the right impact on parents, the committee of parents, the wider population of Catalan Bay, then the whole idea of an education rationale was added on to it. All of a sudden the demands of a national curriculum become the tabloids of the law, a doctrinaire attitude is assumed that they are receiving sub-standard education, and in order to redeem them of that we need to move them out. On this score as well the parents remain totally unconvinced and rightly so. No documentary evidence has been produced at all that might have convinced the parents. In effect the parents have said that they are opened to convincing on this subject and I can say having met the Parents' Association, they are extremely well briefed, extremely open minded and extremely intelligent in understanding the implications for closure or refurbishing of the school. There is so much on the subject that I would like to single out a couple of more points, or perhaps to economise on time, read in summary form some of the points listed by the parents. First no reports or part of reports have been made available on the issues of safety or education.

HON DR B A LINARES:

If the hon Member will give way?

HON J GABAY:

I will not give way.

MR SPEAKER:

He is not prepared to give way.

HON J GABAY:

Mr Speaker, I am not prepared to cut the thread of the argument. We have listened to very long speeches on the other side. No doubt voluminously prepared by civil servants.

HON DR B A LINARES:

Mr Speaker, on a point of order.

MR SPEAKER:

There is a point of order, now you sit down. You tell me what the point of order is.

HON DR B A LINARES:

It should be in order within this House that the truth is established, factual truth, not valued judgement, and it is on that basis that I say that the actual part of the OFSTED Report referring to the problems of the small school, St Peter's, has been actually verbatim quoted to the parents committee, and in fact it was published with quotation marks, extracted from the report in a letter of mine in the Gibraltar Chronicle. That is a fact.

MR SPEAKER:

All right, a point of order, carry on.

HON J GABAY:

Mr Speaker, talking about that point of fact, all it does it adds insult to injury because as he well knows, the OFSTED inspectors did not come to Gibraltar, other than for an assessment on special needs. This was their declared view point on television. What appears to be more credible actually is that the Minister felt, "Well they happen to be here we might as well get them to rubber stamp this as greater authority for a move that we have had in mind." This is how the parents see it, this is how I see it and I think this is how any detached assessment of it would tend to see it. Needless to say, OFSTED Reports are published publicly in the United Kingdom for public analysis by the media, the schools, the parents, this has not been the case here. This has just not been the case and in fact the Parents' Association took the initiative of consulting OFSTED in the United Kingdom and apparently they seemed to be amazed that the public had not been informed as to the contents of this Report. These are the facts as I understand them. The third point was that there is no documentary evidence that the children had been subjected to sub-standard education. There is none. They have asked, give us some historic statistics, analysis, that show that the children, once moving into middle schools, performed badly as the result of being educationally deprived. This has not been forthcoming, neither have the

parents been convinced on the documentary basis that they would do better when they move to the next school. There is unanimity amongst all parents of children in the school, almost 100 per cent backing from the inhabitants of Catalan Bay, that the school should not be closed. Of course, they cannot, although I have mentioned it once, they cannot understand how the school is declared unsafe and yet the whole of Sir Herbert Miles Road and the surrounding dwellings and the rest of the area remain unaffected. They feel as well that the necessary value has not been attached to the fact that small classes compliment a good education, particularly at that early stage. When this was mooted before the closure of the school, the GTA was the main agent in the move against closure. At the moment, as I understand it, the present GTA is neutral on the subject or will neither recommend in one direction or another.

HON CHIEF MINISTER:

Mr Speaker, on a point of order, the hon Member must adhere to the facts. Only three days ago I read a letter in the Chronicle from the President of the GTA explaining why the GTA was in favour of the closure of the school. He cannot now stand there and say that they are either neutral or not willing to comment. This is simply not true.

HON J GABAY:

The points that I am making is my own assessment of the situation after talking to teachers and talking to two past presidents or chairmen of the Teachers' Association. I do not want to cast any aspersions on why the present attitude is as it is. I leave it open to speculation. I feel that the fact that in the past the Teachers' Association has objected to it, the fact that I have had this impression given to me is sufficient insofar as I am concerned. Let me come to one particular point relevant in this discussion to do with what one might call consultation, the process of consultation. I said not all that long ago, that consultation obviously is a good thing. What is questionable is when we get the impression that consultation is becoming a tool which can be used to gear opinion in one direction or another as seems fit in a particular context. If consultation is important where you have such unanimity, it seems to me ridiculous that there was no real consultation on the subject of closure prior to the announcement by the Department of Education that the school was to be closed. There were two meetings with the Parents'

Association simply to cover the practicalities of the move from the present school down to the Social Club. This is what the Parents' Association tell me. If the Minister wishes to say that they are lying, I suppose he is entitled to do so and then they can take it up. This is what I have been informed by the Committee. Therefore I find that the decision making procedure in this case is really quite unacceptable. I do recall on the subject and I have referred to it twice already, the Chief Minister's dictum that consultation does not mean having to seek permission from those whom you consult. The cliché makes sense on the surface but it also gives an idea of what is underlined and this is, in the final case, we can use again the Chief Minister's famous phrase, "It is a matter of judgement", as we were told with Lover's Lane and so on. A matter of judgement. Finally, on this subject, let me just talk a little about Catalan Bay Village itself.

MR SPEAKER:

The only thing, is this relevant to the Appropriation Bill?

HON J GABAY:

Yes, it is relevant.

MR SPEAKER:

I will not stop you.

HON J GABAY:

The village is unique in Gibraltar. It has an ethnic background entirely of its own. It is a closely knit society. I see a parallel between our own concern to prove our identity as Gibraltar and to see reflected the same attitude on our part to the little village, the one and single village that we have in Gibraltar. I think the removal of the school removes one of the pillars of village life. The only other one that remains of equal importance is actually the village church. I sincerely hope that the Minister will not be thinking of some national religion curriculum whereby the children would be sent to the Cathedral because there are better facilities than those which exists in a little school. Finally, on this point, Mr Speaker, I would add my plea to the plea of the Parents' Committee and the inhabitants of Catalan Bay and others beyond it, to

continue an exchange of views with them and to take on board their ideas in a proper basis of consultation. I think this would be welcomed all round. I do know that there are petitions being signed and so on, but this is on the periphery. Lastly, on this point, the Education Ordinance does in fact mention the significance of the wishes of the parents in the choice of school, provided they are not restricted, of course, those wishes by unreasonable expenditure or the fact that they might not receive a proper education. The Minister unfortunately has not convinced us or the parents on those two scores, so I leave that particular point there.

I want to mention now very briefly, the Chief Minister and the Leader of the Opposition as well have debated the question of special funds and of course there is a radical different approach between the two leaders, I share the view of the Leader of the Opposition, particularly with regard to the Scholarship Fund. I feel that by having a Special Fund it gives us a feeling on a continuing basis of a certain capacity and level of confidence in resources being earmarked for a particular specific responsibility. I think there is merit in singling out funds for certain operations but I will not labour that point because it has been fully debated already and I think the point has been made. With regard to the comments on provision for the disabled, I think we all share our concern and I certainly agree with the Minister that really the moral calibre of the community must essentially be judged by the way it treats its elderly, its disabled, its children and so on. We are not going to argue that because I am sure that we will not depart from the same foundation. There is one point which I would like to mention with regard to the disabled. I think that the previous administration adapted the Post Office to meet some of the needs of the disabled and I believe that a commitment was given on our part that we would undertake to adapt to the needs of the disabled one public building each year. This was our commitment, of course, we are not in a position to guarantee that commitment, but I mention it as a point of interest which might be undertaken by the present administration. I mention that because I did not see in Head 1(b) Support for the Disabled, any particular monies allotted to them.

From a practical angle, since I see no provision for it and I did not expect to see any provision for it, but I did mention in the past how important it might be with regard to the teaching of French in our schools to have an "assistante". The reason why I bring this up again is that I have always been convinced and I continue to be convinced that

given the colloquial approach to both GCSE and 'A' Level French, that it would be at a relatively minor expense, a real contribution to the standards to be reached in French in view of these examinations. I do not share the Minister's view that this might undermine the position of the more academic non-French teachers of the language who do a remarkable job and amongst whom I include myself in terms of my life occupation continuing to this very day. There is no competition between the two dimensions. I think it is refreshing and creative for a young graduate, French born, to have this direct contact with both the staff and with the pupils and this of course is a regular practice in well run schools in the United Kingdom. Finally, I would like to make one point, since obviously I am going to relate it to budgetary considerations, it is excluded, so I suppose omissions are as important.

HON DR B A LINARES:

Would the hon Member give way, just as a matter of information, Head 1 - A, subhead 8, is a vote for Intensive Language Courses £4,000. It is a broad assignment for the development of language expertise. It could easily cover that contingency if it was assessed by the experts to be a necessary provision. As it is, there is provision if thought to be necessary.

HON J GABAY:

Mr Speaker, I welcome that remark and perhaps it may move in that direction, I would certainly hope that it does. Anyway, finally, the question which I have raised in the House before and of course it has great budgetary significance or indeed financial implications, and that is the question of a University in Gibraltar. We are not talking about a College for vocational training and so on. The reason why I bring this up should be quite clear to the Government. The previous administration got involved in a project for the creation of a University in Gibraltar with Sheffield University and indeed the present Minister for Education was personally involved and quite elated at the thought of this possibility and this is commendable. In fact, it was considered so commendable that it played a role in the GSD manifesto for the last election. And it was a valid point. Here was something of great academic significance and possibly as well economic benefits that was going to be heralded by the new administration. The whole idea seems to have died out. I am not suggesting for one moment that the Government should undertake the

financial responsibility of creating it but at least some resources put aside to continue to develop an idea that seemed eminently beneficial to the community on many grounds. If this does not happen, I think one could easily feel that it was included in the manifesto as some enormity that would appeal to the electorate and once the elections are over, for one reason or another, the whole idea can be dropped and forgotten, sort of taking for granted the short memory of the electorate. I sincerely hope that it may turn out to be otherwise. Thank you, Mr Speaker.

HON J J NETTO:

Mr Speaker, at last year's budget speech, in matters relating to Buildings and Works, I said, amongst other things, that various reports were being compiled and considered by the department. I ended up by saying that it was the aspiration of the Government to deliver success in partnership between the Government and its employees by giving them security in employment in return for providing quality services for the user and value for money to the taxpayer. In a phrase, a strategy for survival and success. After that speech I became aware of various damaging reports that the Opposition had concealed from the House and the public at large. The nature of these reports criticised the department for its failure to exercise proper financial and management control resulting in the misuse and waste of public funds and also the subject of more general criticisms about the standard of its operations and works.

HON J J BOSSANO:

Mr Speaker, on a point of order. Where is that in the Estimates that the House is being asked to appropriate for 1997/98? The Minister is talking about a report reflected in the audited accounts of 1994/95 and 1993/94 and we have been told the same things now for at least a dozen times in this House. It is quite extraordinary the standard that they have in points of order on the Government side and their performance when they stand up and speak.

HON CHIEF MINISTER:

Mr Speaker, with respect, it is not for the Opposition to draw or try to develop the point that you made, Mr Speaker, when addressing the previous speaker. It is a tradition, at least as old as the Constitution and

probably older because the practice probably goes back long before the existence of this House, that the debate on the Appropriation Bill is not technically simply a debate on the Bill but it is a general debate on the state of the economy of Gibraltar. The Government are not willing to allow that tradition to be dislodged. And it seems extraordinary that the Leader of the Opposition should seek to make a point of order out of a Minister talking to his departmental, Buildings and Works, debate based on value for money and expect that he should not revisit the history which leads him to the decisions that he has had to make. Therefore, Mr Speaker, if that is a point of order, which I doubt, it is not one which I think has any merit.

HON J J BOSSANO:

A point of order that he said that the report which was not revealed and that report is reflected in comments of the Auditor's Report in 1994 and 1995 and he has already told us that several times.

MR SPEAKER:

I have listened to the point of order. The point has been made, please continue.

HON J J NETTO:

Mr Speaker, what the Leader of the Opposition has said does not really come under a point of order. I am aware of the criticisms by successive Principal Auditors but this is not the report which I say is concealed from the House. The report concealed by the Opposition when they were in Government is the Price Waterhouse Report of March 1993 from which I shall quote later on.

Mr Speaker, the criticisms and findings of all these various reports, the Price Waterhouse and Principal Auditor's Report, both internal and external have given me cause for serious concern as Minister responsible. The issues highlighted are:

1. The Department lacked any proper or sufficient degree of control over its resources in relation to labour or materials;

2. For successive financial years, the overtime and bonuses as criticised by the Price Waterhouse Report in March 1993, paid to the operations section, had far exceeded the budget allocations in the Department. Throughout many years there had been an unacceptable lax control of overtime and bonuses without proper controls being carried.

Mr Speaker, I would like to quote some sections of the reports starting with the Price Waterhouse Report of March 1993. On page 2, in the introduction they say, "The Principal Auditor of Gibraltar has become increasingly concerned with the quality of the financial control exercised over housing maintenance works and the performance of the labour force. In particular he is concerned that weaknesses in procedures may prevent housing management from securing the economy, efficiency and effectiveness than the resources deployed to undertake maintenance and refurbishment work". On page 2 on the "Review of Overtime Arrangements", it says, "During the course of our discussions with housing personnel, we were informed that overtime is not always worked and that on average men only work a 30 hour week. On the basis of these discussions, we estimate that in 1991/92 only 35 per cent of maintenance and refurbishment labour cost were in respect of hours worked and the cost of non-attendance time was approximately £2 million." On page 3, under the "Review of Job Estimates", points 13, 14 and 15, it says, "Our work has also revealed that no proper monitoring of job cost is undertaken once work has started. In our view, the arrangements for the preparation and authorisation of job estimates and the absence of proper monitoring procedures does not encourage efficiency or facilitates the control of cost. We have ascertained that it is not uncommon for bonus payments to be made where work is finished in advance of the estimated completion date. In our view, the estimating process is not sufficiently rigorous to produce reliable job costings. In these circumstances, we do not believe that performance against the job estimate should be used as a basis for evaluating productivity or the calculation of bonus payments. We found that the quality and quantity of the information contained in the job estimate sheets were not sufficient for us to compare the estimates with the cost of similar work undertaken by local authorities in the UK". And, Mr Speaker, in relation to the then Principal Auditor, Mr Walter Crisp, in his internal report of the 23 June 1994, under "Conclusions and Recommendations" he said, "Following on from the irregularities noted in the approval of bonus schemes, we recommend the following actions:- (a) the Quantity

Surveyor must ensure that he signs all future estimates; (b) all job sheets should be signed by the acting SPTO performing the estimate; (c) all job sheets should exhibit authorisation by the Housing Manager; and (d) the acting SPTO should not be authorising other PTO's estimates especially as in some instances he both signs as PTO and authorises the estimate or signs as PTO and receives a bonus. The irregularities surrounding the Picton House project indicate a breakdown in the system of control for such projects and raises a number of issues. The Quantity Surveyor's estimate would seem to have been by-passed, if not undermined. The system for recording actual labour and material cost can be rendered ineffectual if incorrect allocations are made on time sheets and material costs are incorrectly relayed by the acting SPTO to the SEO. There is an important communication gap between the HEO effecting payments of bonuses and in the SEO's documenting project costs".

Mr Speaker, in relation to other internal reports by the Purchasing and Monitoring Unit, we know that from August 1995 to October 1996, a total of 13,610 Local Purchase Orders were issued by the department. Of these a total of 8,816, 65 per cent, were incomplete in that the column designated for building or place was not stated. This makes it extremely difficult, if not impossible, to identify with any degree of accuracy the actual works for which the materials were purchased. The over expenditure within the above period is £74,200. This is due: (a) as a result of the purchase, at inflated prices, of items for which tenders had been obtained, from sources other than the successful tenderer, without further tender; and (b) as a result of the purchase of items from actual tenderers at prices in excess of the actual tender price.

Mr Speaker, in the first few months of Government, I initiated a series of meetings with the tenants associations in order to make the department more responsive to the needs of the estates. Months later I had to call off such meetings due to the lack of progress in the department's programme of works. In October the high levels of payment of overtime and bonuses had been such that I severely curtailed overtime payments and stopped all new bonuses schemes. Later on, in January, I completely stopped all overtime except in cases of emergencies. We have seen throughout the year constant criticisms from tenants and tenants associations alike for the lack of progress in the service that the department ought to be carrying out. It is for this reason that in early February the Personnel Department offered

TGWU/ACCTS an incentive scheme which: (1) establishes a measurable connection between earnings and output; (2) introduces a system that enables the department to measure the cost, in labour and materials, of each job; (3) ensures that all the work of the department, as identified by management in the implementation of Government policy, is undertaken to an adequate standard and in a reasonable period of time. The Government sincerely hope that the above package will be put to a secret ballot to the workforce in order to ascertain the views of its employees.

Mr Speaker, throughout the last financial year I have been the Minister responsible for North Front Cemetery. It gives me great pleasure to see during this current financial year a major refurbishment to the cemetery after years of neglect and abandonment. Very soon we shall see work commencing on the resurfacing of all the pathways both in North Front Cemetery and the Jewish Cemetery. Additionally new enhanced facilities, both for the staff and the service users of the cemetery will be in place. One of the contracts which will be terminated in relation to the cemetery, is the contract that actually expired, with Gibraltarflora, about six months or eight months ago. So the Government's position is going to be that there will be a phasing out period of Gibraltarflora and that work in terms of maintenance will be carried out by Gibraltar Community Projects Limited. Throughout the last year we saw the reactivation of the Board of Visitors to the cemetery giving the Government a lot of their time and advice for the benefit of all. A new draft Bill is being prepared which will replace the current Ordinance. Finally, problems in relation to the work undertaken by the gravediggers and public criticism in relation to such work, has meant that the services provided by the gravediggers could be better served and in the public interest if such services were contracted out to the private sector. Therefore a programme of consultation with the union will be initiated which could end up offering tenders for the award of the services to be undertaken.

Mr Speaker, it is true to say that the Purchasing and Monitoring Unit was created before this administration came into Government. But it is also true to say that the unit did not operate anyway near as it does today. The reason for this is that it did not have enough resources, such as computers, to input the information; they had insufficient access to LPO books and contractor's payment files; and more importantly, they did not have the political support required to put to an end years of misuse of public funds. This situation changed very rapidly after the 16

May 1996. Soon staff members found a new Minister who had the political will to back the unit and provide them with the resources and accessibility to all Government documents. I have often heard in different quarters that the civil service lacks professionalism to undertake Government policies. I have to say that the staff in the Purchasing and Monitoring Unit have been able to develop Government policies very successfully and the results are already remarkable in being able: (1) to centralise and control the purchase of bulk items for Government use; (2) to exercise on-going internal audit; (3) to ensure adherence to tender procedures and regulations; and (4) generally to police public procurement practices and procedures and to deter abuses of the system. Nevertheless, despite such improvements in such short period of time, the whole unit with all of its staff, will during the course of this financial year be transferred to the Secretariat. It is the Government's view that for the Purchasing and Monitoring Unit to be even more effective it should stand more autonomous from departments such as Buildings and Works which is one of the greatest purchasers of items. I personally would like to record in Hansard my thanks to members of the Purchasing and Monitoring Unit for their total loyalty and dedication in their success in implementing Government policies. I am sure that such loyalty will continue in the new set-up.

Mr Speaker, now turning to Employment and Training issues, we have seen the repeal of the commonly known as the 1st July Law at the end of August of last year, despite comments that such repeal would anticipate an avalanche of job seekers from the Costa del Sol. Regardless of such alarmist remarks, that did not stop the Government from adopting a position based on moral, constitutional and EU compliance. Despite this, figures for UK nationals registered and obtaining employment in Gibraltar has not been portrayed as serious as Opposition Members suggested.

Mr Speaker, last week we saw the reactivation of the Labour Advisory Board. I say the reactivation because this Board was originally established by the young AACR in the 1950's. This Board, in compliance with the relevant ILO Conventions, worked well right up to 1989. However, it ceased to exist as the GSLP administration failed to consult and seek consensus in labour and training matters with employers and unions. This Government, more in tune with the European and ILO philosophy, do see the need to work in partnership with employers and unions whenever this is possible, and it is for this

reason that this Government value the input that can be made by the social partners.

Mr Speaker, there is much that needs doing at the ETB during the second year of Government of the GSD. We still need to end the process of the final composition and restructure of this department. Soon we shall see three new Labour Inspectors from within the civil service in the new department; simultaneously to this we shall see amendments to the current legislation on illegal labour with a view to introducing tighter procedures and the imposition of substantial fines as a way of deterring certain employers from indulging in such practices. I would like to say here, Mr Speaker, one event of significance that will be happening in the next few weeks is that the entire Employment and Training Board, along with the various other members from various departments who are going to be transferred into the new Ministry of Employment, will be moving out from its current location in the Duke of Kent House. The reason for this is very simple, it is because on the one hand we have the demolition works which should start in a couple of weeks on the one end of the building; and on the other hand we have this growth of personnel as I just stated, within the Ministry of Employment and additionally the growth that will be taking place as a result of my hon Colleague, the Minister for Tourism and Transport. Currently there is a log jam which impedes all this to take place. We have looked at various buildings throughout Gibraltar because we really have to move out quickly and the offices have to be readily available for the staff. So we have come to the conclusion that for an interim period, for about six to nine months, the only premises available for us is in New Harbours. I am not talking about units which are designed for either workshops or for warehouses but actually offices there for this interim period. These particular offices will be in much better conditions than they are currently for my staff in the Employment and Training Board. It will be better in terms of the customers that we have to see because we will be practising more open office planning. My only regret in this short period of time in moving to New Harbours would be that the facilities are not friendly to disabled people, especially people who are wheelchair bound. That is my regret for this short period of time. However, since it is considered to be only a short term period and New Harbours is not intended in any case to be a place to house either a Government department or a particular institution as the Employment and Training Board, we shall seek to accommodate the needs of the disabled people in the more permanent location thereafter.

Mr Speaker, one other area where the Government are considering bringing legislation is with regard to some employers being very quick in liquidating their companies and simultaneously creating new ones with the same directors, broadly with the same employees as before and doing the same kind of work as before. Nevertheless, in this process the original company leaves huge amounts of arrears in social insurance, income tax, and employment contributions. Additionally, they are quick in suggesting the making of applications to the Insolvency Fund for money owed to their employees, who in the main are transferred to the new company. It is for this reason that Government are considering bringing legislation similar to that in the UK in relation to the "Company Directors Disqualification Act 1986".

Mr Speaker, in matters of vocational training, this House has heard from me that the Government are not satisfied with the operation of the Vocational Cadet Training Scheme. In a broad sense it can be said that the Vocational Cadet Training Scheme has failed over the years to provide proper skills for the employees to compete in the labour market and it has also failed in providing long-term jobs for the cadets. More than anything else it was used by my predecessor as a tool for getting youngsters off the unemployment queues especially prior to the last general election. The Government will, during the course of this financial year, be moving away from this ineffective scheme and providing a new one which will be better both for youngsters and to business alike.

Mr Speaker, as from this financial year the Factories Ordinance along with the Factories Inspectors will come under the Ministry for Employment. Much, I feel, needs doing in this area. On the one hand we need to complete the transposition of EU Directives where dates implementation should have been some years back. Equally important the department has just started the process of creating greater awareness of these matters amongst employers in the private sector and Government departments. During the course of the year a comprehensive programme of courses amongst individual companies will be undertaken, free of charge. The same process will be carried out in Government departments. Additionally, a new Health and Safety Advisory Council will be created, modelled on the Health and Safety Commission in the UK. The Advisory Council will be professionally led

and be of much guidance for the betterment of health and safety practices.

Finally, Mr Speaker, in making a brief balance of Gibraltarians employed and unemployed for the last year, it would be as follows:

In 1995

Gibraltarians	Employed	1,907
	Average number unemployed	456

In 1996

Gibraltarians	Employed	1,986
	Average number unemployed	385

In 1997 - January/April

Gibraltarians	Employed	473
	Average number unemployed	453

In terms of open vacancies for 1996	3,631
Total filled vacancies	3,161

Open vacancies January/April 1997	1,134
Total filled vacancies	947

I am confident that after one year in Government the GSD have provided a firm foundation from where the economy will grow. We have seen how my other hon Colleagues, not least the Chief Minister, have been working hard to attend to the business environment for companies to grow on the one hand, and the political stability required for inward investment to be attracted on the other. No doubt throughout the year we shall learn from my other hon Colleagues of new business start-up and this coupled with the lead in Government in providing the investment in people's skills is the best ingredient for a strong healthy economy. Thank you.

HON J L BALDACHINO:

Mr Speaker, before I start my contribution, I would like to tell the Hon Mr Netto that he has not mentioned anything; he has gone back to 1993 but he has not mentioned anything of what has happened during the year he has been in office, nothing Mr Speaker. Let me start, first of all, on housing and I am inter-linking housing with Buildings and Works because they are inter-linked and I will prove that it is a failure to have them separate. When Public Works existed and which we brought back and it came under the Housing Department which later on, as a matter of fact, for two or three years we did separate when we were in Government but obviously then it went back to being the same thing. Let me start on housing, Mr Speaker; I have great regard for the Minister for Housing, the Hon Mr Corby, and he knows that but today he has disappointed me completely. He has come here and made a populist analysis of housing. I tell you, Mr Speaker, if he had taken office in 1988 when I took office and there were 2,126 applicants he would have shot himself. Today, according to my calculations, from his answers in this House, there are 512 applicants and I have joined them up together because when last year in my contribution when I separated them he stood up and said, "No, they are not 200-odd, they are 459 because you have left out the people in the waiting list who are still not eligible because of the two years waiting time." I have to go back in history unfortunately because of his contribution. I have no option but to do that. In 1988, and if he considers in 1997 a serious housing problem, how should I consider then in 1988 the 2,126? As an acute housing problem? The Minister in his wisdom does not really understand the history of housing. The problem in 1988 was not only that there were 2,126 people in the waiting list, the problem in 1988, after the Brussels Agreement was signed and I stood in this House in the Opposition benches and condemned the Brussels Agreement because it created an osmosis problem for us, there were no houses in Gibraltar to house our people in the waiting list. There had been a neglect since the Varyl Begg Estate was built and Varyl Begg Estate was built in 1972 by the Integration with Britain Party, not by the AACR, by the Integration with Britain Party. Since 1972 to 1988 no houses were built. I am saying this so that he understands because he says that he has a problem with 512.

HON H CORBY:

Mr Speaker,....

HON J L BALDACHINO:

Mr Speaker, I will give way to the hon Member if he lets me finish the sentence. His frustration of houses not being repaired and of substandard houses today, let me remind him that North Gorge was decanted by us, White Rock Camp was decanted by us, the Pre-Fabs only had 11 tenants when the Minister took over, the others were decanted by us. The Minister only had 11. That people do not want to move, that he has to negotiate, I understand that that is the position, but the frustration of not having repairs he should not criticise us, he should take it up with his Colleagues, because his Colleagues for a year have not done anything to repair because they are still trying to get negotiations with the Union to implement what he wants to implement, which he used to negotiate with me when he was in the Union. Today he wears the tie of the Union here, but maybe because he now wears a black tie, it has affected his memory, and he must remember, he was there, Mr Speaker, even though the Chancellor of the Exchequer today does not wear a black tie. Maybe he is more cautious than he is because it might affect his principles. But obviously he is attacking the people that he used to defend when he was in the Union. I remember, Mr Speaker, maybe he does not remember, he has sent a letter to people in the Buildings and Works, signed by him saying, "Tell us that you accept or I will now contract private firms". He took when we were in Office, Mr Speaker, the people that he is now criticising, into No.6 Convent Place, when somebody did a painting job for an elderly person.

HON J J NETTO:

Will the hon Member give way?

HON J L BALDACHINO:

I am not giving way to the Minister, I will give way when I am ready to give way and I will give way because then I can have another go at him. Mr Speaker, the Minister also mentioned the £32 million, so the frustration that he has, and I understand that he has a frustration, I understand that people come to see him, I understand that his hon Colleague has not got the pressure, I understand that, because he is the landlord and therefore if there is no repair, obviously they come to see him and not his hon Colleague. I understand the problems that he has,

but, Mr Speaker, it is almost a year now and the conversion of St Joseph's School has not been allocated. The Minister tells us that he has a serious housing problem, well he has four or five units there which still have not been allocated. Why the delay?

He also made reference, to the Housing Allocation Unit. I do not know how I should take that and I would like him to clarify that. The Minister said that there would be a difference if they were brought back to the civil service. I do not see how that would make any difference whatsoever because housing allocations are actually made by the Housing Allocation Committee under the Housing Special Powers Ordinance. So if anybody gets a unit, it is a unit that is allocated by the Housing Allocation Committee, so whether the units are in the private sector or by a private company obviously the allocation will be exactly the same by the Housing Allocation Unit, exactly the same. He mentions that they will be building one block of flats for the elderly people. I intend to ask the Minister more questions when he comes to the Committee Stage and when we come to Head 101 of the Improvement and Development Fund.

On the whole, Mr Speaker, one must look at this budget, at these Estimates with caution because I do not know if they are estimates or guesstimates, according to what the Chief Minister said, they are prudent but we do not know how prudent they are in Estimates or on the Revenue side. So therefore it is very difficult to judge in the question of employment what employment there will be. According to the Minister for Employment and Training, there is quite a substantial amount of money for training, yet he has been very vague. Very vague in explaining what type of training there will be apart from saying that some people will be trained or some of the youngsters will be trained within Government Services or Government Departments. How many? What is the projection of them finding an alternative job? In what trades? Another thing I would like an explanation on, the Minister for Education mentioned training for the tourist trade. From where will that money be provided? Will it be from the Education vote or from the Gibraltar Development Corporation where they have votes for courses? They have not mentioned which type of training, apart from the hon Member who said that there will be certain training in the tourist trade for guides and that sort of thing. There has been no mention of the school for catering which the Chief Minister mentioned in a television programme. We would also like to know on the question of, for

example, wage subsidies, which is £800,000, nobody has said anything of how they intend to implement it.

HON CHIEF MINISTER:

Mr Speaker, if the hon Member will give way. I did not refer to a school for catering. I referred to a hotel school, a tourist school, and it has been referred to at some length by the Minister for Education.

HON J L BALDACHINO:

Maybe the School of Tourism, maybe I misunderstood and maybe you are right. I am grateful for the clarification, Mr Speaker. Of course, very little has been done in the Buildings and Works, very little work. The Minister must recognise that very little has been done. The Minister for Buildings and Works laughs but he should ask his hon Colleague, not that he has told me but I know that he has queues waiting for him and pressure because they come to me as well, so I understand that.

HON J J NETTO:

If the hon Member will give way. Mr Speaker, there are a couple of points I think that I need to respond to because they are not true in the manner in which the hon Member has said them. First of all he pointed out the letter which I sent to all employees and he mentioned that in that letter I was telling the employees of perhaps contracting out some of the work. Well, Mr Speaker, it is very simple, this is the list as far as houses that need to be refurbished for my hon Colleague in Housing, but it also includes major works that needs to be done in the four different depots.

HON J L BALDACHINO:

Mr Speaker, what is the point of order?

MR SPEAKER:

It is not a point of order. He asked you to give way and you were so lenient that you gave way.

HON J J NETTO:

All of these works

MR SPEAKER:

Do not take advantage.

HON J J NETTO:

I will try to be as quick as possible. This is not work that has happened overnight, in the last 12 months, most of these works, more than 50 per cent of these works are overdue for more than two years, three years, four years. What does he say in relation to the scaffold which is still in Alameda? He said to the Tenants' Association that it was going to be done in 1992 and in 1997 it is still there. He did nothing. Mr Speaker, the difference is...

MR SPEAKER:

Yes, but now you are abusing the give way.

HON J L BALDACHINO:

I do not mind that the Minister abuses. He is talking nonsense, Mr Speaker, the reality is that let us see in the four years that they will be in Government the refurbishment that they will do and then we will be able to compare the refurbishment that was done when we were in office and the refurbishment that they will do whilst in office, as simple as that. Mr Speaker, it is not a policy of the Government not to pay overtime. I suppose it is the policy of the Government in his department but not in the other departments because if you look at the Department of Road Section and the Sewers, quite rightly, I am not criticising that they should not have overtime there, but if you look at the Department of the Sewers and the Highways, which now comes under the Hon Mr Holliday, there, there are provisions for 60 per cent of the wages in overtime and 25 per cent of the wages in bonuses. The Minister in his department only got to the 25 per cent in bonuses. Fine, that is the decision that he has taken. *[Interruption]* No, Mr Speaker, I am quoting from the Estimates that they have provided and that is correct. What is he going to tell me that it is not correct? What is he going to tell me that

that is not happening? It is there. Maybe there is no requirement for overtime in the Buildings and Works, I am not disputing that, but what he cannot say is that it is the policy of the Government. It is not. It is the policy in his department. Obviously not everything is well in the Buildings and Works, I understand that. Not everything is rosy in the Buildings and Works. He has embarked on the same programme that I had with him, Mr Speaker, when he was the Branch Officer. He said that there is going to be changes in the training system. I understand by what the Hon Dr Linares or the Hon Mr Holliday said, I think that both actually on training claimed that there will be international qualifications of recognition, but obviously the Minister for Employment and Training has not explained what qualifications, even though the Chief Minister on passing said that some people would be put in Government Departments, even though there will not be any commitment of employment at the end but that it would not be the same as the apprenticeships that existed before, but it would be a different type of qualification, but we have not had an explanation to what qualifications those would be. Obviously, Mr Speaker, what I am being accused by the Minister for Employment and Training is what he is actually doing in this budget because there will be no guarantee of employment. The training that I actually did was done in consultation with the then President of the Chamber of Commerce, which sits just beside him, so he can ask him if there was consultation and agreement on how training should be done in the private sector. That is true, I am not bringing up anything which is incorrect, so he should ask him, Mr Speaker. Obviously there is very little that I can say about the training programme because no mention has been made, how, where, when, how many, what analysis has been carried out, on what trades, that has not been forthcoming. In essence, Mr Speaker, it is difficult to go by this after the intervention of the Chief Minister on what job creations there will be at the end. Apart from that, the Minister has not given me any indication of the type of training and I would like to see if the Government at a later stage could tell me what type of training it will be. I would be grateful if maybe the Chief Minister at the end of his contribution could tell me what type of training and how many people will be put into training and in what grades, so that I can have a better judgement in deciding or assessing how successful it will be at the end of the year, how can I judge the result at the end of this financial year? Obviously, Mr Speaker, unemployment must be going up and I hope that with the investment in this budget for training, it will be going down and more people will be employed. If one compares that to April 1996, there were 331 unemployed and there are now 447,

according to my figures in March, the figures for April must be higher, Mr Speaker. It is now 478. What is worrying Mr Speaker, is that under 25s there has been an increase of 89 per cent of males compared to the figures I have, which I have worked out to the March figure, it is much higher in April.

HON CHIEF MINISTER:

Mr Speaker, will the hon Member just clarify for me the figures that he is using? He quoted a figure for April 1996, would he mind repeating that?

HON J L BALDACHINO:

The figure for April 1996 was 331.

HON CHIEF MINISTER:

Yes and then he quoted another figure which was for March 1997.

HON J L BALDACHINO:

March 1997, according to the figures that I was provided with was 447. That is the figure that I have here and the figure for April, which I was not provided by the ETB, was 478. So gradually unemployment is going up, and if we take that, which is not a true statistic, but if we take that with the explanation that the Chief Minister gave at the time that unemployment even though it was an estimate or a guesstimate had gone up by 300 in a year from 12,700 to 13,000 almost.

HON CHIEF MINISTER:

Employment is an estimate, unemployment is not. Unemployment, as he should know.....

HON J L BALDACHINO:

No, maybe he has misunderstood me, I was referring to the figure that he gave which was an estimate that there were 13,000 employed, which more or less is an increase from 12,700, there are 300 people more in employment even though it is an estimate, there is still a trend of

unemployment in the Gibraltar side. So, obviously if one does a calculation...

HON J J NETTO:

If the hon Member will give way. Just as there are moments and trends where it could be seasonal, but if one looks in the context of a year, as I said before concluding my speech, in 1995, the average number of Gibraltarians unemployed was 456, in 1996 it was 385 in the context of a year and for the period which I mentioned in 1997, January to April 453. So basically it is getting quite close for the four month period 1997 to the period in 1995 and yes it is higher in 1996, but that is in the context of that period.

HON J L BALDACHINO:

I understand that he goes back to those years and he will go back to when the PSA closed, there were 700, one can only assess by today's figures compared to last year's figures because if one goes back obviously there were more people unemployed or much less. In some cases if you go back there were 300 unemployed. But this scenario is still without the MOD cuts. This is a scenario that we have to date. I understand the Minister putting in measures to try to bring unemployment down. I understand that. It is in the Estimates. I have said that, therefore I am cautious to what result at the end the measure that they intend to introduce will bring unemployment down. That is something that obviously one has to wait until it happens. I sincerely hope that they are successful, honestly, I sincerely hope that they are successful especially in the under 25s, where we can provide a certain amount of training to meet the requirements of the economy and the expansion that the Minister wants to take the economy to and the labour market should be ready, I accept that. I am not criticising that. The only thing is that one has to wait for the results. In essence, Mr Speaker, one of the things that I would like clarification on, because the Chief Minister said that some of the employees that were in, especially in the ETB, which were civil servants, were now brought back into the Estimates and under the department. Am I correct in assuming, Mr Speaker, that where the Minister for Employment mentioned that he would be having a new Employment and Training Unit, under the Head Office, of about 13 persons employed in different grades if the four in the ETB are included in that figure? Are the civil servants who are seconded to the

ETB included in the establishment of the new Head Office for the Employment and Training Board? And in what grades do they fit in? If that could be possible, Mr Speaker. And what relationship with this new Unit has the staff already in the Employment and Training Board, who are outside the civil service.

HON J J NETTO:

Mr Speaker, if the hon Member will give way?

MR SPEAKER:

He is asking for information from the Chief Minister.

HON J L BALDACHINO:

No, if anybody can provide the information that will be fine.

HON J J NETTO:

In relation to the 13 posts which he has mentioned, going from the top down. We have made provisions for a senior officer, which is a new post which has not yet been trawled and recruited. We have made provisions there, as he can see, one HEO, which is the new post which is still not trawled and recruited. In relation to the Executive Officer, and in relation to the one Administrative Officer falling down from the list are the two persons which currently do the findings of the Industrial Tribunal. Then we have the three Labour Inspectors, which are new posts, which are in the process of now being trawled and recruited. The current Careers Officer; we have one HPTO and one Instruction Officer who are the Factory Inspectors who have been transferred from the DTI; and of course we have the three Instructors who are civil servants. So that accounts for the 13 in all.

HON J L BALDACHINO:

I was not asking for that. I am grateful to the Minister for providing that information.

HON CHIEF MINISTER:

Mr Speaker, the Government take note of the hon Member's question and it will be dealt with at the appropriate time which I think is at the Committee Stage.

HON J L BALDACHINO:

I accept that, Mr Speaker, it is just for clarification and for nothing else. Apart from that I understand the Hon Mr Netto, who criticises me every time he has the opportunity, for taking away the Quantity Surveyor. Will there be a Quantity Surveyor because even though they are shown as SPTOs or HPTOs, is one of them a Quantity Surveyor because I understand that the Quantity Surveyor who was actually transferred back to Buildings and Works is now the Senior Officer, I suppose, and therefore could I have the clarification if one of those is a Quantity Surveyor. Therefore there is no provision there for a Quantity Surveyor so I would like to know, seeing that I have been criticised, who will be doing the surveying and quantifying the jobs that they intend to do obviously in the Head of Buildings and Works. This is something that I am only asking and maybe I can get an answer at the Committee Stage. Edinburgh House, the refurbishment is £1.5 million and I understand that there are 180 flats, that is what I think is going to be handed over, that is my understanding. Who is going to do the refurbishment? Is it going to be contracted out; is it going to be in-house unless, of course, they have major refurbishment on structural defects.

HON CHIEF MINISTER:

Let me put his mind at rest immediately on that point. The basis of the present performance that I have put on the department is not going to be done in-house.

HON J L BALDACHINO:

Therefore by that same token I suppose that replacement of balconies and windows will not be done in-house either.

HON CHIEF MINISTER:

The reality of it is that it is presently not being done. How much longer the Government are willing to tolerate that situation without going out to the private sector remains to be seen but he will not have much longer to wait.

HON J L BALDACHINO:

So I was right in my assessment that not everything is well in the Buildings and Works. *[Interruption]* I would not like to comment on that, the only problem is that I fully appreciate that there is a process of negotiation to take place. The truth is that I did try to implement what the hon Member is trying to implement now, this was my idea. Maybe it is not political courage maybe it is the approach, the problem is that I personally believe, I have been mistaken that I needed to negotiate and therefore maybe.... *[Interruption]* No, when I was in Government I tried to negotiate and maybe if I did not reach an agreement on negotiation I was not prepared to do maybe what the Minister is prepared to do especially because of the roots from where I come and maybe because consultation to me is not the interpretation that the Hon Dr Linares gives on consultation, that might be a different way of analysing things. I prefer to negotiate and try and reach a consensus even though afterwards I am..... *[Interruption]* The Minister laughs but the Minister has been in the union, he was the Branch Officer of the union and he is now trying to implement things where there is no agreement. I understand that, that is their policy, I accept that that is their policy exactly the same as with the taxis, that is the same situation.

MR SPEAKER:

Can we negotiate at some time to adjourn for lunch?

HON J L BALDACHINO:

I am almost finished, Mr Speaker. You do not have to negotiate with me, Mr Speaker, at all, you have the power to adjourn.

MR SPEAKER:

To stand up but I do not like to do it, I am like you.

HON J L BALDACHINO:

I am grateful that somebody at least appreciates that that is the way it should be done. Mr Speaker, in the end unemployment has gone up; employment according to the Chief Minister has also gone up by about 300, although this is an estimate, but it is not reflected on the unemployment of Gibraltarians. I sincerely hope that the money that they are now providing for training, for wage subsidy actually has an effect on the economy and I hope that they get it right that the grades and the training that is required is the one that is necessary in the economy and not a cosmetic exercise like the Hon Mr Netto accuses me of having done before.

MR SPEAKER:

We will adjourn till 2.30 pm.

The House recessed at 1.05 pm.

The House resumed at 2.30 pm.

HON LT-COL E M BRITTO:

Mr Speaker, my contribution is necessarily spread over a number of Heads due to the differing natures of the various areas of Ministerial responsibility which I have. I will follow roughly the headings as they appear in Head 4 of the Estimates under consideration. But then subsequent to those headings I will deal with other aspects of Ministerial responsibility which are not direct Government departments such as telecommunications and water production.

To start off with, the Engineering and Design Division of Support Services, and during the last financial year, this section undertook a number of important projects on behalf of the Government. The main project was the completion of the removal of the sheeting of the main section of the water catchments together with the stabilisation of the resulting sand slopes. Shortly after taking office, the Government decided not to proceed with the extraction from the eastside slopes of the sand which became exposed as a result of the removal of the catchment sheeting. It is the Government's policy to revegetate these

slopes and return them to their natural state and to this end an ambitious programme of stabilising the resulting sand slopes and vegetation of the same was commenced in January of this year, in consultation with the Gibraltar Ornithological and Natural History Society. The Government have now decided to proceed with the removal of the remaining section of water catchment with preparatory works in this respect already having commenced. This additional phase of the works is likely to take just over one year to complete.

A number of embellishment projects have been designed by the department during the course of last year and are due for execution during this financial year. The main projects are the development of the Casemates Barracks and the Square; the embellishment of Winston Churchill Avenue and the frontier; the construction of a new promenade along North Mole Road; the embellishment and widening of Line Wall Road, and a sea front garden area and promenade in the Westside reclamation area. The department also acted as project managers for the Government in the conversion of one of the existing sheds at the Port into what is today a very attractive Cruise Liner Terminal.

Dealing in more detail with some of these projects and to start specifically with Winston Churchill Avenue; the works there will consist of the complete relaying of all the kerbs and footpaths in the area, including the complete reconstruction of the central reservation. All existing flower beds will be reconstructed and extended or modified, as may be required, with the existing vegetation being complimented with new trees and flowers. The central island at the entrance to Bayside Road will be landscaped with a new lawn being laid in this area. The central reservation will have palm trees planted along its length and the existing lamp columns will be refurbished and new lamp heads provided. The existing railings along the central reservation will be replaced with a more traditional style of railing. The existing footbridge will be completely refurbished and repainted in a new colour to blend in with the more traditional character to be introduced for this area. In addition, the existing railings on the bridge will be replaced to match those to be used on the central reservation with the bridge decking also being completely renewed. On completion of the embellishment works, the existing road will be refurbished. The existing practice by which cars are being parked on the public footpath, in front of George Jeger House, will be done away with and a purpose built carpark being constructed along the back of George Jeger House. The proposed new carpark will

cater for the total number of cars which currently use both these areas for parking and the area surrounding the carpark will also be embellished.

Following on Government's policy to embellish all entry points into Gibraltar and the construction of the new Cruise Liner Terminal, an embellishment project has recently started for the construction of a new promenade running along part of the length of North Mole Road. The works comprise the construction of a seven metre wide promenade running along the northern edge of North Mole Road. The promenade will be landscaped using a combination of planters and troughs with trees being provided along its full length. New street furniture will also be installed, inclusive of new lamp posts and benches. A decorative wall with railings will be constructed bounding the new promenade and forming the boundary between the public promenade and that of the reclamation area. The total length to be constructed and over which the embellishment works will be undertaken is 450 metres. Advantage is being taken of this project to provide additional infrastructure to the area. A new surface water drainage system will be constructed where none exists today. New electrical and telephone cables will also be laid along the entire route. As part of these works there will be a complete resurfacing of the existing North Mole Road along the area affected by these works.

At Westside Park, as the development of the Westside reclamation area is gradually reaching completion with most of the available plots currently being developed, Government are conscious of the fact that little or no provision has been made in this area for leisure activities. Furthermore, as a significant length of the new sea front is currently not accessible to the public, a scheme has been devised whereby the public will be provided with an area of leisure activities whilst at the same time making a significant length of the sea front available to the public for their enjoyment. The project will consist of the construction of a sea front promenade to cover the whole of the existing open space to the west of Harbour Views and Safeways. The area will be partly paved and partly landscaped creating a highly attractive sea front walkway. A small pier jutting out from the reclamation area will also be provided as a special feature to the area. The resulting promenade and grassed areas will be open to the public during the daylight hours with the area being secured at night to prevent unauthorised use of these facilities during periods when no supervision will be available. To ensure the security of

the area, a decorative wall with ornate railings will be constructed bounding the existing road. Leisure facilities for this area are currently being considered and also the possibility of a kiosk or small cafeteria to be constructed within this area. Public conveniences will also be available as part of the facilities to be provided.

Moving over to the eastside, as previously announced by the Government, the present eastside reclamation area has been earmarked for development as a leisure area for the public in keeping with Government's desire to develop this part of Gibraltar for tourist activities. The current use of this area for the disposal of rubble will cease shortly with the completion of the current reclamation. The whole area will subsequently be cleaned, levelled, a new temporary surfacing laid over the complete area and the unattractive hoarding removed. These works are planned for execution during the present financial year and constitute the first phase of the project. The second phase, to be undertaken during the next financial year, will be the development of this area for leisure activities. Facilities to be provided will include two carparks, one at each end of the area to be used as beach carparks for Eastern Beach and Catalan Bay. Sporting facilities such as volleyball, beach volleyball, 5-a-side football, in-line hockey, skateboard, mountain bike course, etc are being considered. In addition to the above, a sea front promenade will also be constructed providing the public with an attractive pedestrian walkway linking Eastern Beach and Catalan Bay.

Moving on to Sir Herbert Miles Road, the design of most of the project of the widening of Sir Herbert Miles Road is now complete with works on the first phase having started on 5 May. Due to the need to maintain access to all the properties in the area, there is a need for the works to be phased out over a period of time. The first phase will entail the widening of approximately 430 metres of the existing road and, in addition, the alignment will be improved with most of the existing bends being either considerably improved or eliminated. Work is planned to start after the summer months and this is expected to be concurrent on at least three distinct locations during some periods. The whole project is programmed to be completed by the end of 1998 although the delayed hand-over of the MOD water storage tanks at the entrance of Dudley Ward Tunnel is an important obstacle still to be overcome.

On rock safety and coastal protection, the department, during last year, undertook rock stabilisation works in the area immediately above

Rockfall Cottage. The cliff face at Little Bay was also investigated and works were put in hand to render this area safe. The seashore in the area of Little Bay has gradually been subjected to erosion with all the tetrapods in front of the main sea wall having been washed away. The department undertook and completed the necessary works to replace the missing tetrapods in time for the opening of the beaches for the summer season. During the heavy rains experienced last winter, there were two major rockfalls; one in the area of Catalan Bay and the second at Camp Bay. Due to the magnitude of these rockfalls, specialist consultants were engaged to inspect the area and recommend on works to be undertaken. The reports of these consultants have now been received and studied by the department's engineers. Works are expected to commence in these areas shortly after the end of the bathing season.

On infrastructure works and subsequent to the collapse of a section of the Main Street sewer, the department was called upon to investigate and report on the cause of the collapse and to prepare recommendations for the long-term works to be undertaken. As a result of the progressive development of the Europort complex and the construction of the Mediterranean and Calpe Rowing Clubs, the department designed and constructed a car park on the waste ground opposite Europort with spaces having been provided for up to 114 vehicles.

During the last year the department has provided advice and design assistance to most Government departments on a number of projects. The main ones have been the extension of Bishop Fitzgerald School and the addition of an extra storey at St Bernard's Hospital.

Staying within Support Services and moving on to the Computer Section of this part of my Ministry, I would like to report to the House that Government consider that information technology within Government offices and within Government assets, is an area which has been allowed to develop and to operate in a disjointed fashion. The lack of an effective information technology strategy and of adequate planning and co-ordination has meant that management information in the majority of cases is still provided in manual form. There are quite a number of computers or PCs within Government but very few of them are networked. Most of them operate in a manner which usually only serves the purpose of their particular department and does not integrate

with the rest of the service. The Government have made the policy decision to correct this unsatisfactory state of affairs. An Information Technology Unit has been constituted and forms part of Support Services within my Ministry. The centralisation of a computerised salaries and wages paying system is their first task and personnel from several departments will be receiving their first computerised pay advice slip for their July salaries. A Steering Committee under my chairmanship has been set up and a consultant from the Central Computer and Telecommunications Agency, (CCTA), of the UK Central Government has been contracted to assist the IT Manager in formulating the IT strategy which will take us into the year 2000 with adequate and modern resources. The team is at present conducting a study to align business and IT policies and are holding a series of interviews with all Ministers and Senior Civil Servants to assess business and IT needs. Their terms of reference are to produce a report determining the hardware and software requirements; staff resources; training requirements; to provide an estimate of costs and likely time scales for the project.

Still within Support Services and now specifically on the Garage and Workshops, briefly to report that this section of Support Services is responsible for the provision and maintenance of Government's vehicle fleet as well as providing engineering and metalwork facilities for the various Government departments. In recent years, this section of the department has suffered from the loss of specialist tradesmen which have left the service and have not been replaced. This has resulted in the gradual erosion of some of the specialist skills available at one time at the garage and workshops and leads to the inevitable consequence of the eventual loss of such skills. The Government are currently undertaking a study of the requirements of the garage and workshops to identify where there may be such shortcomings with a view to setting up a training scheme with the ultimate aim of ensuring the continuity of the specialist trades, or the reconstituting of the same where none exist today, to ensure that such skills are not lost and are available in the future.

The Electrical Section of the department provides invaluable support to Government departments but especially to the Buildings and Works and the Education Department which are the main users of the service. During the last year, a considerable number of jobs were undertaken for the various departments with the works associated with the move of the

Gibraltar College of Further Education and Bishop Fitzgerald School to their respective new premises being worthy of highlighting. Work for the current financial year includes the complete rewiring of the Prison, the installation of a completely new electrical system as part of the refurbishment of the old Secretariat building and the installation of a new electrical system at the extensions currently being constructed to the new Bishop Fitzgerald School.

I now move over to the Department of Sport and I am pleased to be able to report that during our first year in office this Government have fulfilled all our manifesto commitments in the field of sport. The new Gibraltar Sports Advisory Council first met on the 4 December last year and by the time it meets again next week, coincidentally again on the 4th, there will have been a total of eight meetings in six months. During this period the Council, apart from a number of other things it has been doing, has prepared four reports for Government. The first on financial assistance to Sports Associations and Clubs; the second on recognition of sports governing bodies; the third on sports development; and a fourth report on capital expenditure priorities and improvements to sports facilities.

Mr Speaker, I want to digress at this stage to pick up a point made by the Opposition Member for Sport on the election, democratic or otherwise, of the Sports Advisory Body and to state quite clearly and categorically for the record, the way this Sports Council was democratically elected. All Sports Associations in Gibraltar were asked to nominate candidates for this Sports Advisory Council. A public meeting was called which was open to everybody interested in sport or just interested, at which all those candidates were voted on by sportsmen and sportswomen themselves and they chose the six members who they wished to represent them on the Sports Advisory Council. Subsequent to those six members being elected, I appointed a further four members, as I had previously indicated that I would, and those four members were, let me state quite categorically, appointed for sporting reasons and for nothing else. They are in the minority on the Council and therefore can in no way, if anyone were to think that way, influence final decisions. Not only that but the four members that were chosen by me are: Mr John Goncalves, of the Basketball Association; Mr Freddie Chappory who has a wide pedigree in sport but mainly athletics and in the Island Games scenario; Mr Nigel Pardo who is President of the Rowing Association; and Mr Andrew Perera, the

President of the GFA. All I would like to again say quite categorically is that if anyone were to scrutinise my four appointments, it is clear that there is no political bias in my favour, if anything, it is completely balanced. On the contrary, my comments on the way the previous Sports Advisory Body was elected are based on my information that when that was elected in 1988 or thereabouts, a number of Sports Associations of the order of seven or eight were asked to nominate a member for the then Sports Advisory Body and those members that were nominated by their Association were the ones that were eventually chosen to serve on the Body. And by implication, by exclusion of other Associations, it is the basis of my allegation that the Sports Advisory Body was not democratically elected but was selected by excluding people who may not have been of the liking of the Government to have on it. Having said that, the other criticism that I have had in the past of that Sports Advisory Body is that they were appointed initially in 1988 and, by and large, it remained the same for the full eight years of GSLP Government. In fact, there were occasions when people who were originally appointed to represent a particular association subsequently ceased to have any contact or representation, for example, the President of Association X stopped being the President and stopped being in the Committee but yet continued to serve in the Sports Advisory Body although he no longer represented that sport association. That is the basis of what I have said in the past, the opinion that I hold and my contention that this Advisory Body is democratically elected whereas the previous one was not. I will now give way to the hon Member if she wants to answer.

HON MISS M I MONTEGRIFFO:

Mr Speaker, the point that I was trying to make was that ever since the Sports Advisory Body was elected the Minister in this House, the manner in which he used to criticise that the election had been carried out was to say that I had been involved in the selection of the individuals. If that is not what he is now saying then I would hope that he retracts what I think he was saying because I had no interference at all in the selection. That is why I made the point, as I thought that he had interfered and that was the indication of what he was telling me all the time in the House, I had made the point yesterday that because I had not interfered and I had not selected the representatives, I now found that he had double standards because he had chosen four. So if he now

wants to put the record straight and retract what he used to accuse me of doing I will accept that, Mr Speaker.

HON LT-COL E M BRITTO:

No, Mr Speaker, as far as I am aware, what I have said before is what I am saying now and what I have said a moment ago. That the previous Sports Advisory Body was influenced in the sense that only certain associations were invited to provide candidates and therefore by implication, by excluding others, what was chosen was to the liking of the Government of the day. That is what I have intended to say before and that is what I maintain as my opinion and I see no reason to detract that either from what I remember of those days or from what I have heard subsequently.

Moving on to the question of sport, and I have just referred to the four reports that the Sports Advisory Body has prepared and I want to say that the Government have already accepted many of the recommendations of these reports and this is reflected in the greatly increased provisions for expenditure in sport in this year's Estimates. This increased expenditure can be summarised as follows: firstly there is a figure for £50,000 for assistance to clubs and associations participating in approved international events away from Gibraltar, this is the equivalent to the figure that there has been over the last few years and the provision in the last financial year made by the previous Government was of the order of £49,000 but over and above that we are providing an additional £50,000 to encourage the hosting of sports events in Gibraltar and to encourage sports development generally; we are further providing a figure of £100,000 for the provision and refurbishment of vacant premises for sporting clubs and associations; and a provision of £147,000 for improvement to sporting facilities at Victoria Stadium, Hargrave's Court, South Barracks and the Europa Shooting Ranges. So in summary, Mr Speaker, last year the provision for sport in these Estimates was £49,000; this year there is a provision for £347,000 plus an additional expenditure of £51,500, which I will mention in a moment, bringing it up to a total of £398,500 as opposed to £50,000 last year. This additional expenditure of £51,500 have already been spent during the last few months on improvements to sports facilities. It has consisted of the complete replacement of the sports hall roof at the Victoria Stadium, a figure of £47,000; the installation of new

international standard basketball goals at the sports hall; and the provision of extra lighting at the Stadium's training pitch.

I once again want to divert from the main body of my contribution to take up a criticism made by the Opposition Member on the provision and refurbishment of sports premises since this Government came into office. I have always been a believer of giving credit where credit is due and I have no hesitation, on this particular occasion, to giving credit to the Opposition Member, the Hon Miss Montegriffo, for having come up originally with the idea of using North Jumpers Bastion as allocation for the premises for the ruling bodies of sport. I have no difficulty and I assume I applauded it at the time. However, what I want to do is, again for the record, set the record straight and maybe we can forget about this subject from now on. But having in 1994 identified North Jumpers the then Government gradually developed the idea and built up a number of applications leading up to the stage in the period round about September 1995 when from all accounts the possibility of an imminent election seems to have been a catalyst which catapulted the waiting list to the order of about 70 or so to which it reached towards May. But having said that let me put the figures in perspective. Between the period of 1994 and 1996, a period of two years, roughly mid 1994 to the election in 1996, it may surprise Opposition Members to know, if they do not already know, that actually finalised documented and given premises by them they only managed to allocate 11 premises to sports societies and associations of which four were allocated with people in occupancy without the documentation being finalised as at the date of the election, only 11 in a period of two years. Over and above that, they left 24 written offers to associations of which since then four have been withdrawn by this Government and two have been declined by the associations themselves, leaving pending 18 written offers plus a list of 17 verbal promises which are not substantiated in writing, and another 18 which have accumulated on the way. The allocation system that I inherited I found as unstructured and unscientific, I found that the documentation was not standardised; that the level of refurbishment being offered varied from premises to premises and from club to club and that this led to anomalies and to difficulties which we have had to sort out since May. For example, and I will not bore the House with more than two, we found in Prince Edward's Road that there were two premises side by side, one in which the incumbent had a full self-repairing lease, in other words, the club was liable for all repairs that had to be carried out, whereas next door, another association, in the

same building, down the corridor, had been promised something on completely different terms on a minimal rent and no responsibility for repairs and that sort of situation I found untenable. *[Interruption]* I will give way when I come to the end of it. Similarly we found a similar situation in North Jumpers where a particular club who had moved in prematurely but which had been allowed to stay there, found itself paying a much higher level of rent than people who came in subsequently. I do not highlight those as particular, I just highlight them as the symptoms of what the system was producing. I hate to say this but the distinct impression that I get was of premises being allocated in a hurry in the lead-up to a forthcoming election. So consequently the decision was made to reconstitute the premises committee and to freeze the level of allocations as it was then and to restudy the whole system. What has now been developed is something completely different. A priority listing has now been established not only for applicants but also for areas that can be used. The applicable documentation has been completely reviewed and standardised so that now all clubs that are allocated premises get them on the same conditions and on a level of rent determined by floor area and not haphazardly. Obviously a study of the premises and of the level of rents had to be made so that the correct levels could be established. The criteria has now been set for the level of refurbishment that Government are prepared to do before premises are handed over. As I said before, the whole progress was stopped until all this was put into motion. Consequently, Mr Speaker, over and above that complete study and complete change of conditions that was undertaken, over and above that we found difficulties because of the changeover between SOS and Community Projects who are the people who mostly do this work which has contributed to us being a bit slower in allocating these premises that we would have wished. However, having said that, it is interesting that despite those problems, despite being a new Government, despite having to change everything, it is interesting to compare the statistics. In a period of two years, since they thought of the idea, never mind eight years in Government, two years since they thought of the idea, the GSLP Government only finalised 11 allocations and only moved 11 associations into place. Since we have been in office, in the past year,..... Mr Speaker, the records are provided to me, I am not inventing the figures. I was told that Opposition Members would probably find difficulty in realising that the figures were correct. I am quite prepared, if hon Members wish, to give them a breakdown of what was allocated by them. They may think that they have allocated them previously, I

restate what I said before, actually clubs moving in, documentation finalised and people in place, they only managed 11 during the period. If they want to challenge.

HON MISS M I MONTEGRIFFO:

If the Minister will give way.

HON LT-COL E M BRITTO:

I will finish what I have to say first. Only 11, according to the records that I am provided with officially from Government sources and it is interesting to note that during the period that this Government have been in office, four associations have now been accommodated and during this past period of a week or a fortnight a number of firm offers which I have not yet been able to ascertain, have now been made so a number of further allocations will be made shortly. I will now give way to the hon Member.

HON MISS M I MONTEGRIFFO:

Mr Speaker, in the same manner that the Minister has said that he had to restructure and that he wanted to change the system that we had implemented, we negotiated the conditions that the associations and the clubs asked us to provide them with. Secondly, the allocations that were given were those premises that we had refurbished. I know that the Minister was here when I was in Government and I remember him asking me about Jumpers and Town Range and the Minister must be aware that it took us a long time to be able to refurbish those buildings because there were in a very bad state. That was the reason why, so the comparison is neither here nor there, Mr Speaker.

HON LT-COL E M BRITTO:

No, it is exactly here and there, Mr Speaker. I would not have gone to the trouble of adding this contribution today to what I intended to say if the hon Member had not stood up yesterday and criticised this Government for delays in providing premises. I appreciate the problems that they were under and they are exactly the same problems, added by the fact that we had to change the system. What I am saying is that they

are in no position to throw stones because they live in a glass house. They were no faster than this Government were.

Mr Speaker, to carry on with my main contribution, another innovation in this financial year is the contracting of a Sports Development Officer to set up and run a Sports Development Unit for the benefit of all sports. This unit has been set up as a direct result of advice from the Gibraltar Sports Advisory Council and the report of this Council on sports development will set the parameters within which this unit will be working. Once again, Mr Speaker, I have to take up comments made by the Opposition Member on the appointment of the Sports Development Officer and her contention from the Opposition that the post should have been advertised and made available to Gibraltarians. I am afraid once again I have to go into the background of this to set the record straight and to put the thing in perspective. The whole question of GFA, the School of Excellence and the appointment of someone for the School of Excellence goes back to the period of late 1995 and in the aftermath of the Island Games where Opposition Members, and specifically a former Government Minister who is no longer on the Opposition benches, seemed to develop a high degree of enthusiasm for helping the GFA to create this School of Excellence. The fact that at that stage the election seemed to be within three months and certainly was not more than six months away, I am sure was purely coincidental. However, having said that, again the background to all this is that the previous Government made a commitment to GFA which I inherited, which was not documented, there was nothing in writing but I have no reason to doubt what GFA presented to me in writing as what they had been promised and the offer from the Government was of a coach being recruited from UK, being brought to Gibraltar and a number of perks and facilities being offered to GFA and to the coach which were valued by this Government of the order of approaching £200,000 - this is including the refurbishment of the School of Excellence and everything - in the first year and of recurrent expenditure of £100,000. But more to the point, Mr Speaker, the Government had difficulty in accepting this and therefore took its time to find an adequate solution. More to the point, on the direct criticism by the Opposition Member about the post not having been advertised, the reality of the fact is that Mr Paul Holden was identified by GFA to the previous Government who, when I took office, had a commitment from the previous Government to employ Mr Paul Holden. So it is not this Government who have not advertised and who have gone out to find a non-

Gibraltarian to fill the post; the commitment was there by the previous Government and it is hypocritical for the Opposition Member, or maybe I do her an injustice, maybe she did not know, maybe the former Minister who is not represented did not keep her fully informed on what he was doing. I am prepared to accept the possibility of that. But the fact is that the previous Government had a commitment to GFA to employ Mr Holden. So therefore to criticise us for having appointed him is out of order. Not only that, but what we have done *[Interruption]* The hon Member may not have heard of Mr Holden; she can go and ask GFA and GFA will tell her that they introduced Mr Holden to a Minister in the previous Government and that the arrangement was that Mr Holden would fill the post for the School of Excellence that had been identified. I said a moment ago that I was prepared to accept that maybe the hon Member was not aware of this. *[HON MISS M I MONTEGRIFFO: The Opposition are not aware of it, Mr Speaker.]* Well, what we have done is to appoint Mr Holden, not as was intended by Opposition Members, what we have done is appoint a Sports Development Officer, not the Sports Development Officer but a Sports Development Officer, who will be responsible for all sports and not as had been promised to GFA by a Minister in the previous Government of the appointment of Mr Holden as a football coach exclusively for GFA. So that is the difference of what we have done, we have spread it out. The hon Member is saying that she is not aware of Mr Holden's involvement; is she aware that Mr Feetham travelled to UK to recruit a sports coach in UK and that Mr Holden's appointment arose subsequent to those travels because they could not find an adequate candidate in UK? *[HON MISS M I MONTEGRIFFO: No, Mr Speaker.]*

HON J J BOSSANO:

I can tell the Minister that an adequate coach was found, I know nothing about this because I do not even know who plays football or plays anything else, but I do know that they found somebody who was supposed to be a household name, except it did not mean anything to me, who certainly was not Mr Holden and who was a professional footballer and who at the last minute the deal fell through.

HON CHIEF MINISTER:

Would the hon Member give way before he finishes? I do not want to interrupt him but I cannot ask my hon Colleague to give way but perhaps he would give way.

HON J J BOSSANO:

The point is that certainly the question of Mr Holden being able to fill the vacuum left when the agreement with the other person, which included in fact a commencement and negotiating what he was going to be paid because it was not the Government that was going to employ him. The Government were willing to provide the cash but not to have him in the Government service. But he was a footballer who apparently was going to be brought, and he was going to be coming here precisely because, Mr Speaker, the point was that it was intended to bring somebody to improve the performance of our people after the excellent show they put at the Small Islands Games, that is how it all arose.

HON CHIEF MINISTER:

Mr Speaker, I think it is important to get the chronology of events right here. The Hon Mr Feetham went to the UK in the company of GFA representatives to recruit for the GFA but at Government expense, a coach for the GFA's School of Excellence. So it was going to be paid for by the taxpayer but he was going to be employed exclusively by the GFA for the GFA. *[HON J J BOSSANO: That is correct.]* They came back, and I do not know what household name they found or they did not find, and about that time Mr Holden happened to arrive in Gibraltar on posting by the MOD and when they realised that they had what they needed physically here in Gibraltar in the form of Mr Holden, who had all the FA qualifications that they had got into an aeroplane to look for in England, it was agreed, "Well, why bring somebody out from England because the MOD has brought Mr Holden out to Gibraltar as their Sports Development Officer and when he retires, which he is retiring in a year's time, now round the corner, we will keep him here. So instead of bringing out the chap that we went out to look for, we have got him here". And all we did was say, "Fine, if the previous Government are committed to fund out of taxpayers expense a football coach for the FA, we do not think that it is right for the taxpayer to fund somebody only for

the GFA so instead of recruiting him for the GFA the Government will recruit him so that he will be available to other sports as well". Therefore in a qualitative sense, to say that we have recruited Mr Holden without advertising it is a monstrous distortion of the merit of the issue. All we have done is get the chap that they had committed the taxpayer to fund for the GFA and recruited him on contract for the Government so that he would not be exclusively a GFA man and would be available for other sport because apart from having all the football coaching qualifications, he also has many others. Therefore we have recruited him in the name of Government when they were going to pay for him to be recruited in the name of GFA but that is the extent of our involvement.

HON J J BOSSANO:

I was giving way to the Chief Minister. Let me just say that, frankly, I do not see why he needs to say that it is monstrous, there is nothing monstrous about it. We are telling him that as far as we are concerned the decision was taken to provide money to the GFA on the basis that we were bringing, not somebody who had any particular paper qualifications or otherwise, but was a retired professional footballer who would give the professionalism to our people to make them be able to compete better in international competition. If over and above that the Government want to have a civil service post of Sports Development Officer, well we were not planning to do that, but it is their decision and if they have chosen to make Mr Holden a civil servant and put him in the Estimates and we are going to vote for his pay, then the normal procedure in the recruitment of civil servants is that it goes to the Public Service Commission. Whether it is better to have him in the civil service or better to have him employed by the GFA, it is quite obvious that the jobs are different. The job that we were being asked to support is not what Mr Holden is doing. We are talking about two different things but there is nothing monstrous about it.

HON LT-COL E M BRITTO:

Mr Speaker, I would have preferred to move on but I have to clarify because I cannot leave statements that are not factually correct. It is not correct to say that the bits of paper and the qualifications were not important. [Interruption] No, it is not correct. For a School of Excellence to be recognised by the FA, the person conducting that School of

Excellence has to have certain qualifications which the FA recognises and the normal Mr Average Footballer does not have those qualifications despite being a household name whereas Mr Holden had them.

HON J L BALDACHINO:

Will the Minister give way one second?

HON LT-COL E M BRITTO:

No, Mr Speaker, I am fed up with the subject. I would just close it by taking the opportunity to provide the Opposition Member with the answer to the question that she asked me in the last Question session on the conditions of service of Mr Holden which I said I felt I could not release them because he had not yet accepted the post. Mr Holden has now indicated by letter that he is prepared to accept the conditions of a Contract Officer, not of a civil servant, and those conditions are a three-year contract at a salary of £19,412 per annum. A point that obviously arises from that level of salary is that other possible candidates resident in Gibraltar or Gibraltarians, specifically teachers, would be on a higher level of salary already and therefore the post would in any case, even if it had been advertised, probably not have been of interest. But, of course, that is a subjective judgement.

To carry on, on a less controversial note, the greatest single sporting achievement in the last financial year was without doubt the qualification for the 1997 'A' Group European Hockey Finals by the Grammarians Hockey Club. When they competed in Amsterdam this month they were the only British club amongst the eight who participated of other nationalities obviously in these European Finals. In terms of major achievement outside the field of sports competition, the recognition by the Federacion Internacional de Peche Sportif of the Gibraltar Federation of Sea Anglers is another major triumph. GFSA thus became the 15th local association to be affiliated to their world ruling body despite vigorous and strong political opposition by the corresponding Spanish Sports Associations. Their nomination to host the World Pier Fishing Championships in the year 2000 is another considerable achievement and one in which the Government will be providing support and assistance.

Last week the local Shooting Associations, with Government support, combined to host the Commonwealth Games Shooting Federation European Division Championships which attracted a total of about 75 top level international competitors to Gibraltar. Next year seven European nations will compete in the Basketball Promotion Cup which the Gibraltar Basketball Association will host here in Gibraltar.

During last year's National Week, 11 Sports Associations participated in the Government sponsored Gibraltar Trophy competition. This year's event is expected to attract a larger numbers of entries and to be run over the period of the full National Week. The concept is of a Gibraltar trophy in each sport practised in Gibraltar and obviously is the objective of achieving as soon as possible. All competitions must be organised during National Week, they must seek maximum competitor participation, involve a high public profile and preferably be in a format other than that usually organised by that particular association. This is a matter which the Sports Advisory Body has under its belt at the moment and Government will be going public with the details in the very near future.

Mr Speaker, moving away from sport and on to the Electricity Department, which department in this past year saw an increase in both demand and billings when compared to previous years. The maximum demand of 24,100kW was recorded on Tuesday 7 January and this was 9.5 per cent higher than the previous figure. The units billed during the financial year amounted to 94,666,979kWh compared to 92,886,926kWh in the previous year and represents an increase of 1.9 per cent. The intention of Government is to continue with the improvement and reinforcement of the high voltage network. It therefore proposes to continue with the uprating of all substations and the cable network operating at 6,600 volts to 11,000 volts. Furthermore, the construction of a distribution centre at Orange Bastion by the American War Memorial is well advanced. This distribution centre and the voltage uprating programme will mean that there will no longer be a need to keep any electrical plant in King's Bastion. Government also propose to purchase and install a Supervisory Control and Data Acquisition system, SCADA for short. The system under consideration is an improved version of that which had been previously considered as the controller link. In addition to providing dynamic information on individual district demand, it will allow remote reclosing of circuits that have been disconnected automatically as a result of a fault in the power stations,

thereby reducing outage times. During this financial year Government will proceed with the refurbishment of the ex-Public Works Stores site in Rosia Road. This will convert it into a facility that will be a substantial improvement on those still in use at King's Bastion and the Orange Bastion depots. The working conditions of the personnel at these two sites will be considerably improved.

Moving on to the City Fire Brigade and during this last year the Fire Brigade has faced the busiest period ever, breaking their previous record of emergency call-outs. A total of 1,379 emergency calls were attended and 52 of these calls were received and dealt with in only one day as a result of severe floodings. The most serious fire attended involved the motor vessel Brunito which caught fire at North Mole and resulted in the tragic loss of life of one crew member. The Brigade rescue response, ranging from cliff abseiling to underwater operations, once again outnumbered the fire calls received in the proportion of approximately 2:1. The Fire Prevention Department has carried out a total of 1,800 inspections ranging from building development to petroleum licences and places of public entertainment. A new control room and operations room has been commissioned with modern technology incorporated. It will become an important element in further improving the Brigade's efficiency and is vital for the development of the service. As with previous years the Brigade has once again successfully managed to keep to its budget due to its tight policy on budgeting control. As for the future, the Brigade has prepared a 5-year development plan which will ensure that it keeps abreast of developments well into the next millennium. This year will see the implementation of the first phase of this plan in which priority and emphasis is on training. Over 20 Brigade members, ranging from junior to senior staff, will be attending a total of nine courses. The policy continues of attachments and secondments to UK Brigades as well as an exchange of officers who specialise in specific fields. In future phases of the development plan, equipment and plant will be obtained to ensure that all risks such as marine fire fighting are adequately covered. The third element in this development programme is the planned improvement to the Brigade's mobilising procedure which include the provision of mobile trailers capable of carrying large amounts of equipment necessary at major incidents. The above, coupled with improvement to the internal administrative system, will ensure that the Brigade continues to provide the efficient service which

Gibraltar has come to expect of it and has grown accustomed to receive.

Moving to the Post Office. During the past financial year a computerised stock control system has been installed in the Post Office. The system covers items such as definitive stamps, postal orders, insurance stamps and coins. An EMS or Data post Service, on a D'ecouvert basis, has been introduced to world-wide destinations via the United Kingdom. Direct Data post services to Morocco and Spain have also been introduced. In conjunction with the beautification of Main Street, the Post Office entrance has been considerably improved and access made easier for all and, especially, the disabled. Further refurbishment works for the upper floors of the Post Office building have been identified and planned to take place during the next financial year. It is also intended to upgrade the security systems within the Post Office and to continue the process of computerising mail records. The possibility of joining a Postal Track and Trace System for the easy tracking of data post and parcel items is being studied. Because of the Government's development plans for the area of Casemates, the Parcel Post Stores in Landport Ditch will have to be resited. A feasibility study is at present being carried out on possible locations and final policy decisions will be made once this study has been completed and considered by the Government.

Consonant with my Ministerial responsibility for broadcasting, I report to this House on matters of public interest concerning GBC. As hon Members know, I have no Ministerial responsibility for GBC itself. GBC is a statutory Corporation charged with providing a public service functioning independently of the Government. During the year ended 31 March 1997, the Corporation continued to provide a "Value for Money" Radio and TV Service to the community. The Government will continue the policy of an annual subvention to GBC and provision has been made for a sum of £800,000 in this year's Estimates. Among the highlights of the year was the "Live" marathon coverage of the Count on the night of the general election; the granting of the Freedom of the City to the Royal Marines; and the "Live" coverage of the National Day Rally. The traditional Open Day held in December proved to be a resounding success. The event raised over £13,000 in aid of local charities. A new Board was appointed by the Government in August 1996. GBC's General Manager attended the 21st General Conference of the Commonwealth Broadcasting Association in Kuala Lumpur. The

opportunity was taken to extend to the CBA an invitation to hold the 1998 General Conference in Gibraltar. The invitation was accepted and the Corporation, with the support of the Government, will be hosting the CBA Conference next May. A major concern during the year was the fast declining degree of reliability of the transmission chain and programme making equipment, a high proportion of which is either outdated or has been in service for much longer than its recommended lifespan and is no longer reliable. This unsatisfactory state of affairs is the cumulative result of inadequate capital investment by the previous Government which has made it impossible for GBC to implement a structured essential equipment replacement plan. The Government in furtherance of our commitment to support public service broadcasting in Gibraltar, and in support of GBC's on-going efforts to improve the reliability of its radio and television transmitter networks, as a first step last year committed ourselves to provide funds to replace the medium wave antenna system and associated plant. It has already assisted in the purchase of a VHF television transmitter and during this financial year will be providing the Corporation with £200,000 for the purchase of items of equipment which GBC have identified as essential to replace. I am informed by the Corporation that priority will be given to replacing part of the transmission chain and the master control desk.

Mr Speaker, reporting briefly on the Gibraltar Government Lottery and to say that the sale of the lottery during 1995/96 continued to oscillate between £4 million and £4.5 million and that Gibraltar was recorded, once again, as having the top per capita draw sales in any European country together with the highest percentage, by far, in prize money awarded. The Government are still, however, concerned about the relatively large number of returned unsold tickets and in this context, a series of meetings have been held by me with the Lottery Advisory Committee and the Lottery Agents Association. Various proposals have been put forward and all their implications are being studied before decisions can be made on possible ways to improve the product. In the meantime, it has been decided that a questionnaire will be circulated in order to carry out market research and also to foster interest in the lottery. This year marks the 50th anniversary of the first draw of the Gibraltar Government Lottery which was held on 4 October 1947. In this respect, an extraordinary anniversary draw will be held on 13 October and which will have a first prize of £200,000. The ticket design for this extraordinary draw will be the same to that used at the very first draw in 1947. I say the ticket design because certain aspects of it, for security

reasons, the internal numbers and so on will be updated but the design of the ticket will be exactly the same. Once again, Gibraltar will be represented at the Biennial Conference of AELLE, the European Association of State Lotteries and Lottos, which will be held in Cascais, Portugal next month.

Mr Speaker, moving now on to water production and telecommunications as the final aspects of my contribution. Dealing first with water production and in line with my Ministerial responsibilities as the House knows, I am Chairman of Lyonnaise des Eaux (Gibraltar) Ltd. The company employs 105 persons of which 23 are seconded from the Gibraltar Government. This is some 31 per cent less than when the Gibraltar Government operated the water service. A system for assessing the development levels of each employee, as well as to provide training to enhance such development, is in place. Specific training is being given in respect of customer care in line with the company's policy of continuously improving service to its customers. The company has also been actively engaged in the introduction of the health and safety system and all employees are receiving training leading to certificates in basic health and safety from the UK Chartered Institute of Environmental Health. The company continues to comply with the requirements of its ISO 9002 Certificate which it will be revalidating next year with the intention of achieving Total Business Registration within a Total Quality Management philosophy. Despite the fact that the plant to convert waste to energy and water at the In-town Incinerator only produced 41 per cent of its contractual obligations of potable water, Lyonnaise has managed to ensure that Gibraltar's potable water needs have been met and that water has been available to customers on a 24-hour per day basis. Last summer a water shortage crisis was averted by the procurement of Lyonnaise of fuels such as gas oil and olive waste derived pellets to keep the incinerator plant running and producing water during periods when it would otherwise not have been operating. The cost of this fuel amounted to £224,336 and this has been applied to In-town as a penalty as provided for under their contract with the Gibraltar Government. Because of concern about the long-term performance in water production of the incinerator plant, Lyonnaise is currently studying the possibility of investing in additional desalination plant. As from last year, a more expensive but cleaner fuel has been used at the Waterport desalination plants. This has ensured that the quality of emissions from the boilers, which had previously been the subject of complaints, has improved considerably. Lyonnaise has also

invested in a new pumping main which will allow the company to increase the yield from the wells in the coming year. During the last financial year a total of 1,062,074 cubic metres of potable water were supplied. An unexpected but potentially serious threat to water supplies occurred as a result of third party fuel handling operations at King's Lines which caused fuel fume contamination of the three main service reservoirs. The company's immediate reaction, and an improvised new operation regime, managed to maintain a continued supply but the water contained in the contaminated reservoirs, representing some 20 per cent of stocks, had to be disposed of. The water is being replaced by the MOD at no cost to the Government or to Lyonnaise. The problem of the fumes has now been resolved and operations are back to normal. Agreement has been reached between the Government and Lyonnaise as to how the company will be compensated for not applying the increases in water tariffs as was agreed to by the previous Government and which were due as from the 1 July 1996. As has already been indicated by the Chief Minister, this arrangement means that there will be no increases in water tariffs during the current financial year. The supply of salt water has also been maintained on a 24-hour per day basis but in some areas there have been periods of interruption to supplies arising from burst mains, mains replacement programmes and from works connected with the Main Street resurfacing works. Out of the 45km of pipelines in the salt water network, 24km are iron mains which are subject to corrosion and encrustation leading to blockages. Lyonnaise is accelerating its investments in the replacement of these pipelines using new plastic materials which are not subject to corrosion. In order to do this and to cause as little disruption as possible, the company is evaluating the feasibility of using state of the art trenchless technology. In essence this means a more radical solution to mains replacement involving a reappraisal and a redesign of the salt water network. A new computer billing system is currently being commissioned and is running in parallel with the old system. This will enable a new bill format to be introduced which will improve the information provided to customers and enable a faster and more effective response to their queries.

Finally, Mr Speaker, to deal with that aspect of my Ministerial responsibility which covers telecommunications, I am Chairman of both Gibtel and Gibraltar Nynex. During the past financial year both companies continued to perform very well technically and commercially. In both companies there is a continuing policy of investment and

upgrading to improve facilities and the quality of service offered to customers as well as the provision of new features. Gibtel has improved its GSM mobile telephone network by the installation of an additional Base Transceiver Station at the Haven to improve coverage in the city area and Gibtel will be installing a fourth station or BTS in the area of the airport terminal building. Roaming agreements have been concluded with 16 new foreign operators. In line with established policy, Gibtel reduced customer collection charges of all international direct dialling bands during the last financial year; upgraded its international network to support more advanced services; and will continue this policy of upgrading and rate reduction. Gibraltar's first video conferencing bureau will be launched in the very near future by Gibtel. Recently a successful test line was established with a Russian Telecommunications Exhibition in Moscow. In the case of Nynex, the Fibre Optic Network within Gibraltar has been expanded to the Lathbury Barracks area and there has been cable development and installation in Main Street, Moorish Castle, as well as the new developments such as Montagu Crescent, Bayview, West Park, etc. Integrated Services Digital Network service, more commonly known as ISDN, was introduced and has resulted in over 20 subscriber connections. A new telephone directory was distributed in September 1996 and new sets of phonecards issued, including the very successful John Lennon and Duke of Edinburgh Award issues. Another new telephone directory is due to be issued next autumn. With a view to improving customer services, a new Service Provisioning Control Centre was formed early in 1997 and the operator switchboard was relocated from the Haven to Europort. As well as maintaining its ISO 9002 Quality Certificate in 1997, Gibraltar Nynex became the first ever member in Gibraltar of the European Federation of Quality Management and is at present developing strategies in Total Business Registration. A major development for GNC in the current financial year is expected to be the connection to the FLAG Cable Project in autumn. Equipment for this has already arrived and testing is expected to commence next month. The second major development will be the setting up of GNC as a Quality Internet Service provider in Gibraltar. Plans for this are already well advanced and the service is expected to start in the near future. By far the most important development that will affect both telecommunications operators in the foreseeable future will be the implementation of European Directives on liberalisation of telecommunications in common with other European countries. The net effect of this will be to open up the local market to outside competition. In line with Government policy and together with

the Government, both companies are currently carrying out a commercial consultation with a London based firm of International Accountants with a view to a possible combination of resources to be better placed to face external competition. The commercial complaints filed by both Gibtel and Nynex in the European Commission against Telefonica for its non-recognition of Gibraltar's 350 geographical area code, continue without resolution and there has been no further tangible progress since my reply on this subject to questions in this House from Opposition Members. Mr Speaker, that concludes my contribution.

HON J C PEREZ:

Mr Speaker, perhaps for the benefit of efficiency next year the Hon Col Britto and the Hon Mr Holliday might get together and instead of repeating the whole programme that Mr Holliday told us this morning because he represents infrastructure, engineering and design; either he moves the department on to the same Minister or we do not get the same story twice because the votes are in the Ministries of the Hon Mr Holliday and as a result of the fact that the design section is under the Hon Col Britto, we have had to hear all the development programme on tourism and everything which is supported by the design section twice, first this morning by Mr Holliday and then this afternoon by Col Britto. But that is only in respect of efficiency in the House of Assembly and in keeping to the commitment I gave you earlier.

HON CHIEF MINISTER:

Mr Speaker, perhaps the hon Member will give way. I am aware of only one project in which there has been overlap of reference and that is the North Mole project. Perhaps he has not been listening carefully enough. They have both spoken to different projects and therefore there are more projects in the pipeline than the hon Member thinks.

HON J C PEREZ:

Mr Speaker, we talked this morning about the project of the North Mole; we have talked about the projects this morning of the roads and the tourist projects and everything that has been supported by the design section which was mentioned by Mr Holliday have been mentioned by Col Britto too this afternoon. Hansard will say, this is only for the benefit of efficiency.

Let me say, Mr Speaker, that in no way do the Estimates reflect a prudent or cautious approach to the finances of Gibraltar. The spending programme the Government are embarked upon is not one that is expected to generate more revenue for the Government if we are to believe what the Estimates contain about the expected results at the end of the year.

Promotions abroad and huge spending on tourism seems to be the principal cornerstone of the Government's strategy, if we can call it that, quite apart from the continued huge investment in infrastructure which they criticised the Opposition for doing when we were in Government and they called it temporary, an optical illusion and all that. Prudence would have required Government not to have increased its annual recurring spending bill until they had at least an indication that their optimism of growth in the private sector, particularly in respect of tourism, is real. They are basically budgeting for a situation of no growth, at least that is what the Estimates reflect. The increase in the number of senior jobs within the public service is also real. There might not be a total of 103 new extra jobs since according to the explanation given by the Chief Minister some of those are offset by some savings elsewhere, but the real figure is nearer 80 at an estimated cost of some £2.4 million added to the annual recurring expenditure in personal emoluments. Quite a number of these, such as those or some of those in tourism and in the health service and in the DTI are to be filled in by ex-pats at quite a high cost to the taxpayer. The Chief Minister has on occasions talked about the need to restore within the civil service the expertise lost during our term in office. It is untrue to say that during the eight years of GSLP administration the service was depleted of the expertise available during the years of the AACR. The decrease in numbers in the service is mainly attributable to public servants voluntarily agreeing to move out of the Government and consequently taking the functions for which they were engaged out of the Government too. The process was initiated in 1990 with the tourism and planted areas leading the way, followed by Crown Lands which is now Land Property Services; by the Telephone Department now Nynex; by the Water Section now Lyonnaise des Eaux; the John Mackintosh Hall; the Philatelic Bureau; the Environmental Health Department, etc. All those that chose to move out of the service today enjoy better salaries, better conditions, a better working environment and in some instances, better pensions too. A big number of these were also promoted at the time of

the move and thereafter. But the expertise available in each of these areas is still there, available to the business concerned or the function undertaken. Indeed, increased training and improved technology has enhanced that expertise and not depleted it. The bulk of the people lost to the service was a direct consequence of the move to the private sector and the consequential loss of function within the service. There were also consequential savings of manpower in the rest of the administration as a result. Some people sought abolition of post or early retirement and this was granted on the basis that Government would carry the burden of a higher pension bill if the job in question was not to be replaced. Other savings were the result of a consolidation of the functions left behind in a situation in which less salaries needed to be prepared, less files needed to be carried, etc. There was a rationale for every step taken within an overall economic strategy that had as an objective an expanding private sector and a smaller more efficient public service that would allow the huge reductions in the MOD to be absorbed. We knew how we expected to pay for the jobs in the service in coming years and were therefore able to extend to each employee within the service a guarantee of employment. Let me say that that policy of a guarantee of employment continues to be party policy today.

Complements within specialised areas in the public service such as Customs, the Fire Service, the Postal Grades, the Prison and Education have either increased marginally in number or remain today at the same level as when we came into office and with the same structures. There was a small decrease in the complement of the Port Department, partly the result of a pay negotiation where these posts were lost by natural wastage and partly due to the Shipping Registry moving out of the service where we have learnt this morning that that is being restored. As for the Police, up to 1995/96 the complement excluding the Commissioner and administrative grades remained static at 222. The reduction to 205 came about as a result of the functions of immigration at all exit-entry points in Gibraltar being withdrawn as a function of theirs; these are the facts. To therefore try and justify the creation of new senior posts by virtue of what took place between 1988 and 1996 is simply an attempt to detract from reality. It would seem that insufficient account is being taken of the variety of functions that moved out of the Government service.

Mr Speaker, let me tell Government Members that at the Committee Stage the Opposition will be asking under personal emoluments which

are the jobs that have yet to be filled and how much of that vote is in respect of the vacancies that exist in each vote.

Our cautious approach to spending was also the result of the hostility shown by Spain and therefore the need to hold reserves in the event that such acts of hostility might impact on our economic well-being. The GSLP never held the naive notion that any type of co-operation was possible with Spain without sovereignty creeping its ugly head. We knew then, and still know today, that the declared aim of the Spanish Government is to take over Gibraltar and that they will do everything in their power to hinder our ability to create a sustainable economy. This is why it was prudent and wise to keep in place all the Special Funds created by the AACR which we inherited, presumably by the Chief Minister's yardstick they also lacked accountability and transparency. These Special Funds gave the Government the ability of meeting certain social and economic priorities in times of crisis. The Telecommunications Fund is but one example.

Although both Gibtel and Nynex are outside the public service and therefore responsible independently for investments in infrastructure and new technology, their ability to expand and generate new business lies in them being able to conduct such business without any hindrance from the Spanish State. Both have laid a complaint before the European commission and it has transpired that the Spanish Government have intervened directly on political grounds. Already this action will have the effect of delaying, putting back the liberalisation of telecommunications in Gibraltar and of gross unfair competition from companies in Spain. Each day we see more people with mobile telephones from Spain for the simple reason that it may be used on both sides of the border whereas Gibtel's ability to enter into a roaming agreement with Telefonica or Airtel is being blocked by the Spanish Government. Add to this the fact that some businesses are already using call-back services and one gets a picture of unfair competition which could undermine Gibraltar's ability to sustain an up-to-date telecoms infrastructure with the latest technology that a service industry needs. Such a scenario might create the situation where the Government are required to invest directly in telecommunications in order to be in a position to offer state of the art technology to potential investors. The Hon Col Britto confirmed to the House that everything is in place so that Gibraltar gains access to the FLAG Cable via Estepona. This Cable is to become operational shortly and Nynex has invested in capacity up front

on the understanding that it would be able to offer international telephony as from 1 January 1998. This is now not possible as a result of liberalisation being put back. Competition between Gibtel and Nynex already meant that international telephone charges were set to decrease further.

HON LT-COL E M BRITTO:

If the hon Member would give way. Have I understood him correctly to say that the connection to FLAG is going to be put back?

HON J C PEREZ:

No, the ability of using the capacity in FLAG for international telephony is being put back because Nynex is not able to have liberalisation and therefore not able to offer telephony services on 1 January 1998 and therefore unable to use the FLAG Cable for that reason. But the capacity is already acquired and paid for.

Mr Speaker, competition between Gibtel and Nynex already meant that international charges were set to decrease further. I am glad to have heard the Minister say here that that policy is going to continue in the year to come because it is paramount that if people are not to be encouraged to look for their telecommunications requirements elsewhere, that that should continue to happen. Although Gibraltar telecom are exempt from VAT, there are mobile systems in Spain already boasting of being cheaper than the fixed network. It is for all these reasons and against this background that it is the worst time ever for the Telephone Fund to have disappeared.

Mr Speaker, I was pleasantly surprised to have listened to the speech by Mr Wells to the European Movement last week in which he spelt out the success of the GSLP Government in tapping the social and structural funds of the European Union. I am glad to see that some of these funds have already been used, in the Liner Terminal, the Europa Business Centre and the pedestrianisation of Main Street which is now near completion. I also welcome the fact that other projects initiated by the GSLP, such as the catchments and the widening of Sir Herbert Miles Road is included in this year's Estimates. However, Mr Speaker, despite some of these projects being concerned with roads, this year has seen a deterioration in the state of our roads. The Chief Minister

has given an explanation this morning on why the vote in the Improvement and Development Fund is being moved to the recurrent expenditure but the explanation given by the Chief Minister does not concur with what is evident, unless I am mistaken, in the vote for roads, given that since last year the Hon Col Britto said that they were investigating the manpower requirements and a year later the Hon Mr Holliday says that we are now going to have an employment audit in the department, so we still after a year do not know whether we are going to increase the complement or not increase the complement. If the vote of £500,000-odd for roads is not to be used by direct labour then the problem that arises that was explained by the Chief Minister should not arise and therefore, in my view certainly, it is a wiser proposition to continue to have road works capitalised in the Improvement and Development Fund rather than the recurring expenditure, but that is a value judgement as well. Let me say that the Hon Mr Holliday said today that the department was preparing a road programme and that the cycle being looked at was a cycle of a 10 to 12 year cycle for the repair of all roads in Gibraltar. The yardstick used by the MOD when the DOE used to repair their roads, was six years and I would warn the Minister not to take a yardstick for all roads in Gibraltar since one has to have a yardstick for some roads and another one which are used much less for others. For example, Winston Churchill Avenue was resurfaced two or three years ago and it is now up for resurfacing again. *[Interruption]* No, the painting in black which he calls paint which is still there holding the roads which are not slippery but I know that the Minister in private told someone that it was paint, that that was not tar. Those are still holding the roads this year and had that not been done the Minister would have had a great problem this year with the roads. *[Interruption]* But that was part of Winston Churchill Avenue that was done which was slippery which was the roundabout. But I would warn the Minister not to use the same yardstick in all roads and I would ask him to perhaps, once he has got a cycle complete to make available a copy of that cycle and how it is going to work. I welcome the fact that Naval Hospital Road, Prince Edward's Road and Flat Bastion Road have now been included in the programme. They were included in last year's programme, they were not done for reasons I think beyond the control of the Minister and I welcome the fact that they are going to be done because those three roads are in a terrible state, have been in a terrible state for some time and have been due for repair for a long time.

Mr Speaker, as far as traffic and parking is concerned, motorists are experiencing great difficulty with the changes of direction in traffic in some roads. Although these measures have been announced to be temporary whilst works take place, there is a suspicion held by some that the intention is for these changes to become permanent. Government have repeated on various occasions to me in this House that they have commissioned a study on all matters related to traffic. Until that study is completed and an overall picture emerges, it should refrain from considering, for example, further pedestrianisation, Lover's Lane, etc given that in the same gist that they have been consistently saying here that they could not consider the proposals for the car park at Engineer Lane for that reason, they should ought not to be able to consider any other traffic issue until the study is completed or they can consider every issue. They cannot have one criteria for one thing and another criteria for another thing. It is a pity that there have been delays in the construction or in the green light for the project in Engineer Lane because it becomes more urgent as a result of all the parking that have been lost to Main Street as a result of the pedestrianisation. It was a proposal that was there, it was a proposal that would have not cost the Government anything, it is still there, they are still in time to do it but obviously depending on how the flow of traffic will eventually finalise, that will be, as one can hear, the feedback from Government Members, the criteria being used.

Mr Speaker, it is my firm opinion that unless traffic from the Upper Rock is diverted away from the City Centre, further pedestrianisation would be prejudicial to the free flow of traffic.

I welcome the announcement today that the sewer that services the Convent only is now to be collapsed and filled in because that is the initial view put to Government at the time of the first incident and instead of having undertaken major repairs to part of the sewer and then undertaken major repairs again to another part of the sewer, there was advice available to the Government at the time that the best thing that could be done to the sewer was then to collapse it completely and to fill it in and that advice was not taken and we have had a situation where the sewer has been collapsing bit by bit until the decision has had to be taken at the end that the best thing to do was to cut it off, to connect the Convent to the main sewer and to fill the whole thing in. I am glad that that decision has been taken, but it is a decision that could have been taken a year ago by the Government.

HON LT-COL E M BRITTO:

I thank the hon Member for giving way. The decision was in fact taken some time back, Mr Speaker, it is being implemented now. The sewer was diverted, I have not got the dates here with me, but the first collapse the hon Member is right, was repaired but when it happened again the causes were investigated and the decision to divert was made as far back as that, the diversions were made some time in October or November. The financing for collapsing the whole sewer and blocking it in has not been available until now and that is what is going to be done now but the decision was made some time ago.

HON J C PEREZ:

I accept that the financing might not have been available but I know that that advice was available because it was available to me at the initial incident which was not very great and then the first major incident happened which was the collapse of the sewer.

Mr Speaker on the question of electricity, obviously I welcome that there is a financial provision for the repair of the old stores to move Orange Bastion and the relics of King's Bastion which remain behind. That obviously will allow Government Members to look at King's Bastion in another perspective because it will be vacant and certainly it would release another important area in the centre of town which is Orange Bastion which is a site that has potential for development. Let me say that the SCADA which the Minister has described which is a new version of the old system that was being looked at is welcome. Last year the Minister said that the Government were to consider it. This year he says that they have considered it and are going ahead with the project but in the Estimates we see that only £3,600 of a vote of £362,000 are going to be spent in the coming year which I think is very strange for a project that has already been provided. If the Minister looks at Electricity, Improvement and Development Fund, it has got Controller Link (i), £362,000 and then (i) Controller Link Expenditure to March 1997, I am sorry, I thought it was to March 1998. So then we would see most of that project developed and completed this year.

I would also ask the Hon Col Britto, perhaps at the Committee Stage, two matters, one is where it is intended that the new area for rubble

disposal is going to be opened because construction sites continue to require that and a lot of households and a lot of people need to have an area to be able to do that and that is precisely why the rubble site in Eastern Beach became available when the Marina Bay was completed and there had to be found another area for rubble and that has increased to the degree that the reclamation has grown dramatically as a result. The other thing I would like to ask the Minister is that I know that part of the ash from the incinerator is mixed with rubble in that site and whether..... *[Interruption]* Yes, not the fly ash but the other ash is mixed with rubble in that site on a daily basis and if it has not got that area to do so there must be another area so that that continues to take place. So I am telling the Minister that it is a welcome site touristically that that area is not going to be used for rubble but I think the Minister will find it hard to look for a convenient alternative site for that process which needs to continue. The other thing I would like the Minister to check, and I know it is not a simple matter, is that when I initiated bulk mailing in the Post Office I was not very sure at the time and I was asking for figures internally whether once one pays the receiving administration cost whether we were actually making a profit or not on the bulk mailing that we were doing. It was never finalised, I know it is a complicated matter, it is not an easy matter, it needs to be checked. Could the Minister check whether the Post Office have figures to look at whether bulk mailing is having a net positive effect or not given that the receiving administration then charges the Post Office for servicing that letter and it will reduce the stamp at the time that we send it and we might be losing, not only a part of our part of the profit but we might be losing out in total. Given that once the receiving administration reaches a peak the prices to the sending administration increase and perhaps the Minister could check it and give me an indication at the Committee Stage because I have not seen the income from bulk mailing shown separately in the Estimates because I think it is a very difficult thing to do anyway.

Mr Speaker, let me touch upon an area which is industrial relations. Much has been said about the problems of Buildings and Works and, frankly speaking, we have had a situation when the Government Members accuse us of duplicity and all that, we have had a situation where they have been accusing us of directly interfering as Ministers in departments which there is level that the Minister has to and there is a level that the Minister has not got to. But we have got the fine example of a Minister interfering directly with the workforce in Buildings and

Works, writing to the workforce himself instead of allowing the industrial relations machinery to get on with eliminating and trying to sort out the troubles that they have got. I put it to the Government that if they had done that perhaps they would not have the problems that they have today. Certainly when we talk about duplicity and we talk about the Hon Mr Netto, one goes with the other because as my hon Colleague, Mr Baldachino, said today he now does not favour going out to contract and a few months back when he was in the union he actually charged into Convent Place and declared a sit-down because SOS was repairing a toilet to an old age pensioner who could not afford to do so, that was the issue at the time. Later on, Mr Speaker, he was the one, as a union officer, who actually negotiated with the Hon Mr Baldachino and with the Industrial Relations Office in the Government the actual JPCs which today he finds are not value for money. So when we talk about duplicity, the Hon Mr Netto and duplicity have a lot to do one with the other.

Mr Speaker, in rounding off my contribution I need to remind the House that what we have seen up-to-date from this Government is the setting up of committees to study this and that or the commissioning of studies for this and that. Last year we have seen how the economic activity generated mainly in the construction industry is fully the result of projects initiated by the GSLP when in office. This year too there are projects initiated by the previous administration which will continue to have a positive effect on the economy, basically those of infrastructure. We must not have done it so bad, notwithstanding the criticism when they have got the money, when they have got our ideas and when they have got our projects and when they are carrying it out with our money, or the people's money but certainly money generated by us when we were in Government. So despite all the criticisms of the GSD we must not have done it that bad.

I think it is important for Gibraltar to have maintained a strong position of reserves in order to have the capacity of meeting commitments in employment, social services and economic development. Moreso with a neighbour set to become more bullish as our strive towards self determination advances.

As a result of the disappearance of the Special Funds, the Consolidated Fund now carries liabilities for those Funds including debt repayment. These now need to be met from recurrent expenditure or could need to be met from recurrent expenditure depending the position of the

reserves if the expenditure levels continue at the level that they are this year. Mr Speaker, the reserves certainly have been substantially depleted if we get what the Principal Auditor calls reserves which were all the Special Funds and the reserves shown in the Consolidated Fund, that is what the Principal Auditor describes as the reserves of Gibraltar.

Therefore, rather than prudent, I would call it a risky gamble into the unknown probably the result of over optimism that promotions, particularly on tourism, will create and generate the necessary growth.

HON LT-COL E M BRITTO:

If the hon Member would give way. Reference the hon Member's enquiry about bulk mailing. Bulk mailing, as I am sure the hon Member knows, in the Estimates previously the figures that were shown were shown netted and did not include payments and receipts to foreign administrations. This year they do, they are shown on both sides on revenue and in expenditure. The hon Member will find it on both sides, he will find it in revenue under Head 6, subhead 22 and then in expenditure under Head 4(d), subhead 5. Having said that, the figures include both conveyance and terminal dues. Is that the figure that the hon Member is looking for or is he looking for a breakdown between one and the other because he will not find a breakdown between one and the other?

HON J C PEREZ:

Well, conveyance and terminal dues would be the proper breakdown yes, that would be it.

HON LT-COL E M BRITTO:

But the figure that appears in the Estimates is the total figure of both.

HON J C PEREZ:

The total figure of both, I see. If it is possible, and I know it is difficult, to have a breakdown we would have an indication. I am telling the Minister for the sole purpose that I myself was not sure that it was actually a going business and if we are going to lose money or are neutral about it, it is worth looking at it and investigating it a bit further. Thank you.

HON P C MONTEGRIFFO:

Mr Speaker, before dealing with the substantial points of my contribution, let me have something to say first on the Department of Trade and Industry and its proposed structure. In common with other departments it has, of course, seen changes in the last 12 months and is likely to see many more changes over the next few weeks and months. It is probably useful to outline very briefly what we inherited on the 16 May last year. Essentially at that stage the DTI consisted of an Engineering and Design Section which, as the House has heard the Chief Minister say, is now being passed over to Support Services and a small Commercial Section, both of which were based at Europort but on different floors within the same block. It was quite evident that that department was not cohesive, it was not properly structured, there was no rationale to the way it had been put together. Not least the presence of the Engineering and Design Section within the DTI had no logical reason although it serviced projects that the DTI was initiating, it similarly serviced products that the Education Department initiated, that Support Services initiated, that other Government departments initiated. So we see it as logical for the move now to be made from DTI into Support Services. I would like to take this opportunity of thanking the people I have worked with at Engineering and Design over the last year, in the planning stage of many of the projects that we have been discussing in the course of today and yesterday and in particular to Michael Gil, the Head of that section, with whom it has been a pleasure to deal with.

The future organisation of the Department of Trade and Industry will therefore be one much more dedicated purely to commercial, trading and finance centre activities. This will take the form of the creation of different units or divisions and as a result of the shortage of space that we will now suffer on the floor where the Commercial Section is currently situated, we shall all be moving to a new floor within the Europort facility where all these different units will share common facilities. The units essentially will be the following:- firstly, we will continue to have a reconstituted Gibraltar Commercial Division that will be headed by the current Commercial Director and will include new resources including a new graduate EO. That Division will retain responsibility for all Gibraltar business development, trading development and the promotion thereof. Under that unit, for the first

time, we will have a new EU Funds Unit. As the House may be aware, the current view of the Government, EU funds are administered by two entities; the DTI with regard to what are called ERDF Funds, the structural funds; and the Employment and Training Board with regard to ESF Funds, namely funds dedicated towards training. We think it is logical for both those functions to be brought under one head so that the Government have a single capability in the administration of our EU monies. This will, of course, allow for better coordination and for better planning. The second major division will be the Financial Services Development Division. As this House is aware, we have advertised for the post of a Financial Services Director. As in the case of the Gibraltar Commercial Division, he will have a graduate EO in support together with the appropriate secretarial services. We regard the need for such a facility as desperately urgent. There is absolutely no capability in the Government, and I highlighted this a year ago, at present to deal with enquiries that come on financial services matters or to plan and to indeed develop the industry. Hon Members will know that the Financial Services Commission is not statutorily required to promote financial services and although it undoubtedly has a role to play in the development of the industry, its current regulatory work and what it needs to do, in particular to get us through passporting, do not in fact allow it to get very involved in development. The situation has therefore arisen in the past that many enquiries that come to Gibraltar before they are right for the regulator, do not get dealt with. If they happen to land on the desk of an adviser, be it a lawyer or an accountant, then it is dealt with in the private sector. But somebody who simply rings up the Gibraltar Information Office in London or rings up a Government department in Gibraltar, unless he is lucky enough to perhaps find his way through to one of the Ministers that might have some expertise in this area, there is nothing within the public administration to develop the concept that somebody might be interested in pursuing to give comfort as to what Gibraltar can offer, to provide information beyond the very basic which can be delivered just by a simple brochure. We think, Mr Speaker, that this new Financial Services Unit is going to make a dramatic difference, and as I will say shortly, it will be absolutely necessary in view of the transition which the Financial Services Industry has to go through if we are going to survive in this competitive environment. In order to complement both the commercial and financial divisions, we will moving into DTI under the auspices of the DTI the Small Business Bureau. We shall be naming it the Small Business Board, it will remain part of the Gibraltar Development Corporation, but

it will be housed within DTI and it will have an important role, not just in advising starter businesses, which is ostensibly its current role, although it is not terribly well resourced, but it will also have a role in providing information on the Government Assistance Schemes, which I will say something about shortly. Hopefully, that unit will also allow people who want to get into business and apply for these Government schemes to structure their applications in a way that will allow DTI to make better sense of them. What happens today de facto is that people with ideas, people who have not been in business before, will tend to approach either the Minister or the Commercial Director and talk through the idea, talk through the concept, and it is a rather odd situation because one takes them through how this proposal should be put together and then ones job at the end is to assess the viability of it. What the Small Business Board will do is help people put together business plans, help them think through viability, help them access schemes for assistance and then allow those applications to come into DTI formally for assessment. As the Chief Minister has indicated, the Statistics Office will also move under the auspices of the Department. The logic of that is being outlined and the current Trade Licensing Administration will of course stay within the department.

Lastly, under the structure of the department, Mr Speaker, a word on the telecommunications regulatory situation. A great deal of work has been done on this, as hon Members know, we are transposing the EU Directives on telecommunications and one of the requirements of that transposition will be the need to provide for a telecoms regulator. It is likely that that telecoms regulator will be established as a statutory body, independent from the Government, but housed again within the auspices of the DTI. We give great priority to the transposition of these directives. They are important for liberalisation purposes, they are also important in the context of the new telecommunication projects because the new transposition will set up a licensing regime which must be in place before we can license the various projects that this House has received information about. And of course the final structure within the department has been that I have acquired several months ago a Principal Secretary, currently in the form of Reggie Chichon, who has been a great help to me in keeping together the strands of my responsibilities and in holding the different demands on time in a way that is coherent. I want to thank the people I have worked with over the last year, Mr Speaker. It has not been easy at DTI. The department does constitute the main focal point for economic proposals that come

into the Government that we are not of a tourism type in particular and we have been quite under staffed. I want to thank Francis Sheriff, I want to thank Janet Diaz, my personal secretary, and Albert Bruzon, they in particular have been the corner, backbone of the unit around me over the last year and I think they deserve a mention.

Mr Speaker, this year has not been an easy year for the Gibraltar economy. Some problems we anticipated, some we did not anticipate. Clearly, what we anticipated was the confirmation of the Ministry of Defence run down details, which were announced formally last April. Whilst those figures are a good deal less severe than Deloitte and Touche anticipated, they will nonetheless represent a major blow to the economy in the coming year and in the years ahead. The House is aware that figures are reduced now to a figure of 300 over the next four years. One hundred jobs having gone through natural wastage. We will enter into further discussions now with HMG and the MOD with regard to measures that we think should be taken to reduce the impact of these cuts. One of these issues will be Government's insistence that the MOD should confirm that there will be no compulsory redundancies as a result of the run down. As the House will recall, this is indeed the hope that has been expressed by the Ministry of Defence itself. They have indicated that they believe the numbers and times scale is such that it should be possible through natural wastage, through early retirement in particular, for no compulsory redundancies to be required. We think it is not unreasonable for that to be converted into a guarantee rather than just an expectation. It is one of a number of issues that we will be taking up with the Ministry of Defence and HMG over the next few months. I want to say we have worked well with the Ministry of Defence over the last year, not just on the run down but also on land related issues. We need to continue working well together. We also need to continue to work well with the TGWU. We have kept Louis Montiel and his colleagues informed periodically and we see that consultation getting more intense in the months ahead. The one major problem we did not anticipate of course was the closure of the Kvaerner Shiprepair Yard. The loss of those 138 jobs will also leave a deep scar in our economy and that is not going to be, in our view, a situation which is easily going to be redressed. The Government are and should be aware, Mr Speaker, of the need to get in an operator as soon as possible. The current position on this, is that operators or potential operators have approached the Government. A number of initiatives have been put to us on a parallel basis to the receipt of general proposals. The

current position on this, is that operators or potential operators have approached the Government. A number of initiatives have been put to us on a parallel basis to the receipt of general proposals. The Government have contracted a consultant to promote what the Yard has to offer and to help Government assess the proposals that are being received. We hope that the time-table will work so that by the end of June we will have received outlined proposals from prospective interested parties. At that stage we will be able to start assessing the viability of them. But it is vital that we carefully look at viability. Clearly the history of the Yard post commercialisation has not been a happy one. For different reasons, different commercial propositions have collapsed and we must avoid a cycle of bust and boom almost in the shiprepair facility. We have to try and ensure that on this occasion, even if it takes us a little more time, the operator that comes to run this facility will provide not just jobs, but truly sustainable and long term jobs in an industry that we all recognise remains highly competitive. The Government in the process of looking at these proposals is particularly open to considering a diversification of activities within the Yard, but will remain committed to a co-activity in shiprepair. We have kept the Unions informed of what has been transpiring over the last few months and like in the case of the MOD rundown, we see that need for contact accelerating over the months ahead. We also could not have anticipated the exceptional strength of the pound in the Foreign Exchange markets. Although the traffic across the frontier is clearly high and of course it has been high in the course of last year, the exchange rate, the sterling/peseta exchange rate does have a dramatic impact on peseta based spenders. When one considers that businesses agonise to cut down a couple of percentage points in their costs to remain competitive in Gibraltar and everywhere else in the world, the loss of purchasing power of 15 per cent or 20 per cent over a year, is a dramatic change to a business plan. Unfortunately, this is an unavoidable consequence of an economy which has an element of reliance on frontier traffic, but it is something that we have to be conscious of because we can do a lot of work in reducing costs and making businesses more competitive but it is highly vulnerable to an exchange rate variation of the type we are suffering.

Mr Speaker, the Leader of the Opposition, in his contribution, agreed that the private sector is the way ahead for the development of this economy. But it seems as though that is where the agreement ends, and I say that because if we were all, as we do, if we were all to be in

agreement that the private sector is what will drive Gibraltar forward, then that means that the private sector has to be assisted, the private sector has to be given the greater tools in order to succeed. It is not good enough, with respect to the Leader of the Opposition, to simply build a nest egg within public finances which will weather us through one or two difficult winters. If the whole hill in his ant nest egg, if the whole hill is driven away because the private sector is swept away through being uncompetitive, the nest egg will be of little comfort in the medium to long term. The most it would give us is a breathing space in a short period of time. And that is why this Government feel that it is a politically correct gamble, if that is the way they describe it, we do not think it is a gamble, we think it is a political correct investment, to put money and to put resources into making Gibraltar business more competitive and in helping the private sector develop. Because it would only be that way that we can expect it to create the jobs that we all agree have to be provided by it. And we do not think that it is an easy job in 1998. Much has been made of a comparison between 1996 and 1988 and that the fact that in 1996 we have inherited something in Gibraltar which is vibrant, with good infrastructure and therefore ripe for promotion externally, whilst in 1988 they inherited Gibraltar that was under resourced in infrastructure and incapable of receiving inward clients. Mr Speaker, every political Government, any Government have a mixed legacy and we do not say the Opposition Members did nothing right in their eight years. We recognise the improvement in infrastructure, just as one recognises the need to create real sustainable economic activity after the infrastructure has been put in, but in many respects the job we face in 1996, now 1997, is a good deal more difficult than the one that the previous administration faced in 1988, because although we do have a better infrastructure, we cannot forget that we are suffering from a credibility reputation problem. That will take time to get over. I know this brings smiles to the Opposition Members, but I can assure them, if they not already know it, and I think those that go out to promote Gibraltar in every sphere, clearly understand that the last two or three years in particular, brought about a complete collapse of international confidence for Gibraltar. It was impossible, it became impossible to attract continued confidence in Gibraltar as a result of a whole number of issues that have been well recorded and documented in the election campaign, and I need not repeat. But it is not going to be easy, to gain back a lot of the credibility and a lot of the confidence that whether we like it or not, Gibraltar has lost over the last three or four years. It will take longer than 12 months, we have made a good start,

but it will take a good deal longer before we overcome the hurdles that are in our way in that respect. Our strategy is indeed going to be to create more revenue and create more employment. Of course that is the strategy. It is not reflected in the Estimates because one prudently does not guess how quickly we think this strategy is going to work, but of course the intention is to build up our employment base and thereby increase revenues to Government. And in that task, the Government recognise that we have two broad responsibilities, firstly, the need to attract and then nurse through new projects to Gibraltar and some of the projects that are Gibraltar driven. In other words, what I would call project management, and the second, to create the conditions for local businesses itself to develop of its own accord. And that is just as important as an inward investment strategy. Much is being done within the department to pursue those two priorities and I would like to deal firstly with the question of project management and give the House an overview of some of the projects we are dealing with and how far they have got in development. Two of the projects that involve inward investment are investments that pre-date our term in office. One is the proposed beverage factory, the powdered beverage factory in the area of the reclaimed land directly adjacent to the Port Department and the second is the Super Port project. I am pleased to say, Mr Speaker, that we are making good progress on the powdered beverage factory. We anticipate the creation of 25 jobs over the next year. There has been extensive work done to the documentation and to the commercial agreements. We hope to be in a position in the next few months to confirm the final arrangements. The position with regard to Super Port is less developed but we are still trying to bring that to fruition. We hope to do so in the course of this year and we continue to receive assurances from the developer that he remains committed to the project and to the expenditure that is still to be made to bring it to fruition. On the assumption that it will be completed, we are talking about direct employment in the ship brokerage business of about 30 jobs and related employment within the complex of about another 35 jobs. So if we are successful in completing those two jobs, we are talking about jobs in the region of 100 over the next year. Mr Speaker, other entirely new projects have been attracted to Gibraltar over the last 12 months. Some of these are still in the course of being negotiated and as I mentioned others are sufficiently progressed in the negotiations for me to feel confident to say something to the House about them. As we have made public some months ago, this Government decided in February to repossess the site that the previous Government had earmarked for the

Haven Shiprepair Yard. On that site Government are proposing to establish a bottling plant, the negotiations with the developers and investors are very advanced and we are confident that these would be concluded over the next few weeks. There will be a small element of expat expertise, but there will be employment for at least 20 local employees. Quite apart from the direct employment in that vicinity, it will create a significant port activity since the product will be both imported and exported through the port and we have, for example, clear confirmation that there will be at least six further stevedoring jobs created as a result of this particular initiative. We are also pursuing various proposals in regard to the new sullage plant. As hon Members may be aware, there is currently a Ministry of Defence sullage plant that provides limited commercial activity to shipping. There is scope for a commercial sullage facility which will provide jobs, probably around five jobs, and add to the facilities of the Port. There are three proposals that have been received and the Government are in the process of evaluating which of those we should take forward. Mr Speaker, there is finally a venture which deals with computer and data related services which has recently been attracted, that promises to involve a significant number of jobs in keyboard and communication skills. I hope to be in a position in the course of the next three to six months to be able to give some news on what that project will involve. I am confident that we will be able to attract greater interest to Gibraltar. If there is one constraint well over and above the constraint of skills, which this Government will address and have a commitment to address, it is probably the scarcity of land. It is probably the fact that it is not easy to actually develop factory or light industrial units in Gibraltar because land is scarce and even where there is land, there is often a conflict in the use that one might want to put to that land having regard to what is adjacent to it. In addition, of course, to the ventures I have described, we have the telecommunication projects that the House is generally aware of. The job creating capacity of those projects is very significant and therefore we do give great importance to them. In particular, and not because it is just the one that we have attracted, but in particular, the ELCOR project, which is a new one, will involve 50 jobs in the first phase, which we are assured will commence within 1998, and a further 50 to 80 jobs 18 to 24 months thereafter. The project involves mobile telephony for the African continent. The consortium leading the project includes South African interests and I was able to meet with the consortium members when I was in South Africa this April. It is not easy to bring these projects to fruition, largely because they involve many different players,

in many different countries with contractual and construction complications. But we feel confident that in the course of this financial year we will already see movement which will involve the recruitment by some of the companies that are earmarking Gibraltar, we will see recruitment for personnel for training purposes. As part of the concept of project management, quite apart from inward investment, we are of course also keen to develop local business in terms of projects and a number of individual projects which the Government have simply encouraged are worth highlighting as evidence of continuing commitment to Gibraltar. We are delighted, for example, to see the next phase of Queensway Quay, in the form of Cormorant Wharf, taking off the ground. That sort of property is very important if Gibraltar is going to continue to attract wealthy retirees. We are also very interested in the retirement home concept that one particular developer has pursued and that might give rise to particular further possibilities. We also are keen to develop certain other sites which have residential or commercial potential. There has been considerable interest in the tenders for White Rock Camp and the smaller plot in Rodgers Road and construction for those developments will start shortly. The House is aware of the importance we give to the Casemates Barracks Square development and there is provision in the Estimates for the first stage of those works to commence. Over the next few months the Government will also be inviting outline proposals with regard to Lathbury Barracks. Having regard to the fact that the proposed University facility has fallen through, Government are not prepared to simply let Lathbury Barracks dilapidate further. It is a building and a complex that clearly has potential in a number of different respects. We shall be seeking outline proposals at an initial stage and we shall then assess those and decide how to move from there. I also want to outline another development clause to which we attach special importance and that is Old Naval Hospital, mainly the residential units, known as Old Naval Hospital, which consists currently of about 37 very large units and which are destined for hand-over to the Government in November this year. Over and above all other MOD land releases in this year, that property is one generating a lot of commercial interest. We have received enquiries from developers wishing to develop for residential purposes, always of course respecting the very great historical heritage value which those buildings have.

Lastly, Mr Speaker, I would like to give mention of the leisure complex. We have a manifesto commitment to provide a leisure complex. We are working with the private sector to bring about the development of

such a complex. We are keen to make a start on that this year. It will create jobs, quite apart from the recreational and social aspects that a leisure centre will bring to Gibraltar, it should create significant employment in the commercial and leisure facilities that such a complex will involve. Mr Speaker, I mentioned that we saw two broad responsibilities, one project management, and I have briefly gone over some of the projects we are pursuing, and the second responsibility is to help local business of its own accord to do more and create more employment. And this is what this Government have consistently repeated is what is required and that we would provide a package of measures in order to stimulate the private sector into expansion and into more activity. I want to run through what these measures, what this package involves because it is a cohesive co-ordinated package, albeit one that may be delivered in stages. The measures will include the following:-

- (1) the rent reductions of certain Government commercial properties which we have already announced;
- (2) a lowering of commercial rates;
- (3) the review of import duties to make certain products more competitive;
- (4) specific financial assistance to start up small and medium sized businesses. This assistance is what we describe in our manifesto as our enterprise initiative and it will include a role for the Small Business Board, as I shall explain;
- (5) the general accessibility to EU funds, in particular the Objective 2 and Konver 2 programmes (which I shall also talk about shortly);
- (6) Government support to work in co-promotion with the private sector. This extends to all economic activity but most specifically to trade, tourism and financial services, and
- (7) funding for improved training opportunities.

Quite apart from anything that the Government will do of our own accord with regard to training that we will provide within an institution which will develop along the lines that my hon Colleagues have

indicated, Government will make available to the private sector funds for training initiatives for their own employees and staff if they so wish to introduce them to students. The importance of training goes to competitiveness. It goes to productivity and the Government, as part of our package, will therefore assist the private businesses that bring us initiatives of that type.

HON J J BOSSANO:

Can I just ask, are these the funds that are shown for training in the ETB in the annex? Is that what we are talking about?

HON P C MONTEGRIFFO:

No, Mr Speaker, they are not. These are funds that would be accessed directly from the Objective 2 or Konver 2 programmes. Dealing firstly with the Government reductions of rents in Devil's Tower Road, North Front and New Harbours. The move has been generally welcomed but in some quarters reservations have been expressed. It is not always possible to apply measures that will affect and benefit all businesses across the board, but most of all the other measures that I have indicated, will indeed broadly help the commercial sector as a whole. We believe that the reduction in Government rents will over the medium term help to suppress private sector rents and that is good because the private sector rental levels have essentially been assessed as to what was a high property market value of four or five years ago, leases do not make provision for reductions in rents, they typically make provision for rents staying as they are or increase their market value and very many commercial rents are not at market value levels as we would understand in 1997. They are indeed properly at the market value levels as understood in the late 1980's or early 1990's and we think that this move will help to suppress the level of rents in the private sector. But one other objective of reductions was indeed to generate capacity, to generate more activity within the Government held premises. And that is working. As at April this year the occupancy rate at New Harbours was 55 per cent. As the result of the reductions we are receiving many applications for people coming into New Harbours. Currently we have nine applications for entities wishing to move into New Harbours and we are confident that over the next 12 months, we are going to tenant New Harbours entirely. We do not believe that that would be at the expense of activity that moves from other premises into New Harbours. Indeed

the applications that we are receiving indicate that in very many of the cases they are businesses that could not afford to expand before and within this new environment are prepared to take the step of taking on new premises and would leave as a result of creating more activity and therefore employment. Whilst on the subject of light industrial workshop premises, I shall also refer to the response we have received with regard to the 39 units at Governor's Cottage. To date the Government have received over 90 applicants and we expect shortly to be in a position to process those applications. There is no doubt that there is a demand for reasonably priced workshops/industrial units and as a result of this, the Government will be looking towards providing a further business park type facility where the concept of Governor's Cottage can be extended. The second and third measures I mentioned at the beginning of my list, were the measures involving commercial rates and a review of import duties. The Chief Minister has indicated in general terms where we are going in that direction. I repeat that we intend to reduce these measures in the course of the next few months. The reduction in commercial rates in particular is one that I would highlight. This will take the form of a discount that will not apply to commercial payers who default. In other words, it will benefit a good conscientious payer. Where there are arrears of rates, the Government will be seeking to enter into agreements with the rate payers, with the intention of insuring that their total liability at the end of each quarter is less than the liability they currently have. But the thrust will be to encourage prompt payments and thereby indeed perhaps make the measure less costly to the Government than might otherwise be feared. In the import duty review, we intend that this will be broadly neutral in revenue terms, but it will not be appropriate for the Government to say more at this stage until more specific decisions on what items will benefit from either increases or suffer from decreases have been determined. The fourth aspect of the assistance, Mr Speaker, is the directly targeted help for the development of start up and small and medium businesses. What I described as our enterprise initiative and which will comprise of a number of schemes. We intend to launch the enterprise initiative this July. The enterprise initiative will consist of three schemes broadly directed towards small and medium businesses, but all having slightly different characteristics which I would briefly describe. The first two schemes which will be known as Gibraltar Enterprise Scheme and the Gibraltar in Europe Business Development Scheme would be essentially funds. They will provide capital payments, usually in the form of soft loans, interest reductions on bank loans, or in appropriate

cases, cash grants. Hon Members will have noted that there is provision in the Estimates being the Improvement and Development Fund for a capitalisation of the Gibraltar Enterprise Scheme of the figure of £1 million. With regard to the Gibraltar in Europe Business Development Scheme, there is no separate item there because that will be funded directly from the Objective 2 programme. And that indeed is one of the main distinctions between the first and the second scheme. The second will have EU money, the first will be an entirely Gibraltar Government funded scheme. One of the consequences of that, Mr Speaker, the reason that has been done that way, is that if it is funded by EU monies, then that scheme is restricted by EU eligibility rules. So whilst for example the second fund, the second scheme would not be able to provide assistance to retail financial services or wholesale businesses, there is no difference between what the Gibraltar Enterprise Scheme, the first one, providing that assistance. So by and large, applications for assistance that fell within EU eligibility rules would be directed towards the second scheme. Those that did not fall in those eligibility rules will be directed towards the first. But the main thrust of those will be start up and small and medium businesses. Both schemes, even though only one benefits from EU money, will nonetheless be subject to state aid restrictions and what that mostly means is that no applicant will be able to benefit more than 100,000 ecu, roughly £70,000 over a three year period. So, as I have indicated to the House, the two schemes are for small and starter businesses, not for large investments. The third scheme that comprises Gibraltar Enterprise initiative is what we would describe as the Gibraltar Investment Assistance Scheme and members will note again in the Improvement and Development fund a notional or token £100,000 investment into that scheme. This scheme is different to the other two funds in that it is not a fund as such. There will not be a pot of money like in the other funds, which will compromise the Gibraltar Investment Assistance. It is rather a form of facility which can be accessed, in particular by inward investors or by large projects that are locally driven. So, for example, although in the Improvement and Development Fund, the assistance to hotels appears separately, in fact, it would be routed through the Gibraltar Investment Assistance Scheme. And I say routed through because that scheme is the one which would reach EU State Aid rules as those are defined and it is that scheme which requires EU permission. Permission is being sought. We are advised that it will be forthcoming shortly and therefore it will be through that scheme that assistance, such as that directed to hotels, that requires EU approval will be funded. The Government will of course be

promoting these schemes with the appropriate literature with brochures and the Small Business Board, Mr Speaker, will have the role of seeing applicants, especially start-up applicants, to take them through the different facilities, what is available, what they need to do to prepare their business plans for submission to the Department of Trade and Industry for consideration by the Government. We are excited about these schemes. Nothing of this type has been seen in Gibraltar before. It is the next logical move for Gibraltar to go with regard to the use of EU funds. Most of the EU funds that Gibraltar has accessed in the past has been used for infrastructure, particularly for hard infrastructure works, to get the private sector involved. These are the sort of schemes that are necessary.

The next aspect of the package, and I am sorry for labouring these points, is the question of general access to the EU funds, the Objective 2 and Konver 2 programmes and I make clear that access to those funds is over and above access to the enterprise initiative. Any business, any private business, of course, that has a proposition that falls within the EU eligibility rules, will be able and will be encouraged to apply for assistance directly into the Objective 2 or the Konver 2 programmes. Hon Members will recall that we have Objective 2 monies worth £4.6 million and Konver 2 monies worth £3.7 million from the EU and the figures in the Estimates take into account the matching funds that Government are required to put in place. Mr Speaker, if the private sector uses these funds, it is required to match the monies as well, but so is the Government. There is no situation in which the Government does not have to match. The Government always have to match, but the private sector can add as well, so the more the private sector uses the EU funds, the more that the programme will extend and the greater benefits it will have. There is also a small Interreg programme with Morocco that is dedicated more towards a development of feasibility studies with Morocco and to have Moroccan students being brought to Gibraltar. That programme, in fact, started in 1994, but has not yet kicked off because of difficulties. We are keen to get it going in the course of this year. It also involves, by the way, refurbishment to the ferry terminal. That is the largest individual project that the Interreg programme will have. There was minor work done in the course of this year on dredging, there is a note on that in the Improvement and Development Fund, but there is money which we dedicated to the refurbishment of the ferry terminal as a result of the re-establishment of the ferry link.

Mr Speaker, I would now like to turn to the question of financial services. As I mentioned earlier, I believe that the introduction of Financial Services Unit will represent a major advance for the development of this industry and there is no doubt that Gibraltar is going through a fundamental transition as a financial services location. And that transition is driven primarily by two things. Firstly, by the increasing competition of comparable centres that are providing what we would traditionally call offshore products. There are very many more of them today than there were 10 years ago that are sprouting out everywhere, and secondly, by our membership as part of the European Union. Both these issues require two things. One, better quality and added service in what we provide. It is no longer a bucket volume finance centre activity that we can indulge in, and, secondly, the need to comply with EU directives if we are to achieve passporting and benefits of the internal market. We get importers to both those strands of our finance centre capability. Both the retention of private client work, the traditional offshore work where we have to add value and the completion of our credentials as a European passporting territory. We are confident that passporting and insurance will be confirmed very soon. The elections in the United Kingdom undoubtedly caused a delay in the appropriate confirmations being delivered and whilst it is not our job to pre-judge formally the results of the audit team, we have confidence that we will have the appropriate confirmation shortly. And that is important because we are very keen to move on to the next two phases of passporting which will be banking and then investment services and we are keen to achieve both those targets within the next year to 18 months maximum. There is no reason as a result of the effort that is now being put into financial services development why it should not be able to work to that ambitious timetable. The last year has indeed seen a resourcing of the financial services complement. Hon Members will note the underwriting of the Commission as part of DTI's expenditure. The Commission has brought on board James Costin as the new Insurance Supervisor. We have Michael Baker as the new Controller Activity Supervisor and recently we have seen the arrival of Brian Morris as the Investment Services Supervisor. These new personnel really does give the Commission everything it needs to get the results. Unfortunately, Mr Baker will be leaving and will have to be replaced, but certainly we now have the resources there to get this job done. Mr Speaker, generally in financial services there is a lot to be done because we must not underestimate the enormity of the task upon which we are embarked,

namely, that we should become an on-shore European jurisdiction with the full regulatory and complying requirements that that implies. That regulatory system whilst complying with those requirements, must also be sensitive. It must also be relevant to the industry we have here and to the size of Gibraltar. Marrying all those different considerations is not easy, but we have absolutely no doubt that it is achievable and that indeed we will see significant success in the next year to a year and a half on the various passporting issues that I have described. There are a couple of consultative papers that will be hitting the industry over the next few weeks to a month that I might advance now. One is with regard to the High Net Worth Individual Rules, regardless of the view that whilst those rules have been successful in attracting people to Gibraltar, there are gaps in the way they operate and there is a huge demand for that product. We have suggestions on how the rules can be improved and the industry will have a chance to comment on them shortly. The other major consultative paper on the horizon of course is the paper with regard to the implementation of the Fourth and Seventh Company Law Directives and the House is well aware of the sensitivity and anxiety felt in some quarters with regard to the transposition of these directives. The Government will be keen to explore with the industry every possible variation of ideas on how it may be possible to transpose, in a way, sensitive to its needs. I should say that we have not been idle on this front, that we have also agonised and scratched our heads and it may only be possible partially to allay some of the anxieties. Transposed it has to be. There is no way in which Gibraltar can forge ahead as an on-shore European jurisdiction whilst those directives remain un-transposed and not on our Statute Book. It has not been made a condition for passporting in insurance but I will be surprised if it did not become a requirement with regard to full passporting. Therefore the Government do attach importance to tackling this issue once and for all in the best possible way. Mr Speaker, there are sometimes those in Gibraltar that state that financial services will not provide the extent of jobs, in terms of numbers, that we need in order to solve the problems that we face. Whilst undoubtedly the direct jobs that financial services creates go primarily to skilled people, not unskilled. The crisis in employment we face is as acute potentially in people with qualifications as with those people who have not been so fortunate for this to happen. A lot of the unemployment problem is indeed among graduates or people with 'A' levels or people who have qualifications and therefore, the Government do not accept and do not agree with the analysis that the Finance Centre does not have a role to

play in tackling the employment issue. It has a role to play within a certain category of the employment pool, and in any event, as every other comparable centre has demonstrated growth in this area stimulates other economic activity, not least in tourism, in the leisure services, in transport services, etc. It is vital therefore that we do invest the time and money and energy in the transition of the industry which I am very confident we are going to be able to achieve within the time scale as I have indicated. I also mentioned the promotion as part of the Government's help to business. I repeated on many occasions that this Government, and I, as one of its Ministers responsible in the area of economic development, remain committed and available to public sector entities that wish to join us in promoting their products and services. To this end, we have put aside a considerable amount of money towards promotion. The man in the street may often believe promotion does not produce tangible results and that is a false assessment. It is true that promotion takes time to have effects, but as anybody who has ever undertaken any service understands, unless you promote what you have to offer, nobody will come to ask for it. Certainly we will not develop Gibraltar as a place for international business with Gibraltarians sitting at their desks hoping for somebody to knock on their door. That is not the way in which business is attracted to Gibraltar or anywhere else. Whilst on the subject of promotion, I will inform the House that the arrangements with regard to the Royal Yacht Britannia's visit to Gibraltar are well advanced. The visit is confirmed for the 28 July. Lord Kinsdown, will, as Chairman of the British Invisibles, lead a delegation of around 25 members from the Financial Services community in London. As we have announced the day will involve a financial services symposium. There will be three speakers from the UK and three speakers from Gibraltar and the day will end with the Britannia sailing out in splendour with fireworks and lasers in the evening. We regard this event as a major event in putting Gibraltar positively on the map, in cementing our credibility and our links with the UK as a Finance Centre. We very much look forward to the British Invisibles visit and would like to thank the Royal household for the help we have had in putting together the programme over the last few weeks.

Mr Speaker, finally, in terms of specific initiatives, whilst of course, as will be expected within any Government department, there are a multitude of initiatives that one is pursuing, I want to highlight one in particular which involves pensions. We have a manifesto commitment to pursue the proposals to make private pensions more accessible to

people in the private sector. There is a working committee that is looking at various proposals. One immediate suggestion that occurs to the Government is that tax relief on pension scheme contributions has to be reviewed. As hon Members may know, self-employed people receive a separate pension scheme relief from the contributions whilst individuals who are as PAYE, do not. If they contribute to a pension scheme which their employer runs, they only claim their contribution as part of their one-sixth life insurance contribution, they have no separate 17.5 per cent relief which self-employed people enjoy. It is total distortion, Mr Speaker, complete discrimination and a situation that does not act as an incentive for people in the private sector who very often do not have pensions, either to fund the private pension schemes or contribute more to their employer's occupational scheme.

Mr Speaker, in conclusion, I hope that I have given a broad brush of the initiatives we are pursuing. There is no easy fix to many of the difficulties that we are facing, it will be a long patient dedicated effort, not just on the Government's part, but on the part of many other partners in Gibraltar and I think it is important to ask ourselves what it is that we are trying to achieve when we talk about success. I have mentioned, I have no doubt that we will attract interest to Gibraltar, increasing interest in Gibraltar. More difficult is to ensure that that interest and that wealth and those opportunities trickles through to those people who most badly need it. I think that is one of the major challenges that there is an element of employment that is not going to easily be put into the job opportunities that we are going to be creating. Therefore, whilst we create activity, it may not necessarily easily match the people that most desperately need the opportunities.

HON J BOSSANO:

If the hon Member will give way. I mentioned when I spoke first that there had been no specific reference by the Chief Minister to what if anything was reflected in the Estimates as being done specifically for combating the MOD cuts this year and although, of course, the hon Member has talked about consultation and about studying it and about accelerating the process of consultation, really what I am looking for is, is there in fact something as specific as saying, "Well we now know that there is going to be 10 people in this financial year losing their jobs and we are planning to do something specifically about this 10 people", or is

that not the case? Because now we are in the stage where we are now into the second month of the financial year and it is about this financial year that I am asking.

HON P C MONTEGRIFFO:

Mr Speaker, that is not the approach we are adopting. We are not adopting the approach of saying that there are 10 people that are leaving the MOD and therefore let us get those 10 people and shift them into this. No. There is the intention, as I have mentioned when I indicated that we would be seeking to get the guarantee from the MOD that there should be no compulsory redundancies. There is the intention to put through HMG and MOD a number of issues which we believe they should need to address in making the impact of the rundown less than it might otherwise be, but, that does not involve a programme of moving 10 people out of the MOD and into the Beverage Plant. That management of individuals is not something we anticipate doing. The MOD situation creates its own special considerations admittedly, but at the end of the day, there are many hundreds of other Gibraltarians who have not had the benefit of being in employment over the last few years and indeed will not have the benefit of pay offs that deserve equal treatment and therefore, we will not positively be looking towards hand-picking transfers of people from the MOD out into jobs that are created. Mr Speaker, as I said the difficulty as we see it from this side is to marry the opportunities that are being created in telecommunications, in factory work, in the finance centre, marry that with some of the employment skills or unskilled labour that we have. Partly, it is a question of skills which, as I have said, this Government are committed to redressing. But it is also a need to address attitude. I want to raise the question of attitude, because it is a problem that I think we have to face honestly and in a non-political sort of way. There is a desperate need in Gibraltar to create a greater service mentality unless resistance to work practice is to change in work practices. There was a recent survey in the Financial Times that outlined what US employers most looked for when hiring staff and attitude, a positive attitude to work was way and above over qualifications, training. What employers looked for is people who understand that their job, their individual job, depends on their commitment to work on the service they are providing, on their attitude, which they have to bring to the task in hand. Mr Speaker, we have to regain as a community the pride in our work. We have to regain in our community esteem for the quality of what we produce. That is

something which the Government, the Opposition, the Unions, the employers and every family has an interest in encouraging. I believe that it can be done. I believe that there has been a great change for the better in attitude in many sectors of our economy, but if we are going to ensure that those who most need it benefit from the opportunities, that better attitude, that commitment to service, has to be something that we have to transmit to them and which is understood by everybody. Thank you.

HON J L BALDACHINO:

It is just a point of clarification. The Minister mentioned three projects where a plot of land was given for building for residential purposes; White Rock Camp, Rodger's Road and Old Naval Hospital, if I understood correctly. Has he got any information about what type of residential properties they will be building? Will they be luxury type?

HON P C MONTEGRIFFO:

Mr Speaker, the hon Member must have misunderstood me. No, White Rock Camp and Rodger's Road are indeed tenders that have gone out and the properties have been marketed. I saw in the Chronicle yesterday, I think it was the White Rock Camp property, and the duplexes there are selling at about £130,000. Old Naval Hospital has not gone out to tender as it is not in Government's hands. The reason I mentioned it, Mr Speaker, is that I think it is the sort of development that is worthy of mention as one that will create a pool of residential property, probably in the high spend bracket because it will have the potential of generating that sort of investment interest.

The House recessed at 5.30 pm.

The House resumed at 5.50 pm.

HON A ISOLA:

Mr Speaker, I would like to start where we left off really in terms of financial services. As the Minister said, we also regard the financial services sector to be of vital importance to our community. There are people employed in that sector through banks, through accountants, through company managers, through insurance companies, through

investment managers and they globally have a significant impact on the employment market in Gibraltar. Additionally, there are also a source of opportunity for locals who obtain degrees, who obtain some sort of qualification, indeed some who do not even obtain any at all, as that sector does provide something different from the traditional employment market that has been in the past namely in the dockyard and in the tourism sectors. In addition, the financial services sector is an important contributor to tourism. We believe that the increase in the use of Gibraltar as a centre for off-shore activity does have a significant impact on levels of tourism and they are also the type of people that spend very much more. They stay at better hotels, they eat at better restaurants, they make much more use of facilities that we see as what we are trying to attract in tourism as well as in the financial services sector. But one issue, Mr Speaker, that we believe would be the catalyst, the next kick, if one likes, to the industry, would undoubtedly be passporting. That is what we have been for some years now describing as the level playing field that we never had. We have had to transpose many directives into our legislation, but we really have not seen the benefit of any of those transpositions yet and clearly in terms of passporting that is where we see the opportunity for the financial services sector to finally hold its head up high and be able to compete with other jurisdictions indeed with products which are far better than many of those that we seek to compete with. The insurance product, which is one this Government have chosen to lead on in terms of separating it from the other brackets of passporting such as banking and investment business, is in our view, the most productive in the sense that that product really is unbeatable. We believe that the insurance product in passporting is an extremely good product and one which will cause our competitors in this field some problems. However, having said that, there are still some misgivings within the community of the ability once passporting is actually there, to take that business on. There were reservations in dealing with the industry in the past year I would say, there is probably a little frustration which is shared by hon Members, not only in the financial services sector, but in the Financial Services Commission, where they have wanted to push ahead with this level of business but unfortunately have been prevented from so doing. We also welcome the news of an element of fine tuning to the High Net Worth Individual product. The High Net Worth Individual was created by the last administration after the Price Waterhouse Report and is very popular and is a very good product but, I accept as my hon Friend has said, it does need some fine tuning and we certainly welcome the

improvement of that product which will enable it to be sold a little further. One area in financial services which causes us most concern and one which took up many many hours of time with the previous Chief Minister, is obviously the Fourth Directive. We have seen in the past the Financial Services Industry as being one which is predominantly based on private client work, on company management, on banking and on trust services, which are predominantly geared towards private individuals, private client base. There is obviously an element of corporate business but principally it has been a private client base offering those limited albeit services, and our fear, Mr Speaker, is that the transposition of the Fourth Directive will in effect or could in effect, depending on how it is transposed, put at risk the business that we already have. There are currently registered today over 60,000 companies in Gibraltar, probably around 40,000 or 45,000 of those are active and that really is the core business of the financial services sector and our fear, and I think the Minister knows my views, the fear is that for the sake of attracting new business, we must not put the business that we already have at risk. I know that the Minister is sensitive to those concerns and I very much hope that when the consultative document is produced, it will take those concerns on board.

Moving on, Mr Speaker, to, what I would term as commercial affairs or trade, in terms of local trade, the measures that were announced by the Chief Minister at the Chamber of Commerce annual dinner last February, which is being repeated in part and implemented since then are also measures that we welcome but with reservations. The intention of those measures, which are the import duty restructure, the reduction in rates, the reduction in rents, there were a number of others which were in fact announced by the Minister for Trade and Industry this afternoon. Those clearly are intended, and we support the intention, to create further jobs in those sectors and our fear is that those benefits, in order to have the effect that they are intended to have, require to be passed on to the consumer. Our fear is that indeed the reduction of import duty, the reduction of rates, the reduction of these costs to the business, may indeed resolve in simply the business taking a higher profit margin and not passing on the benefit of those services, of those savings to the consumer. The intention being to create a more competitive product to attract more people and consequently require more employment and that is a reservation we have with that and time will tell whether our concerns are justified or otherwise. Certainly, hopefully, they will not be justified but it is our role to point them out. My

one observation in respect of the rates discount mechanism, is that from what I understand from what the Minister has said this afternoon, the intended mechanism is to actually discount rates and to deal with arrears on a repayment programme. It may be more productive, bearing in mind the line Government are taking, in that they are seeking to give the discount benefit to those who are paying up, not to give the discount unless people are fully paid up. The effect of that may well be to force people to pay up in order to take benefit of the discount. That is simply an observation that they may wish to take on board. Mr Speaker, the traders have repeatedly been telling us and indeed now are obviously telling the Government that they are in difficulty, Main Street particularly, possibly to a large degree because of the peseta exchange rate. Having serious problems to this end is worrying that despite the increased figures of people coming into Gibraltar, we have a higher number of coaches in 1996 than 1995, a higher number of pedestrians coming through the frontier 1996 over 1995, but despite the increase in volumes of people coming in and I do not see any reason why 1997 should be any less than 1996, but there is still a problem in Main Street. There are difficulties that need to be addressed and to this end it is difficult to understand perhaps that reduction in their overhead costs may assist, but if they assist, then obviously it will be passed on to the consumer, but it may perhaps give them some breathing space to survive, which is another problem that needs to be avoided. Mr Speaker, we welcome the start-up schemes and the different incentive schemes that the Minister has announced this afternoon. Again with the reservation that we hope and obviously they have the same hope on that side of the House, that they are successful in generating jobs, in generating new business, in generating new activity. Again, a concern on that in assisting new businesses and small businesses. Our view is that care has to be taken that in the businesses that are being supported what one is not in effect doing is subsidising a business to compete with one that is already in existence and which is not the recipient of that assistance or benefit.

Mr Speaker, dealing with tourism, I think that the Minister for Tourism has concentrated, perhaps without intending to, on exactly the same arms of tourism, if one likes, that were there previously. The Minister has said that in the past there was a lack of policy in tourism. Indeed last year he said, "I believe we have lost valuable years in the development of the industry". Taking that line, I would say that we have lost another year, if he was to be right, of course, I do not agree with

that. The sectors of the industry that he said last year he would concentrate on, and he said, "We will be undertaking in-depth consumer research on specific target markets and plan to focus on activities on five main general interest groups. The short break market, the conference and incentive travel, cruising and yachting, the excursionists and dual centre holidays". Mr Speaker, those are precisely the areas that we have concentrated on before. Indeed a conference centre bureau was set up. The short stay was encouraged, the day tripper and the dual centre travel are all markets that were being attacked prior to the 16 May of last year. So, consequently, we do not disagree with the policy that the Minister is following. The major problem in the tourism sector has been now for a number of years the hotel industry and that is an industry that has suffered difficulties for a number of years and it is not a coincidence when you look at the figures relating to tourism and the hotel specifically, that there is a direct link to the number of air arrivals. Mr Speaker, I repeatedly come to this House at question time, with questions on airlines, reductions on flights and all these things because it is clear that there is a direct link between the numbers of people who are arriving by air and the number of people staying at hotels. That is the most serious problem that we have really in the tourism industry. The day trippers are reaching record levels, the coach visitor arrivals are reaching record levels, the cruise liners of 1996 hit a record level and the only one sector really that is in serious difficulties is the hotel industry. The Minister said that the hotel industry had had an injection of morale, well Mr Speaker, that is not the information that I have and it is not the information I have because the hotel package was announced in November 1996 at the World Travel Market and since that time, some six or seven months ago, it has not yet been finalised and the difficulty that they have, and I am sure it is one that my hon Friend is aware, is the leaving time that a hotel requires to have. A hotel to start a refurbishment programme under the assistance package will take between six to eight months to carry out that refurbishment programme. So if the monies are available to them, now, next month, then we are not talking until 1998 when they can see a return on those investments. And so there is a concern in that industry at the time that is being taken for this package to come on stream. The numbers of passengers arriving by air this year, should be increased. The arrival of Monarch should have a significant impact on the number of overnight stays, and to this end we have supported and continue to support the package of measures that the Government agreed with Monarch in order to encourage it to come to Gibraltar. We cannot say the same

about the financial assistance that was given to GB Airways. In that case assistance was given and almost immediately the response that was given was that the number of flights per week was cut by three. Monarch has a three year commitment to this Government, it has a commitment to the number of seats and I understand that it has a commitment to keep its prices in line with others in the service. With GB Airways, Mr Speaker, we had no such commitment. There is no commitment to maintain, as far as we are aware, and perhaps in his reply the Chief Minister will confirm whether that is right or wrong. We are not aware of any commitment to maintain a number of flights. We are not aware of a commitment for a period of years or indeed for a fixing of price. Interestingly enough, the passenger rebate that was granted to GB Airways, I do not think it has been passed on to the consumer, no major significance to the cost of the flight. It is relative insofar as when you consider the import duty and other cuts in relation to other businesses as a comparison. Mr Speaker, the importance of the airline is fundamental to the hotel industry and last year I was pleased to hear the Minister for Tourism say that the Government were committed, not only to schedule flights, but also to encourage charter flights and I think that if charter flights are achieved, that would have a further significant impact on the hotel occupancy figures.

Mr Speaker, the programme for the Port is also welcomed, the beautification programme and the, not the study, because we do not believe that the study is necessary insofar as we think that the industry itself knows what is required to activate the Port, but in any event, the fact that the study is being undertaken, shows that there is some interest from Government that that must be supported. We are also pleased to note that bunkering has had its record year. No doubt the arrival of Texaco, which was instigated by the previous administration would have had an influence on that and we welcome that also. Mr Speaker, last year I commented that we had not yet seen the arrival of Donald Duck but that we looked forward to him arriving during the course of this last financial year. He has not arrived yet, Mr Speaker, in terms of the total Gibraltar experience that we were told about in the last budget session but had he come he would have seen the cruise liner terminal, Monarch planes arriving, the Main Street beautification and a number of other projects, which were all instigated by the previous administration. We hope that if he arrives during the course of the next 12 months, he will see some of the other intended projects coming on stream which will hopefully assist the tourism sector particularly. We do want and support

initiatives that will bring more tourism into Gibraltar. We do want more clients for the financial services, more business for the Port, more shoppers on our streets, more jobs for Gibraltarians, and any initiative which will result in any of those factors, will certainly be welcomed by the Opposition but, where we perhaps differ in approach, is that we do not believe that the way to achieve those needs that our community undoubtedly has, is in having studies and surveys and reports and committees and think tanks, and in employing commercial directors, product managers and sales directors and sales executives. In tourism, we have had that experience before, unlike interestingly enough the Financial Services, where we have had expert commercial directors in the past. In fact, I believe in the early 1980s, that practice was done away with. So we do have reservations about those positions. We do not believe that those positions directly will receive or rather will result in increased tourism to Gibraltar. The basis of the marketing campaign, some £750,000 of marketing and indeed marketing in other parts of the Estimates, our position in respect of marketing and promotions, is that, yes it is necessary, but it has to be measured with the results expected of it, and it is perhaps an unfair statement in the sense that it is difficult to anticipate what result attending a conference may have, the same with financial services, but the extend to which the marketing budget has been extended, we do not support it and we are not against it, Mr Speaker, but it is difficult to see what results that would bring us, but we have our reservations and we will wait and see and in 12 months time judge figures once more. On one final point, Mr Speaker, which has little to do with tourism but is related in fact to the move to New Harbours of the ETB. I would suggest, if this Government are to continue, rather attempt to be more user friendly to business, which is something that has been stated in the past, we feel that the movement of the Employment and Training Board to New Harbours, although temporary, would leave businesses with quite a hike and people looking for jobs to go to New Harbours to find these forms, fill them in and have them processed there. I think a person seeking a job requires to periodically visit the ETB and therefore it may be useful to retain a processing unit within the town area, whilst the remainder of the back up staff is at New Harbours for that temporary move. I do not know if that is a possibility, but it would certainly make it easier for business and for people looking for jobs to be able to have access to the ETB from the area where they are, which is principally the town area and to have the back up staff and everything else back at New Harbours on a temporary basis. That is just a suggestion, Mr Speaker.

MR SPEAKER:

Now, I will call on the Chief Minister to reply and the Financial Secretary if he wants to.

HON CHIEF MINISTER:

Mr Speaker, there is really only one thread which is common to many of the contributions of the Opposition Members which is really central to the debate in question and that is this idea that this budget is not prudent, and of course, I will deal with that. But before I do, I think that there are one or two comments that have been made by some of the Opposition Members which I think are worthy of momentary revisiting. Beginning with the contribution of the last speaker, we are, of course, entirely aware of the potential danger to Gibraltar's traditional Finance Centre activity of company management in the transposition into our laws of the Fourth Directive. But, the hon Member then makes a remark which is a complete non sequitur and then he says, "Well I hope that given that risk, that we will not put traditional business at risk, simply to attract new business". As if we were voluntarily going to transpose the Fourth Directive in order to open up other possibilities in another market, and of course that is not the case. We have to transpose the Fourth Directive as a matter of legal European obligation and we do not do it in order to access a new product, or a new market or to benefit from anything which we could choose to do without. So there is no decision for us to take. The only thing that we can do is to transpose it to the extent that there is room for manoeuvre, in a way which does least potential damage, but ultimately the biggest damage would come from an overreaction on the part of the Finance Centre professionals themselves, because it would be that overreaction that would send and that would transmit signals of doubt and concern to our ultimate customers, the various clients of law firms and accountancy firms and company managers, and there have been in Gibraltar's recent legislative history there have been several pieces of legislation which at the time people both inside and outside this House thought, myself on a number of occasions, that expressed concern about the effect that it might have and simply by not overreacting it has been possible for Gibraltar just to put this behind it without any great consequence to the industry itself. The Fourth Directive is one of the Directives under which there are threats of imminent injunction proceedings against the United

Kingdom in respect of Gibraltar's non-implementation. I agree with what the hon Member said that the principal reason why the Government are reviewing the import duty structure, is to make Gibraltar more competitive to visitors in order to attract then the visitors to Gibraltar. The import duty restructure is not intended as a means of reducing the cost burden of retailers, in order to increase their profit margins. So therefore, if they do not pass the import duty reductions on the products on which they will be implemented. If they do not pass those reductions to the price tags on their products, and that is a matter for them, there is no way the Government can check this on a shop by shop basis, then certainly the import duty reduction will not have the primary effect and will not serve the primary purpose for which the Government intend it. There is no doubt about that. Of course, it will always have the effect, even if they do abuse it, of creating additional breathing space for their own survival, but in respect of import duty, that would not be the principal intention and if it were not passed on, we would regard it as an ineffective measure to have tried. We considered the possibility of only extending the rates reduction to businesses that were up to date, but felt that this was not viable, because there are many businesses that are not up-to-date, not because they do not want to pay, not because they are bad payers, but because they have not been able to pay under the weight of their ordinary commercial pressures. Therefore, the compromise that we arrived at is that one has to be up-to-date with one's current payments or one's current rates and one has to be up-to-date with any arrears agreement that might be signed. But, of course, the arrears means historical arrears. One cannot now start allowing arrears to accumulate and then say, "Well now let me give you an agreement." So, in respect of arrears, it is arrears in the last financial year or before. So the cut-off point would be 1st April this year and people may be able to make arrears agreements in respect of their arrears up to 31st March 1997 and then have to keep up-to-date with whatever repayment programme is agreed in respect of that. But they will not be able to make arrears agreements that will entitle them to the discount in respect of post 1st April 1997 arrears.

Mr Speaker, the hon Member said that we were concentrating on the same areas of tourism as they were. That is only partially true. It is true that we have not re-invented the wheel and it is true that we have not invented a new form of tourism and it is true that we have not invented a new product. But, that is about as far as the coincidence goes. The fact of the matter is that hon Members, when in Government,

persistently minimised the importance of tourism to the economy. They devoted very little political enthusiasm and still less financial resources into promoting and developing and really encouraging those sectors of tourism and the contrast with the position now could not be sharper, in that this is a Government that passionately believe in the importance of tourism for this economy, invest political elbow grease in the realisation of our policy objectives and is willing to back our policy commitment to tourism with financial resources in a way that the previous administration never showed an inclination to do. Of course, Mr Speaker, it is all very well for the hon Member to say, "That the hotel package is a good idea". He does not oppose it certainly but why is it taking so long? A lot of work has been done on our side in terms of the planning of the package and indeed they are already doing their technical specifications, plans and things which the Government have asked them to do, but let us be clear, that when the hon Gentleman asks us to hurry along, he has got to remember that if he had won the election, and not us, the package would not have existed at all to be implemented at speed or at leisure. I think that the requirement, the urging of speed by the Opposition Members has got to be put into context for the fact that this is something that they would not have done at all.

HON A ISOLA:

If the Chief Minister will give way. What I actually said was that in reference to a comment made by the Minister for Tourism this morning about the injection of morale, I said that in fact there has not been an injection of morale because it was taking so long. I was not saying hurry up.

HON CHIEF MINISTER:

Certainly they are not as happy as they would be if the work was already on the way, but I think what my hon Colleague meant, was that they were now sure that it was on the way and therefore their concerns about the future had been allayed and that their morale was higher in the sense that there was now a pretty bright light bulb, visible, a quarter of the way down the tunnel as opposed to a long line of pitch black all the length of the tunnel which is what they would have seen if the Opposition Members had won the election. Mr Speaker, the hon Member alluded to the financial package to airlines and said that he

supports the Monarch one, but not the one to GB Airways. The idea of paying, not paying money to, but giving concessions which is worth money to them, to an existing operator, of course cannot be justified on the grounds of generating new business because they are here already and they did not need inducing to come. But of course, these things cannot just be driven by the consideration of attracting new business. The fact of the matter is that GB Airways is the long standing, continuous committed carrier on the London/Gibraltar route. There have been many Monarchs before in Gibraltar. I cannot remember them all, but certainly GB Airways likes to say that they have had 37 airlines in competition, since they first established their operations in Gibraltar. From my own memory, one has got Air Europe and the Dan Air and all these other people and they are all very welcomed when they come, they all make a valuable contribution once they are here, but for one reason or another, none of them has ever established themselves as a long-term committed servant to the Gibraltar route. Whilst we dearly hope that Monarch will be different to that we cannot ignore the lessons of history and what we are not willing to do is to jeopardise the commercial viability on this route of the long term committed operator by subsidising his competition, find that we lose the long-term committed operator and that eventually we lose the newcomer as well. Therefore, Mr Speaker, for that reason the Government thought it essential in Gibraltar's interest to preserve a level playing field. And of course GB Airways does not think that we preserve the level playing field although they are grateful for the steps we have taken in reducing the gap. They think that we have not created a level playing field and mathematically there is some merit to their argument, and that is, that we are giving Monarch the same amount of financial assistance for three flights a week as we are giving them for 11 or 12 flights a week. Therefore, the value per seat of the subsidy to Monarch airlines is worth much more than the value per seat of the subsidy to GB Airways, so they do not think that we are being even handed and in fact we are not being even handed. But that is as far as we felt that we should and could go in order not to be manifestly disruptive of the level playing field in competitive terms. And, of course, because we have targeted the assistance, not as an outright cash grant but as a discount or rebate of passenger tax, this is something that they only get to the extent that they bring passengers. So if GB Airways stops flying as frequently, there are less passengers on which they can earn a discount. The hon Members may not quite have understood that, they are entitled to discounts on passenger tax up to a maximum, but if they do not bring

passengers, they do not get any discount. It is not as if they get a cheque in the post saying, this is your annual hand-out from the Government, regardless of whether they bring passengers to Gibraltar or not. Up to a maximum per annum they have got to earn that by passenger tax rebates. Finally, on that point just for the purpose of clarification, it is not intended that the rebate should be passed on to the passenger in reduced air fares, no, this is for the benefit of the airline to develop the route, to make them defray the very high operating costs of using Gibraltar airport compared to competing airports in the Spanish hinterland. The reduction in price comes, and it is already evident, comes not from the passing on of the Government's rebate to the passenger, but comes from the existence of competition, and that is why when the previous Minister for Tourism, Mr Pilcher, announced two or three years ago that he was giving GB Airways a one year exclusivity agreement, which subsequently became longer than one year in its application, we were very worried because everybody knows, and this is not a comment on GB airways, it is, I suppose, a comment on all commercial operations, that if one operates as a monopolistic operator, one will do nothing to reduce the prices to the consumer and given that we have negotiated with Monarch and that they are committed to charging on the Luton/Gibraltar route the same fares as they charge on the Luton/Malaga route, which is a published tariff, we are confident that the price of ordinary peoples travel to and from Gibraltar, will be slashed and slashed very very substantially. I do not think that anybody should ever have to pay more than £200 return to fly from London to Gibraltar by the time Monarch, at least not on Monarch, it remains to be seen what GB Airways do to match that.

Mr Speaker, I think it is highly legitimate, indeed it is what Parliaments are about that Members on opposite sides of the House, and indeed happily not in Gibraltar, but in bigger Parliaments it sometimes happens with Members of the same side of the House, that they should disagree on matters of valued judgement or whether something is good, bad or indifferent or whether things have been properly done or badly done or whether one would have done it differently or we would have done it differently. But what I do not think there is any excuse for, Mr Speaker, is for disagreements based on facts which are self-evident and when the hon Opposition spokesman for Health, says, with a perfectly straight face, that this is the first time that less money is being provided than in previous years for health, listeners to this debate, both inside and outside this House, could be forgiven for interpreting that to mean in the

ordinary usage of those words in the English language, that the Government are this year spending less money on health than last year. That is not true either, no, not even that is true. Mr Speaker, in 1995/1996, the Opposition Members spent £20.6 million on health. In 1996/1997, which was their budget but not for health purposes, because of course the health budget comes from special funds, used to come from special funds, not from the budget that they laid hastily in February. We spent £22.1 million, so in our first year in control of the Health Authority, we raised expenditure by £1.5 million. This year we are spending £22.8 million.

HON J J BOSSANO:

Mr Speaker, can the Chief Minister give way? In answer to Question No.35 of 1996, the Minister for Health was asked what was the projected revenue and expenditure of the Gibraltar Health Authority prepared prior to the general election and he said, as is known to the Opposition Members, and he gave the breakdown and he said, a total of £23,015,000 and when he was asked whether they intended to change that, they said this is now being considered to see whether it will be approved or changed. So they were looking at approving the £23 million in answer to Question No. 35.

HON CHIEF MINISTER:

Mr Speaker, I can only assume that that estimate which was done by a departmental expert, according to the officials now advising this Government, who I was saying once were advising their Government, this figure of £23.5 million must be the product of the hon Member's obvious technique of budgetary management, which is to raise up every year's budget by 10 per cent, because it was the senior management in the Health Authority that said that this is a 15 per cent increase in our budget, we would not know how to spend this. The fact of the matter is that the Health Authority, which they had budgeted to spend £23 million and it was not a budget, it was not a budget that was approved by anybody, it was not even subjected to the usual annual reduction in bids put in by management of departments. The fact of the matter is, Mr Speaker, that not even the management of the Health Authority felt that they needed that amount of money and they have done everything that they were doing before and everything that they wanted to do and they have not deprived themselves of anything that they might have wanted

to do and it is all within the figure that we have spent £22.1 million. The Opposition Members have spent most of the day urging prudence on us, indeed the Opposition Member doubts whether our package of recurrent expenditure can be sustained. In order to save the hon Lady's apparent proclivity to be able to walk down Main Street and boast about having increased expenditure on health by more than is necessary, I am not willing to stand on the roof of St Bernard's Hospital tearing up pound notes, simply so that we can say that we have spent more on health or less on health. *[Interruption]* It is not ridiculous, Mr Speaker, it is the fact that the answer that the hon Member gives as an aside, is that it is less than they budgeted. I dispute even that because the senior management of the Health Authority say that that was never a proper Health Authority budget, but even leaving that point to one side, that is not what the hon Lady said, that is not the remark of the hon Lady that I am joining issue with. What she said was that this is the first time that less money is being provided than in the previous years. We are not providing less money than in previous years. We are providing more money than last year and more money than last year is not less money, it is more money. We are not spending less money than last year, we are spending more money than last year. That is all I am saying. There is absolutely no defensible basis for the statement that this is the first time that less money is being provided than in previous years because we are not providing less money than in previous years. Even with my limited mathematical skills, £22.8 million is higher than £22.1 million. Mr Speaker, she also said, even allowing incidentally for inflation, that we are spending less money on sponsored patients. Well, that is absolute nonsense, she must know because she now has the advantage that we never had of having estimates of the Health Authority, but what she must know, there is no point in looking at your great Leader, he must know that it is some years now since the budget contained estimates of the Health Authority. *[HON J J BOSSANO: Question No.86.....]*

MR SPEAKER:

Sorry, you have got to ask whether he gives way. Do you give way?

HON CHIEF MINISTER:

Yes I do give way, but now I know what his question is. Mr Speaker, what I said was that the Estimates and the information that we used to get from the Health Authority was given to us because we used to ask the questions, and the questions had to be asked when they were asked and it may not have been at budget. Some years we might have asked at budget time, but it certainly was not information that the Government volunteered as we have done. Mr Speaker, as Minister for Health until recently, she must know that expenditure on sponsored patients is not driven by budgetary provisions, it is driven exclusively by medical demand as established by medical practitioners. And whatever she might have written in her budget on expenditure on sponsored patients, she did not stop sending people the moment it got to the figure that was in her Health Authority budget, "Well, I am sorry, you may be dying of cancer but I have got no more money left". Everybody that the doctors refer to the United Kingdom goes to the United Kingdom, have always gone to the United Kingdom and that will remain the case. Mr Speaker, what I cannot guarantee the hon Lady, and I sincerely hope that it does not occur, is how many people will get ill enough to be sent to the United Kingdom. I hope the number is as small as possible, not that we can save money, but because it would mean that there are less people suffering serious health problems. I do not regard expenditure on sponsored patients as a virtue in itself, because the principle that used to guide them, which is the same principle that now guides us, is that we place absolutely no impediment on the doctors. The doctors decide, if it is 100 people, it is 100 people, and if it is 200 people, it is 200 people and only God himself, for those of us who believe in him, can know how many that is going to be from time to time in the future. But what I can tell the Opposition Members is that even if we spend less in cash, we expect to send more people than they used to for less money. This might seem an act of magic to Opposition Members but in fact, it is not, because the effect of the UK pensioners' agreement, which is about to be signed, Mr Speaker, is that the number of free sponsored patients, that is to say, sponsored patients for which Gibraltar is not required to pay the UK, is increasing from 45 to 100. Therefore, Mr Speaker, we expect to be able to send more patients for less money because we now have 55 patients more that we can send free of charge to us.

HON J J BOSSANO:

That is the reason.

HON CHIEF MINISTER:

Mr Speaker, it may or may not be the reason why the Health Authority has put in a lower figure and I really do not care whether it is or it is not. The point is that the fact that a lower figure appears there, does not have the meaning that the hon Lady immediately left to assume, which is that because you are budgeting less, we intended to spend less and send less sponsored patients. That was the insinuation, that is what she expected people to interpret her remarks to mean, that because we were spending less on sponsored patients, we were going to raise the threshold of how seriously ill one had to be before one could go and we would have all sorts of worried listeners out there wondering. It is not necessary to spell things out in detail in order to cause a desired impression. Mr Speaker, I am sure that the Opposition Members do not criticise us in order that they should make absolutely no political advantage from it, this is not an exercise, this is not a book-keeping exercise. The time will come when I will be able to remind the hon Gentleman and Lady of what are the impressions of what they are now trying to create.

Mr Speaker, moving on to some of the remarks made by the hon Opposition spokesman for Education. I realise that the hon Member is particularly, what word can I use which is not too strong, prone to levelling sort of personal criticism at me. He knows that my shoulders are very broad and that my skin is very thick and that it is unlikely that he would ever find a formula of words that would seriously offend me, but I have never said that I occupy the moral high ground. I think what he said was, "That if the Chief Minister does not stop claiming the moral high ground, he risks reaching the dizzy heights of mysticism", or words to that effect. Mr Speaker, I have never claimed the moral high ground for myself. What I have claimed for Gibraltar, and I would expect support in it, is the moral high ground in the argument that Gibraltar has from Spain. That is an argument that I am happy to raise to the dizzy heights of mysticism and I expect him to stand next to me whilst I do it. Mr Speaker, the hon Gentleman said that we were almost stubborn in our obsessive determination to close St Peter's School in Catalan Bay. I have known politicians to be irrational in respect of things that are

politically popular and which they do, notwithstanding advise, because they think it is going to get them more votes. One often comes across that sort of political stubbornness and irrationality. But what I have never come across is the opposite. In other words, eight politicians who want to be re-elected, who close down a school in the knowledge that it is unpopular, in the knowledge that there is no vote in it, simply as an act of personal obsession. Does the hon Member think that we are politically masochistic collectively or is it not much more likely that we are responsible? In other words, that we take politically unpopular steps because we accept expert advise that the educational interests of the children involved require it and that because the educational interests of the children involve require it, we do it, even though there are no political brownie points in it for us. Is that not a much more logical interpretation of what has happened? Mr Speaker, if and when, and I will not add to that as the Opposition Members used to say which they expected to be never, if the hon Member should ever find himself with ministerial responsibility for the educational interests of our children, I sincerely hope that he will not make a decision on the basis of taking a straw poll amongst people who are not qualified to express an expert view on the matter, because going down to Catalan Bay and finding out whether 100 per cent, 99 per cent, 90 per cent or 80 per cent of the citizens of Catalan Bay are for or against the closure of the school, is a factor to take into account, but it is not responsible to use that as the sole criteria, which is what the hon Member implied would be the position were he the Minister in question. Mr Speaker, the Opposition Member said that the question of safety was being used as a pretext. Mr Speaker, we do not need a pretext. Let us make it clear here and now. The Government have decided that St Peter's School shall be closed because on the basis of all the educational advise available to us, which is in the form of both the Government's own in-house educationalists. *[HON J GABAY: Utter rubbish.]* What is utter rubbish, their opinion or the fact that it is their opinion? I can tell the House that it is their opinion, whether their opinion is utter rubbish is something that I am not qualified to evaluate for the same reason as I am not qualified to evaluate whether St Peter's School should close or not on educational grounds. But, I would be surprised if both the Government's in-house educationalists and the people that came out here to do the special needs group and that whilst they were here, we took advantage of their presence, the hon Member is quite right, and took a third opinion, and the GTA, that they are all wrong and the hon Member, who is the only one of them who is interested in votes, is right. *[HON J GABAY: It is*

rubbish.] The hon Member may think it is rubbish. Even if we disagree, Mr Speaker, about the educational justification or need for closing the school, let us at least clear the ground on one point. The parents are now saying that they will go back to the school when it is declared safe. It is not what they were saying on the 20 January. On the 20 January, a letter signed by all the parents, that the hon Member now claims to represent, was addressed to my hon Colleague the Minister for Education, which read, and I quote, "It must be borne in mind that at this meeting the fundamental consideration of all present was the safety of the children". I carry on, "It goes without saying that the magnitude of the recent rockfall has put into question the safety of the whole area and even if the experts pronounce the area safe, the parents will not be very comfortable in the knowledge that their children are so near the danger zone". Mr Speaker, what they wanted on the 20 January, was that the Government should build a new school, physically for 20 children, and when it became clear that the Government would not, they then went back to the position with regards to safety but they had already said that they would never be comfortable underneath the potential rock fall again, even if the experts declared it safe. Mr Speaker, I think the Opposition Member may want to take note of all those facts. As to the question of consultation, when the hon Member, or if the hon Member should ever find himself in Government, he can convert Gibraltar into a Government of 28,000 people if he wants to, because if by consultation he understands that he does not do anything unless all interested parties agree, then the result will be that he will not be able to govern or discharge his political or statutory responsibility. My understanding of the word consultation and the Government's understanding, is that one gives everybody that has an interest in the matter..... this is the most unparliamentary reaction, I think that just for the benefit of listeners, I should say that because the Hon Mr Gabay appears not to like what I am saying, he has stormed out of the Chamber presumably hoping to listen to me on the loud speaker in the anteroom. Mr Speaker, consultation means that we give everybody that has an interest a legitimate interest, in the consequences of Government's decision, a reasonable opportunity to express their views on the matter to Government, so that Government take that opinion into consideration when Government make their decision about what it is going to do. Mr Speaker, the Government have consulted the GTA, who said that they were in favour of the project, the Government have consulted the parents, the Minister for Education, initially the Director of Education, visited the school on the 6 January 1997, and some parents there

present took the opportunity to discuss issues with him and mainly try to convince him that the school ought to remain open and a new school building be built. On the 16 January, the Minister and the Director visited the school and spoke to parents' representatives. On the 28 January, the Minister met a Mrs Reyes and others. The decision was then announced, Mr Speaker, after one, two, three exchanges of views with the parents. I am proud of the extent of the Government's consultation in relation to its decision to close St Peter's School. In what can only be described as a tasteless, even if made in jest, aside comment, the hon Member, who has still not returned to the Chamber, said that given the Minister's obsession with the national curriculum for education, that he hoped that the Government did not have a national religious curriculum which might lead to the closure of the church in the square. I would like, Mr Speaker, to condemn the Opposition Member for making that remark. The Government have no political or constitutional responsibility for people's spiritual well-being, which of course is very different to the position in respect to their education of their children. The Government have both the political and a statutory responsibility for the education of the children of the citizens of Catalan Bay. And that statutory responsibility is in the form of the national curriculum. There is no choice and it is the national curriculum that is the statutory obligation on the present Government. Not because we have put it there. but perhaps the hon Member does not know that it was his Government that made the national curriculum statute law in Gibraltar back in 1990, and he may not like it, and he is entitled to whatever views as an educationalist he was, what he cannot dispute is the basic political and legal fact that it was his party when in Government, that introduced the national curriculum as a statutory requirement on the Government of Gibraltar and that the Government of Gibraltar of the day is doing nothing more than complying with its statutory obligation as it is advised by experts in the field in question, mainly educational.

Mr Speaker, the hon Member said that he hoped that we had not put the Sheffield University initiative or point in our manifesto simply to make it more attractive, with the cynical intention of dropping it no sooner had we had persuaded the good people of Gibraltar to vote for us. Why does the hon Member think that we should not be keen to proceed with that project if it was possible. Surely he must know that Sheffield University pulled out of the project when they commissioned a firm of international consultants to do a feasibility study Coopers and Lybrand who reported

to Sheffield University that they do not see commercial viability in the project, at which point they pulled out. What I can assure the Opposition Member is that if he can re-interest Sheffield University or any other University to look at Gibraltar as a possible seat of a University, the Government will welcome them with open arms.

The Opposition Member with responsibility for Social Affairs said that we are only spending money accumulated between 1988 and 1996. I suppose that it is inevitable whenever there is a change of Government that the outgoing Government for a year will try to sweeten the bitter pill by claiming that everything that the new Government do is just as the Conservatives, notwithstanding the drubbing that they got at the polls. So that is inevitable and it is not for me, nor is it my desire to deprive the hon Members of that epilogue to their period in office. But nor is it true that we are only spending money accumulated between 1988 and 1996. Whether we accumulated it or whether they accumulated it is not the point. The point is that it is the money of the taxpayers of Gibraltar. But we accumulated some money as well between 1996 and March 1997. We lowered the public debt by nearly £5 million, we raised reserves by nearly £5 million. If we had not done those two things, we would have £10 million to spend. In addition, although the figure for the forecast outturn for the Consolidated Fund, as at 1 April 1997, is stated as £593,000, we believe that when that becomes the actual figure, it will be much higher than that, so that we would have contributed a greater budgetary surplus during the last year. So of the money that we are going to spend this year, and I make no secret of the fact that some of the money that we are going to spend is money that they accumulated, but it is not true to say that everything that we spend during the next year is money that they have accumulated. We have made £10 million or £11 million worth of contribution to the capital account in Gibraltar and during the current year, when we are going to incur all this expenditure, we expect to enjoy budgetary surplus of at least £7 million, which will either be what we spend from the reserves or will add to the reserves, so not even their mathematics is right, let alone their concept. The Opposition Member says that we continue to accuse them of mismanaging the economy, and they did mismanage the economy. Yes, and they demonstrated it then and by their crocodile tears now and by their indignant protestations that our accusations were unjustified now, they prove that they had such a narrow vision, such a narrow view of what was the economy of Gibraltar, which explains why they were mismanaging it. They were mismanaging it because their view of the

economy is simply the state of finances of the Government. It did not matter whether the private sector was teetering on the verge of ruination, it did not matter whether the Finance Centre was growing or not growing, historical, you can be very sure that if the private sector had continued to be managed the way that they were managing, there would have been a nose dive in revenue just as soon as fiscal drag permitted it and it simply would have been a question of waiting for the inevitable results which a collapsed private sector would have had on Government revenue, two or three years later at most. It proves their lack of understanding. When the hon Member says that what is needed and is missing from our Estimates, is, and I quote him, "economic imagination", when the budget is stuffed to the teeth with measures to boost and assist the private sector, which is what everybody agrees is what has got to drive the economy of this country in the future. When he failed to recognise the fact that there are these measures in there and he fails to recognise them as imaginative measures, what he is erecting is a monument to what I have just described, that he does not understand that the economy of Gibraltar is now the private sector. And what is needed are steps to boost the private sector, and since he cannot recognise what the private sector needs, because he does not understand what the private sector needs, he does not recognise imaginative measures when they are explained to him. It is little wonder that he mismanaged the economy. He mismanaged the economy because he did not understand it. And he is still demonstrating that he did not understand it. He did not understand it then and he does not understand it now. If he can seriously make the charge that there is no imaginative economic content for the private sector in this budget, when his hon Colleague sitting next to him, speaking to the measures described by my hon Colleague, the Minister for Trade and Industry, has had not a word of criticism, has supported most of the measures, well I am glad to say that the Shadow Spokesman for Trade and Industry is less myopic when it comes to recognising imaginative economic measures than he is, which may explain why he is the Shadow Spokesman for Social Affairs and not for the Economy. Mr Speaker, I will go further. Their view of managing the economy and they were very successful in their first term of office when they identified the need to create infrastructure. Their failure, and it is noteworthy that all the things that they have with some justification boasted about here today and yesterday, the telecom project, the joint venture initiatives, the infrastructure, all the things that everyone gives them credit for, is it not coincidental and interesting, that it all happened in their first term of

office. The second term of office, when they should have known that the economy needed to pass their attention, not to the supply of infrastructure, but to the generation of demand from customers, is when they achieved nothing and began to mismanage the economy because they were without ideas about what the private sector needed to generate customers because they do not understand the private sector. It is proved to an extent, if you see the extent to which their successes all come in their first term of office when they were concentrating on infrastructure. The moment that they had to concentrate on creating the right climate for the private sector to succeed in generating economic, sustainable economic activity, they were clueless and achieve nothing. Mr Speaker, I appreciate that the Opposition Member did not have responsibility for Treasury and that he can therefore be forgiven for not having his finger on the pulse of how much money there was in cash, as he puts it, when they left Government. He asserts boldly, within hours of my asserting the contrary, which presumably suggests that he thinks that I am lying, he says, "There were £130 million in cash which were there when we left Government." Either he is wrong or we have stolen £89 million or £89 million in cash have vanished, because as they were in notes, they might have evaporated into the atmosphere, or there must be some other explanation, of which the hon Member is not aware or does not understand. Mr Speaker, let me tell him what the explanation is so that once and for all he can stop creating the impression, and it is not the first time that he does it, that the Government of Gibraltar had available to it £130 million in cash to spend as a Government. This is what he said, "There were £130 million in cash which were there when we left Government." Those words, again in the ordinary usage of the English language portray a meaning to listeners of them and it is that there was £130 million there waiting for me to decide how we should dispose of them. I certainly give the Opposition Members credit, although I do not approve of some of the activities to which they resorted to raise it, but I certainly give the hon Members credit, for accumulating surplus cash flow. Surplus cash flow, some of which went to Government reserves, in the savings bank, in the companies, in the telecommunications, wherever, £60 million of which went into Gibraltar Community Care Limited. Incidentally, none of their surplus cash flow ever went to reducing the oppressive fiscal burden, the levels of tax, payable by the people of Gibraltar. On the contrary, notwithstanding their massive cash flow surpluses, they increased personal taxation every year by failing to increase allowances by the rate of inflation and by annual increases in the Social Insurance

contributions of 10 per cent. He is shaking his head, but he is shaking his head as if I was saying something which was not factually true. If you do not know, just say nothing. This is what he should do, if he does not know, he should keep his head still, neither nod nor shake. That £60 million, which went into Gibraltar Community Care is not available to the Government for expenditure, right, it is not available, so please let him take it from me neither to pound notes to disappear, nor to those with responsibility for keeping the Government's books, they are not enumerate, they know how to add up. There is not £130 million of Government reserves or surplus available to the Government. I would be content if the hon Member would now take that message on board. Mr Speaker, he said that I said that tourists would flock in. People do use figures of speech and when I said overnight, I did not mean by the 18 May, but certainly it has happened much quicker than I thought, because even he must recognise with his dubious grasp of mathematics, that one million people more in 1996, than in 1995, is more tourists flocking in, not quite overnight, but certainly over a period of one year. Then there are these alarmist remarks based on breathtaking ignorance of what underlies them that the budget shows that we are in danger of succumbing to political pressure. What political pressure? And from whom? What changes in the budget leave the Opposition Member to conclude that Gibraltar is now under threat of political pressure which it was not whilst he was in Government, because we have decided to spend on a recurrent basis somewhere between £2.5 million and £3 million a year. Mr Speaker, his hon Colleague, the Shadow Spokesman for Health, has been urging me to spend almost that much more on health and I am not spending it on health because it is not necessary, but because I am spending it on other things, necessary to deliver the public services on the economy that we think is needed, he thinks that we are subjecting Gibraltar to the jeopardy of economic or political pressure. Mr Speaker, the reality of the matter is that when you strip out what is no more than the transfer of figures that were accounted for elsewhere and are now accounted for in the Consolidated Fund, the real increase in recurrent expenditure, although we accept that there are a series of one-offs, particularly in the Improvement and Development Fund, but the real increase in recurrent expenditure is about £3 million. Does he really think, given that he has spent all afternoon boasting about the magnificence of the state of the public finances and of the surplus, does he really think that by £3 million a year, when we are forecasting a surplus on a conservatively calculated basis of £7 million, that we should be spending £3 million and

still be left with a surplus of £7 million, that is placing Gibraltar under the jeopardy of political pressure? It is perhaps the most nonsensical of all the remarks that we have had to endure during this debate.

The hon the Opposition Spokesman for Government Services, the Honourable Juan Carlos Perez, said that the Estimates did not prognosticate, did not assume, did not reflect increases in revenue to reflect the hope for success of all the capital investments that we were making. Many of these capital investments of course do not have immediate effect, especially the ones relating to beautification; infrastructural works; the hotel assistance scheme; these are not things which are going to generate employment, let alone revenue immediately, but eventually these investments will generate, in the first instance, employment which will of course create revenue for the Government through the PAYE system; eventually they will generate additional company profits of which the Government will collect corporation tax and that will generate Government revenue. But we are not expecting a financial return in year one and as we are not expecting a financial return in year one we have prudently not included in the Estimates of Revenue anything which supposes anything. That is not a sign of pessimism in the possible efficacy of our measures, it is simply a prudential consideration of the fact that these things have a leading time and even revenue from taxation, except PAYE, is subject to fiscal drag. So we very much hope that our measures will be successful. He should not interpret the fact that we have not made revenue increase provisions for this current financial year, he should not interpret that to mean that we have the slightest doubt that the policy will yield fruit.

Mr Speaker, of course I recognise that the hon Member said that much of the brain drain, so to speak if I can just choose that phrase knowing that he will understand what I mean by it, from the public service went into the private companies that were contracted. I think in his presentation of the point the hon Member maximised that and minimised the concept to which even he thought he had to make a glancing and passing reference which is this business of abolition of posts. The hon Member must realise that the rump of the civil service, even allowing for the functions that were lost, were over the years subjected to a process some of which was needed and all we say is that it has been overdone by a margin. I am not criticising the down-sizing, even of the rump. What we are saying is that in their abolition of posts, which were not always requested, they were very often encouraged by

the Opposition Members, in their enthusiasm to abolish posts for money saving reasons, they have deprived many areas of the rump public service of middle and senior management and that that process was overdone and that many of the promotions that we are now introducing and the posts that we are now introducing, reflect the fact that we have taken the view that they overdid that by a margin and that we know that that is going to cost money and that we made a considered decision in the knowledge that it would increase the overall cost to the public service but an increase that we thought was necessary in order to make the rest of the cost of the public service yield as much value and yield as much productivity and yield as much output as it was capable of yielding but which it was not yielding for lack of sufficient morale, for lack of sufficient resources, for lack of sufficient management. One cannot expect people to continue to progress in their posts if they are stuck forever at the same level because of course in many cases people who are going to be promoted, in some cases were recruiting in new talent on contract but in certain other cases were just promoting the post and it will be done by somebody who may already be doing the job at a lower level. But that is important to the morale; people have got to be aware that there is a structure which need not be bigger than it needs to be but that there is a pyramidal structure at which they can hope to progress as their skills, as their experience, as their commitment to public service increases with the passage of the years. And I do not accept that there are now more chiefs than Indians, I do not accept that for one moment.

The hon Member said that the AACR also had Special Funds and that if we were accusing them of lack of transparency, we must also have been accusing the AACR. This is this disingenuous device to which Opposition Members so often resort which is to point to an example that existed before and then they seek to justify all the uses that they made of that example in the same category. The AACR had a number of Special Funds which were funds with specific, usually non-recurring expenditure, almost exclusively for non-recurring expenditure sort of things. What the AACR did not have was the Gibraltar Investment Fund with how many companies under the Gibraltar Investment Fund? Mr Speaker, I do not want to cite a figure because I do not want to be inaccurate but I think at its peak the previous Government had between 50 and 60 companies in existence. All right, perhaps not all of them active at the same time but to seek to pass quickly over the existence of that structure by reference to the fact that the AACR had a couple of

Special Funds is not giving serious and objective attention to the matter. The hon Member said that this was the worst time ever for the Telecoms Fund to have disappeared because of the competition problems. The existence of the Telecommunications Fund did not enable the Government to do anything which we may or may not have thought prudent to do which we cannot still do. The Funds are still there, let us be clear about this, except the ones that we are going to spend this year and which we may not replace. Much of what we are going to spend this year under the Improvement and Development will in effect be replaced by the surplus that we generate during the year on recurrent expenditure and revenue. We admit that there is going to be a net expenditure of capital by the end of this current financial year but with the exception of that amount, the funds are still there, Mr Speaker. It is not that we have gone on a spending spree and spent the £41-odd million that were the Telecommunications Fund, etc. The Fund is still there except that instead of being parked in a number of different piggy banks called the Telecommunications Fund, this company, that Special Fund, the Gibraltar Savings Bank Reserve Surplus, instead of there being five piggy banks with a different name each, there is now one bigger piggy bank called the Consolidated Fund Reserve. These mechanical restructures do not put the funds out of our reach, we have exactly the same amount of funds in our reach as we would have had had we not done what we have done. I hope that the hon Member's mind will be partially put at rest. Mr Speaker, the hon Member said that it is a pity that we had delayed the car park at Engineer Lane. I think it is a useful opportunity, and this is not so much by way of reply to his point but simply a convenient opportunity to expose to the hon Member, since I know that he is interested in this matter, of exposing to what the Government's thinking is. The Government's thinking is that there will be no traffic on any part of the beautified Main Street. That includes the northern bit between the bottom of Engineer Lane and Casemates Square, including incidentally Casemates Square. Therefore traffic is no longer going to be able to come south down Engineer Lane nor north up Irish Town and up Parliament Lane to go north; there will be no crossing of Main Street at any point. Therefore the Government think it is not sensible to have a car park which is a magnet for traffic not just for the 60 or 70 cars that fit in there - I will give way just as soon as I have finished explaining the point - but indeed it attracts traffic to go to see if there is parking and when they have gone to see if there is parking, if it is full they have got to drive away so it generates traffic of all sorts. We do not think it is sensible to locate such a magnet for traffic in an area

where what we are trying to do is pedestrianise. There is a possibility but a very remote one that if we decide not to pedestrianise Engineer Lane itself, we can have a system of two way traffic using traffic lights, I suppose, both ways up and down Engineer Lane to reach the car park in that way. A decision has not been made on the car park in Engineer Lane but our thinking in relation to traffic flows in that area would tend to indicate against that ever being a car park.

HON J C PEREZ:

I thank the Chief Minister for giving way. The wider point I was making is that Government are taking decisions like the one that the Chief Minister has said without the completion of the study of traffic flow and I think it would be a wise thing to await the results of that study before taking particular firm decisions on any aspect of it because we might find ourselves with traffic circulation being seriously affected by the result of the decisions that might be taken before that is complete.

HON CHIEF MINISTER:

Well, Mr Speaker, just to continue with this exchange of views, the Government have more or less decided the parameters of what it is that we are going to do and we now have to submit our plans, which are really political laymen driven, to the Traffic Commission and others to express the view as to whether these things are viable and it includes, incidentally, diverting the traffic from up the Rock by another route which will allow to pedestrianise Governor's Street, Library Hill, that bit of Main Street between the bottom of Library Hill and Cathedral Square, etc.

Mr Speaker, turning now to some of the points made by the Hon Mr Baldachino. He asked, why did we want Residential Services in the public sector? I will give way. I would hate to spend time answering a question that was not asked.

HON J L BALDACHINO:

Just on a point of clarification for the Chief Minister, what I said was in reference made in the contribution of the Minister for Housing, he said that by moving what exists now, the service that is given by the company, by moving that to the service would create or he gave the impression that the allocation of housing could be different. That is what I understood.

HON CHIEF MINISTER:

No, Mr Speaker, the fact of the matter is that the Government are not comfortable with Residential Services Limited and we are in discussion with the shareholders of that company who I think are sympathetic to the Government's aspirations in that area. The Government are not comfortable with Residential Services because housing is a politically sensitive area in Gibraltar and we feel that we are not sufficiently in control of the day-to-day practices, the day-to-day activities of people who are employed by a private company and that are not directly answerable to the Minister. The fact that that is a company controlled by the brother of a Member of the Opposition would have been enough in most countries other than Gibraltar, for us to have put an end to this arrangement on day 2 of our term of office. We have not done that. The reason why we want to do it is that we are simply not comfortable with the way that that company deals with its clients which are the Government's housing people, our political clients, if one likes, the people who look to the Government to solve their housing problem and not to Residential Services Limited. But of course the Government get the blame for their satisfaction or lack of satisfaction with the way they are treated and we feel that it is such a sensitive political area that we need to have much more hands-on control over that matter. The hon Member said that it was the policy of Government not to pay overtime in Buildings and Works only because in other departments we were paying overtime.

HON J L BALDACHINO:

What I said was that it must not be the policy of the Government as a whole not to pay overtime as a whole that it was the policy of the Minister for Buildings and Works, that is what I said.

HON CHIEF MINISTER:

Yes, my understanding of what the hon Member has just said is exactly the same as what I said. Yes, that is true but because we are dealing with a problem that we think is not unique to Buildings and Works but the sheer scale of it, the amount of money involved in it, the lack of political satisfaction that we feel we are getting as a Government in terms of our ability to deliver our policies in a politically sensitive area of the public administration is such that we take the matter very seriously. We take the matter seriously to the extent that both for the extraction of value for money to the taxpayer and for the Government's ability to manage and control that department and its ability to do the work that the Government want it to do and not the work that the junior or middle management of the workforce fancy doing or not, as the case may be, the Government are not prepared to tolerate the continued existence of the Buildings and Works Department in its present form. And changes there will be by negotiation or otherwise; changes there will be, yes. That does not mean that we want to reduce the amount of money that these men earn, on the contrary I have told them directly and I put it on record now in Hansard in this House, the Government would be quite happy for them to continue to earn as much money as they used to earn before or more even because this is not an exercise to save money, this is an exercise to ensure value for money. In other words, that if it costs me £100 not only do I get £100 worth of work but it is £100 worth of the work that I want done; when I want it done; in the manner that I want it done. In other words, what I want is a system of remuneration that is measurably linked to their output and their willingness to follow management instructions and to do the work that the Government policy requires them to do. That is what I want and no more and once we have arrived at a mechanism to do that they can earn frankly, as far as we are concerned, as much as they can or want or want to work because there is no limit, as far as the Government policy is concerned, on the resources available to the Buildings and Works Department provided that it is reciprocated by an equivalent amount of output and work measurable, managed and chosen and directed by the Government. The Hon Mr Baldachino in a way that I recognise was not hostile or pointing the finger but simply pointing to a trend, said that whilst he hoped that our policies would succeed to reduce unemployment, said that nevertheless he had to comment and note that the trend was up and he quoted this figure of 331 in April 1996 and 447 in March 1997. Well, Mr Speaker, I cannot swear it because I have not looked at the

ETB statistics but the hon Member must presumably suppose, as I do, that the March 1997 figure includes the vast bulk, if not all the people who have lost their jobs at Kvaerner and have not yet found alternative work. It obviously would not include the 20 or 30 that were retained by Kvaerner to do maintenance work but the bulk of them lost their jobs before the end of March and therefore would be included in the March statistics. Interestingly, 447 minus 331 is 116 which is almost coincidentally the number of people that have so far lost their jobs at Kvaerner.

HON J L BALDACHINO:

Mr Speaker, I mentioned the March figures because they were the last figures that I was given by the ETB but the trend was not only in March, the trend of the increase was in January, February and March and in April the figure that has been quoted in Panorama is even higher. What I also said, if I may, just to clarify the point, is that it is surprising that in the March figures what had increased was the under 25s which has got nothing to do with Kvaerner, by 89 per cent from the April figure of 1996.

HON CHIEF MINISTER:

Well, Mr Speaker, of course there are some under 25s in Kvaerner and the under 25s reflect mainly the school leavers at the end of the school year. He knows this, he knows that this is the case. Given that there are about 115 ex-Kvaerner workers unemployed as at the end of March, never mind the trend; if post-Kvaerner first lot of redundancies the figure was 447, well it needs to be before the Kvaerner redundancies it must have been 447 minus the number of Kvaerner redundancies. Well, where are they? Have they not bothered to register for unemployment? I am telling the hon Member. If the hon Member is asking me then he must hear my answer. My answer is that in my opinion the March figure must include the bulk of the Kvaerner employees which would put the pre-Kvaerner figure almost at 331 which is the figure that we inherited from him in April 1996 which means that there is no upward trend. If there was an upward trend we have cured it immediately before the Kvaerner closure. I do not know if the hon Member now that he is in the Opposition benches thinks that there is an unemployment problem in Gibraltar because he did not recognise it during the election campaign. When we used to speak of an unemployment problem the Opposition

Members used to say, "What unemployment problem?" What he cannot do is now start recognising an unemployment problem which I always knew was there. It is the same problem that I used to criticise them for not redressing. Criticise and suddenly recognise the existence of an unemployment problem and at the same time criticise the measures that we are taking to support the private sector to address it. Well, he cannot criticise both although he is certainly free to express anxiety, as I indeed myself feel anxiety, about whether the measures that we are taking are going to be successful or not in having the desired effect.

Mr Speaker, moving on now to some of the remarks made by the Leader of the Opposition. I think in what must have been a lapsus mentis because the hon Member said although there was difficulty in dealing with the budget because as we have overestimated expenditure and underestimated revenue we could be talking about a gap that is not there. Well, we cannot be talking about, if we have overestimated expenditure and underestimated revenue which is what may have happened, we cannot be talking about a gap that is not there. We can only be talking about a gap that might be bigger than the one that is there because the result of overestimating expenditure and underestimating revenue is that one has underestimated the size of one's surplus. So if we are right and we have been excessively prudent, which is no bad thing, let me tell the House, being excessively prudent at underestimating revenue and that we have been, for whatever reason, too generous in estimating expenditure the result would be that there will not be a £7 million surplus but a higher surplus and therefore that should not increase the hon Member's anxiety, it should decrease the hon Member's anxiety because all the things that he subsequently went on to say after that would apply to a lesser extent. The criticism that we may have overestimated expenditure and underestimated revenue is really not one that the hon Members should make because a cursory glance at all eight of their budgets since 1988 reflect the fact that there were always swings between the estimated actual revenue and the estimated actual expenditure as one would expect. I do not know whether that reflected the fact that they were prudent in their estimation of revenue or that they always did much better than they thought they would do, but it is no coincidence that there was always an underestimation of revenue and an overestimation of expenditure which is what we have done. Does the hon Member want me to give way?

HON J J BOSSANO:

Mr Speaker, the whole point is, and it is no more than that, the Chief Minister takes one particular word that somebody says here and makes it into a huge debate over an issue where there is not any. Having looked at the figures and having analysed them, we then discover, as we are about to start the debate, that the expenditure is a worse test scenario, whatever that may mean because they are his words; to my knowledge we have had outturns which do not tally 100 per cent with expectations but the expectations were never worse case scenarios. If the Chief Minister says it is a worse case scenario and a conservative revenue estimate I then have to preface that my analysis is on the assumption that what we are voting in this House is what we expect the Government to be spending. That is the basis on which I have to enter a caveat on the analysis. Of course, if what we are voting in this House is not something that they have got the remotest intention to spend then all the analysis, by definition, is not valid. That is all I am telling him.

HON CHIEF MINISTER:

Mr Speaker, the hon Member must know that the appropriation mechanism is to appropriate a sum of money not exceeding, it is a maximum. All his budgets from 1988 to 1995; yes in all cases, the expenditure was almost always less than he estimated. Well did he not know at the beginning of the year what he wanted to do? Almost in every case. I do not know whether he was driven by generosity or caution or in discipline but no more than is the case this year there is going to be, we think, less money spent than the budget estimates may spend as a maximum as has been the case in almost all of his budgets. I am not making any bigger point than that. The sort of harsh judgements that we have had to endure..... *[Interruption]* from some of the Opposition Members although not all of them, the harsh judgements that we have had to endure for a budget that discloses a recurrent revenue and expenditure surplus of £7 million coming from a party who when in Government run five of their eight budgets, well all eight of their budgets were estimated to produce a deficit, all eight of their budgets at this time of the year estimated a deficit, not a surplus of £7 million but a deficit and in five of eight of those budgets there actually was a deficit at the end of the year. Well, Mr Speaker, I am not forecasting a deficit as they did in all eight years that they were in Government. So if it was safe for them, prudent to forecast eight deficit budgets and run five

deficit budgets then I am being £7 million worth more prudent than he ever was. I accept that the bulk of the contracts in monetary value terms that I read out in the litany of contracts relating to OESCO utilities, let us call them generally, in value but not in number of the 25 contracts that I recited, five related to private finance initiative type joint venture utility contracts and 20 were straightforward acts of privatisation of administrative functions, well not all administrative but functions that previously were in the public service. The hon Member may think that I latch on to one word and then build a whole speech on it but if I have learnt that, if I have acquired that skill I must have learnt it from listening to him for so many years. Because to ride quickly over the plethora of privatisation agreements that he entered into on the back of an explanation that they were all the same as finance initiative in the UK because they were utilities and we needed telephone lines that we could not afford and we needed sewers that we could not afford, Mr Speaker when I heard him I thought, is he saying that all of these contracts relate to that? Because his answer applied to five but not to 25. The hon Member converted his contribution and I was surprised that with his track record of financial debates in this House he should really have almost limited his contribution to what really was a nit picking bookkeepers exercise about whether the opening balance of the Consolidated Fund at £593,000 was right or wrong. I answer for Government expenditure and I answer for the policies that the Government impose for transparency and accountability but, of course, I am not the Government's bookkeeper. It is possible that Government bookkeepers can make mistakes but I am assured that they have not made a mistake in this case and that the mistake and therefore the whole half hour intervention based on it by the hon Member is wrong. But as it is not my professional prowess that has been impugned but the Financial and Development Secretary's professional prowess I will allow him to answer this question of whether £900,000 are wrong, whether the opening balance was right or wrong. The hon Member says that there is now no rainy day fund. I have got to give him the same answer as I gave his hon Colleague, sitting next to him even though I know he is less in need of it, it is true that there is no longer a little ceramic piggy bank called rainy day fund, not that there ever was by the way, there were a series of special funds, if by the rainy day fund he means a reserve of money to which the Government can have recourse on a rainy day as opposed to on a sunny day, that continues to exist, it is simply called now the Consolidated Fund Reserve. We have not gone woof and made £41 million of money disappear. Therefore all these

alarmist remarks about now being stripped naked of our political security and next time it rains we will all get wet because we have done away with the umbrella of the rainy day fund. It is all nonsense although I accept that to the extent that the Government deplete our reserves by investing in the economy, I accept that the amounts available to the Government if there should ever come a rainy day is less but we fully intend to whatever we deplete the rainy day fund by, whatever we deplete the Government reserves by during this financial year, much of it will be restored by this year's current account surpluses and what is not restored this year will be restored to whatever level we think is necessary and prudent in future years. We do not expect it to start raining as hard as the Opposition Members clearly think it is going to start raining quite as soon as the hon Members anticipate or fear. In any case, I adopt the point made by my hon Colleague, the Minister for Trade and Industry, that if it should ever rain as hard as the hon Members fear that Gibraltar's economic survival depends on the existence of a £40 million reserve, then I suppose we will have long enough to pray for financial support. But there will not be time for very much more than prayer because how long can the Government keep the economy going in a state of collapse which is what the rain presumably is an allusion to or external political pressure of the sort that can have that sort of catastrophic effect on the economy, how long do the hon Members think that the Government can continue to keep the body and soul of this community together with £40 million?

The hon Member said that he was not interested in presentation. I am not sure whether he said that he was not interested in it or that he did not attach much importance to it as we did. That remark simply proves to me what I already knew of him and that is that he attaches no value inherently and for its own sake to the basic principles of transparency and accountability and the role of this House in its appropriation mechanism function. I knew that, I have known that since the day I have been in this House since May 1991. I see clearly that he does not feel that there is any need for or virtue in those ordinary standards of transparency and public accountability which are taken for granted in almost every other democracy in western Europe. Well, Mr Speaker, we shall just agree to disagree. He can be sure that whilst we are sitting in the Government he will be, in political terms, the principal beneficiary of our commitment to public transparency. But then he is wrong to think that these are just presentational changes. Many of the restructures, many of the things that we have done enable Government's senior

management, especially senior financial management, to impose stricter control and supervision of spending by controlling officers to prevent what used to go on in the past which was uncontrolled virement from one subhead to the other; expenditure on recurrent labour costs; yes, Mr Speaker, within the subheads, bearing in mind for example, that industrial wages used to be described as other charges and therefore from any other item under other charges which might have included electricity, they could actually use the money to pay overtime and there was no control. Well, I am not saying that we are going to succeed in having 100 per cent discipline but many of the structural changes that we have introduced will enable us to make sure that controlling officers spend money for the one purpose for which they were intended and voted for in this House and it will enable us to therefore impose stricter financial discipline which knowing the hon Member's commitment to minimise public expenditure, I am sure on reflection he will welcome. Mr Speaker, the hon Member made an awful song and dance about the fact that by the time we finished making hay or merrymaking or whatever it is that he thinks we are doing during the next 11 months, spending money like confetti or whatever he thinks that we are doing, that we will have depleted the reserves of Gibraltar to £1 million in the dreaded day, even the incompetent AACR Government of 1988 managed. This was the thrust of what he was saying; that Gibraltar's position will be worse on the 31st March 1998, that is to say, at the end of the current financial year, in terms of reserves, than was the case..... this is what he said, I have not misunderstood what he said. He must know that that analysis is a nonsense. For a start he knows it because I told him yesterday that there were still £11 million in the companies all of which would not be used for the 50/50 scheme. That takes us at least over the magical figure of £16 million for the AACR so I do not know if we are going to do well or badly but it will be better than £16 million in 1988. He also knows that we are forecasting a surplus on the recurrent account of at least £7 million which he must know are going to be more given the prudence of the revenue calculation and the excessive generosity of the expenditure. Therefore, Mr Speaker, let us say that it is £3 million more than the £7 million that we are prognosticating. That means that at the end of this financial year reserves will have grown by another £10 million so now it is not the £16 million of the AACR, it is the £16 million plus the surplus left in the companies, call it £20 million; plus the £10 million that we may, certainly £7 million, generate in respect of current account surplus this year, so that nearly £30 million. We are not far off from where they are now. He can rest assured that by

the end of this financial year the reserves will not be £15 million, but he knows that and he knows that the suggestion that the reserve will only be £15 million would only be true..... [HON J J BOSSANO: *If this is true.*] Well, but that is not a sign. [Interruption] But no budget is a scientific exercise just as theirs never were, Mr Speaker. They must know that and further they must know that it will actually be higher than that if they accept what they are now criticising us for which is underestimating revenue and overestimating expenditure. So let them rest at ease. I will give way.

HON J J BOSSANO:

Mr Speaker, I am not criticising him for anything. I prefaced the whole of my contribution by saying we have been given this 28 days ago for which I am grateful because we are only normally entitled to have it for 14 days. Having come here the first thing I discover is, in fact, that this is not what they realistically expect the result to be. Well, I am putting my views on the implications of what would be the case if what we are voting on happens to be true. I repeated that several times but the Chief Minister refuses to ignore the fact. Of course, if he told me today, that in other years there have been differences between the beginning and the end but the beginning was what in the judgement of people was likely to be the end and then a lot of events during the year altered that judgement, we have to assume, if we are voting £33 million in personal emoluments that we debate the consequences of spending £33 million on personal emoluments otherwise why bother to vote on anything here or debate it if it may all turn out to be either well over or well under. We have no choice.... [Interruption] Yes, but every year we have debated what there was in the book and that is what I am trying to do.

HON CHIEF MINISTER:

Mr Speaker, I am quite happy that we should debate what is in the book but what he cannot say is that he has not been critical when he has suggested that the budget is imprudent. [HON J J BOSSANO: *If it is true.*] Well, I am going to demonstrate to him that it is not imprudent even if it is true. Even if the situation is exactly what that book says, by his own historical standards, it is not imprudent. When he was in Government, I am not going to repeat the fact that during the last 12

months we have prudently further lowered public debt and increased reserves. So his imprudence is targeted at what we are going to do from now on and not about what we have done in the last 12 months so all this talk about "they have spent our money" is loose language; what they really mean is not that we have spent the Hon Mr Mor's £130 million but that we threaten to spend and are asking the House's permission to spend some of the Hon Mr Mor's hard earned reserves. I do not see why that would be imprudent. By what measure is it imprudent for this Government to lower reserves as an investment in the private sector from say £41 million, which is what they are now, to say £25 million, which is probably the worst case scenario, when in order to fund their policies without having a reserve except the Sinking Fund and some Special Fund surpluses that gradually built up over the years, they borrowed not the whole of £100 million because I think public debt when they arrived was about £21 million or £22 million or something like that, I do not remember the exact figures, £25 million, but they borrowed up to a gross £100 million; on the 31st March 1995 they had borrowed £99.32 million and had £16.1 million in the General Sinking Fund. They borrowed £83 million of money that they did not have. However imprudent he may think it is to spend £20 million of £40 million that one has got in one's back pocket, however imprudent he may think it is, on a scale of imprudence, and I do not think we are on the scale of imprudence, but if there is a scale of imprudence it must be considerably less imprudent than borrowing, say, £50 million that he did not have. So if he was willing to fund his policies with borrowings and he thinks it is imprudent for me to fund mine by spending some of the money that we have got, so he can spend money that he did not have and I cannot spend money that we do have. Where is the threat to the political stability of Gibraltar? Where was the exposure of Gibraltar to political pressure then? It is just mind-blowing incoherence and inconsistency.

HON J J BOSSANO:

Mr Speaker, it is not mind-blowing, incoherent or inconsistency because he knows full well that the money that he is talking about spending is money that he has just transferred by wiping out the Coinage Fund which, of course, he is choosing not to mention at all in his contribution but the money was there because not a penny was spent from it since the day it was created. So if he wants to be honest and do a like for like

comparison then what he cannot do is say, "My reserves are so much because I have removed every other fund and put it in one piggy bank but you had no reserves because you had it spread out in 20 piggy banks and I am assuming the other 19 did not exist until I broke them and pinched the money".

HON CHIEF MINISTER:

No, Mr Speaker, when have I said that he had no reserves? I said that he had five ceramic piggy banks with a different name on each. He cannot continue to confuse matters. The Leader of the Opposition is the master at confusion. The Coinage Fund, Mr Speaker, is £1.5 million out of the £41.5 million. How often is he going to repeat the fact that I am spending the Coinage Fund as if I was exposing the currency to the risk of collapse when he knows it is a minuscule part of what I call his scattered reserves. I do not know who he thinks he is worrying but even if he worries about the fact that there is not a piggy bank called the Coinage Fund anymore and I do not think he should, he knows that he should not, he knows that the history of calls upon the Coinage Fund for redemption of coins is practically non-existent; he knows that every country of the world issues coins in the almost certain knowledge that they will scatter around the globe and no one is ever going to come to the Treasury saying, "I have got a handful of 5p bits here, will you please give me notes for it?" He knows that this is Mickey Mouse stuff and the suggestion that we are exposing the public purse to real jeopardy because the contents of the Coinage Fund are no longer in a piggy bank with the words "Coinage Fund" written on the side of it but are now in a bigger piggy bank with the words "Consolidated Fund Reserve" printed; the suggestion that this is an act of imprudence is disingenuous. Even if he is genuinely, which I know that he is not worried, so that he can sleep at least tonight more comfortably let me tell him that so prudent are we as managers of the public finances that he will have noticed when he has read his Estimates that whereas in this year if he looks at page 6 which is Head 7 - Reimbursements, that we have taken forecast last year to have taken £481,000 surplus from the Currency Security Fund, this year there is a big fat zero estimate because we do not intend to take anything even though there will be surpluses generated this year in the Note Currency Fund we are not taking it. So in the unlikely event that some schoolboy comes up with his piggy bank full of coins and demands that we exchange it for notes, there will be surpluses in the Note Security Fund from which to do it.

I have already dealt with the point that was also made, Mr Speaker, by his hon Colleague, the Hon Juan Carlos Perez, that the revenue estimate does not make any allowance for the fruits of our capital expenditure and that is absolutely right. As far as the elimination of the Sinking Fund is concerned. The fact that we eliminated the General Sinking Fund; sometimes I think that Opposition Members have a sort of pigeon hole mentality and unless they can put £10 in this hole and £15 in this hole and remember that that is for coffee and that this is for sugar and that this is for milk, unless they do that they will not remember that they have got to pay for milk and sugar and coffee. The fact that we eliminate the General Sinking Fund and put the money that might have been put in it..... *[Interruption]* Yes, exactly, the fact that we no longer put the money that we intend to use for paying down public debt; the fact that we do not put in the little piggy bank called General Sinking Fund and instead it enlarges the Consolidated Fund Reserve does not mean that there is any less money available for paying down public debt, it is still there and we know that if we spend the whole reserve there will be no money but whilst there is a reserve there is money to pay out public debt. But, of course, this year we do not intend to pay out public debt because we have got to borrow, because thanks to some very lax goings-on during the last four years the Government have got to now spend a large amount of money on repairing Harbour Views and so the fact that no public debt will be paid down this coming year is not due to the fact that we have struck out the General Sinking Fund, it is due to the calamity that passes by the name of Harbour Views for which we are not responsible. Since he thinks me imprudent for having spent part of the reserves or preparing to spend part of the reserves, would the hon Member have thought me less imprudent and therefore more prudent if I had left the reserves intact and simply borrowed money as he did to pay for our policies? Would I then have been less exposed to a charge of imprudence? If I had left his wretched £41 million in the bank and gone to the bank and borrowed as he did a net £83 million of public debt, would he have thought me..... *[Interruption]* All right, taken public debt back up to £83 million which would not have been necessary to pay for the £20 million. Public debt is now a net £65 million, if I had borrowed the whole £20 million that I am using from the reserve, public debt would still be lower than, the net public debt would still be lower than the level that he rose it to. Would he then have thought me less imprudent? His criticisms simply do not bear analysis. And the suggestion, just going back momentarily to the

Coinage Fund, we are not using the Coinage Fund. Mr Speaker, until the Consolidated Fund General Reserve falls below the level of £1.5 million, I have not used the wretched Coinage Fund, can we agree that as a matter of simple mathematics? This obsession with the need to take down public debt. I explained and it is certainly thanks to their accumulation of monies in the past, there are a lot of those millions that they accumulated that I would not have been able to accumulate because I would not have been willing to tolerate the fast launch smuggling of tobacco. Certainly there are millions and millions and millions and millions of pounds accumulated between 1992 and 1996 which only they could have accumulated and I readily concede I could not have accumulated because I would not have been willing to sanction the exportation of tobacco from Gibraltar in fast launches. So I give them that qualified credit for their accumulation of funds. The net public debt of Gibraltar, that is to say, making allowance for the fact that of the £65-odd million, £46 million is owned and owed to Community Care Ltd, not a company which is likely to demand repayment and quite easily a company in whose favour that debt could be rescheduled at any time if the Government had not accumulated sufficient reserves by then to redeem for cash their holding of Government stock. There is a very limited amount of debt due to people that the Government are necessarily going to be bound to repay and even in respect of those, Mr Speaker, he must know that public debt can be rescheduled. There is no need to reduce public debt to zero. Perhaps the hon Member may be interested in an interesting statistic that I had compiled for me. One of the measures of the health of the economy, he was always very keen on saying is the ratio of public debt to GDP. The hon Member will remember that one of the Maastricht criteria that he always used to point to is compliance on Gibraltar's part with, was that very statistic. In 1988 the public debt, he is quite right it was £25.6 million, he has a sharp memory, was 16.85 per cent of gross domestic product as it then was, it was £151 million. By the time that he had finished with the public debt and with gross domestic product, in 1993 he had raised the public debt to GDP ratio to 30 per cent. In 1996, which was our first year of stewardship of the economy it had reduced to 20 per cent. On the basis of GDP figures for 1995, the prognosticated public debt for 1997 reduces the percentage of the ratio to 18.83 per cent. Of course, the economy will have grown something between 1995 and now. So to the extent that the economy has grown from a GDP of 326 to whatever it might be now, the percentage ratio would be even less for 1997 than the 18.83 per cent. So I think that by the criteria that he himself devised and

others use, he will appreciate that by that measure the economy is in a safe pair of hands. I am truly surprised, and I say this in the most sincere of sense, that the hon Member should seriously be recommending to the Government the GSL option for Kvaerner. Let me tell him that he has zero prospects of persuading the Government of the correctness of his newfound subscription to that view. He has zero chance of persuading the Government to go down that road but it really truly surprises me. Somebody whose view of what is prudent extends to not wanting to see me spend money that we have got, in the next breath tells me to put the taxpayers cheque book on the table open with a signature on it but no figure in the box to underwrite whatever losses, and goodness alone knows what they might be, for the commercial success or failure of a shiprepair yard knowing the competitiveness of the business, knowing the probability that there will be trading losses. His prudence is not consistent throughout all the views that he has expressed during his contribution to this debate. Sustainable economy which he said cannot be delivered by changes in presentation, that is true. The changes in presentation are not for deliveries of sustainable economic activity, the changes of presentation are to deliver what we consider is the required degree of democratic accountability. That is what the presentational changes are for. The sustainable economic activity is delivered by the measures that we are taking to support the private sector and the difference, Mr Speaker, between this Government and the last one that he led during his last term of office is that we understand the private sector; we know what the private sector needs; we know what the Government have to do to help the private sector and therefore the economy and he and his Government demonstrated for four years by what they were doing both politically and economically that they did not understand those things. As I have said, Mr Speaker, I cannot accept from him criticism that it is imprudent to bring to this House a budget which forecasts a surplus of seven or even a budget next year that may forecast a surplus only of one when one takes account of the Social Assistance Fund expenditure; when he constantly brought to this House budgets which showed a deficit.

I therefore end my response to the points that have been made with a reassertion of the views that I expressed in closing my initial address on this debate and that is that the Government have conservatively estimated the revenue and that is a prudent and acceptable recourse to have to; that the expenditure is estimated in a way in which we recognise may not all be spent and that that is entirely consistent with

every budget that he has ever brought to this House; that in our first year in office we have demonstrated the extent of the responsibility of our stewardship of public finances by lowering public debt and raising Government reserves; that we expect the reserves to recover from the depletion that we subject them to as a result of this year's one-off investments in the private sector; that we are only spending a part of those reserves which is a good deal more prudent than borrowing moneys that we did not have which is what they did; and that we will continue not just to make prudent provision for reserves and prudent provision for public debt and prudent provision to enable the private sector to deliver a sustainable economy, but at the same time we will relieve the taxpayers of Gibraltar of part of the onerous and quite unnecessary burden to which he subjected them during the eight years in which he was at the helm of the public finances of Gibraltar. I have no hesitation in reasserting my commendation of this Bill to the House.

MR SPEAKER:

The Hon the Financial and Development Secretary has the last word if he wants it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I understand it is generally the practice that the Financial and Development Secretary says he has nothing to add but on this occasion there are a couple of points to which I wish to respond, but I do promise to be brief as the hour is late. The first, Mr Speaker, concerns what the Gibraltar Chronicle today refers to as an exchange by the Leader of the Opposition concerning where some £900,000 were accounted for, what the Chief Minister referred to as a book-keeper's point. The position is exactly as I explained to the House in an intervention yesterday although I can see that I was having some difficulty at that time in convincing the Leader of the Opposition. The position is this, the Consolidated Fund Balance was £1.9 million on 31 March 1995; if one adds the £480,000 surplus of recurrent revenue over expenditure for 1995/96, this produces the Consolidated Fund Balance of £2.4 million for the 31 March 1996, shown in page 2 of the Forecast Outlook Book presented with the Estimates this year. Taking account of the last financial year's activities, that is the one we have just finished, we forecast the Consolidated Fund will have a balance of £593,000, as shown on page 3 of the Estimates.

I came to this debate in the House expecting to fill points on the 1996/97 Estimates. I was a little taken back, I think yesterday, having to defend a balance that dated back to 1995. Nevertheless, let me explain for the benefit of the House how the Leader of the Opposition may have thought that the Consolidated Fund back in March 1995 was £1 million as opposed to the £1.9 million it actually was and to translate that into the future and thereby imply that there is some doubt about the figures in the Estimates and even further that Government might now be in the red rather than in the black. I think in drawing on data in last year's Estimates the Leader of the Opposition assumed that the figures shown for the Consolidated Fund Balance at the end of 1994/95 that appear in the Estimates book 1996/97, were in fact the same as the audited accounts. I fully appreciate the Leader of the Opposition's predicament because in fact that is usually the case. The two figures do normally coincide but on this occasion they did not. In fact, the Principal Auditor's Report shows on the audited accounts for 1994/95, laid and presented to this House last year towards the end of 1996, shows that there was an adjustment made as a result of the external audit of those accounts and that adjustment amounted to £900,000 and was due to an understatement of revenue. So the information was always before the House and unfortunately there is no cutback, there is no, as much as I would like to be, diplomatic and kind way of doing this, I was right and the Leader of the Opposition was wrong on this occasion.

The second point I would like to make, Mr Speaker, concerns, I think a point made by virtually every Member of the Opposition and it picks at something that the Chief Minister himself said, that these Estimates are more about presentation than anything else. I have a lot of experience gained primarily in the UK but also in other European countries of public sector operations and I just do not accept that prognosis at all. I believe that the new format of Estimates provides a very clear and comprehensive tool for controlling public expenditure in the future and indeed for planning public expenditure in the future and are not simply a cosmetic presentational exercise. With that I commend the Bill to the House.

Question put. Agreed to.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to report that the Committee Stage and Third Reading of the Bill will be taken tomorrow.

The House recessed at 8.30 pm.

FRIDAY 30TH MAY, 1997

The House resumed at 10.05 am.

PRESENT:

Mr Speaker(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for Government Services and Sport
The Hon J J Holliday - Minister for Tourism, Commercial Affairs and the Port
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training and Buildings and Works
The Hon K Azopardi - Minister for the Environment and Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

- (1) The Port (Amendment) Bill 1997.
- (2) The Environmental Protection (Controls on Substances that Deplete the Ozone Layer) Bill 1997.
- (3) The Social Security (Employment Injuries Insurance) Ordinance (Amendment) Bill 1997.
- (4) The Appropriation (1997/98) Bill 1997.

THE PORT (AMENDMENT) BILL 1997

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 ENVIRONMENTAL PROTECTION (CONTROL ON SUBSTANCES THAT DEplete THE OZONE LAYER) BILL 1997

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

Clause 2

HON K AZOPARDI:

Mr Chairman, I gave notice of several amendments that I wish to make at the Committee Stage in relation to this Bill and I believe that they have been circulated to hon Members. In relation to section 2 which is the section that provides definitions which then appear throughout the Ordinance. I wish to add the following definitions: "third countries" means "any state which is not an EEA state."; "State not Party" includes any state or regional economic-integration organisation that has not agreed to be bound by the control measures applicable to that substance; "Party" shall mean any Party to the Protocol; "Protocol" shall mean the Montreal Protocol on substances that Deplete the Ozone Layer whether in the original 1987 version as adjusted in 1990 and 1992, the amended 1990 version as adjusted in 1992 or the amended 1992 version. The reason for those amendments are related to the subsequent amendments that I will move in relation to the Bill and are related to what I suggested in answer to a question from the Leader of the Opposition on speaking on the general principles of the Bill. They are to address and to clarify certain concerns that we had having discussed the Bill with the Environmental Agency on the workings of it and the implementation by Customs. The definitions stem from definitions which are contained in the Regulations.

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

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

Clause 4

HON K AZOPARDI:

Mr Chairman, the other amendments which I have in relation to this Bill, apart from one minor amendment which will come later on in the Ordinance, are all in relation to clause 4. I will read the amendments as

contained in my letter which I believe has been circulated. In section 4(1) I move the insertion of "from third countries" between "Gibraltar" and "a controlled substance". In section 4(2) I move the insertion of "from any State not Party" after "Gibraltar". In subsection 4(3) I move the insertion of "from any State not Party" after "Gibraltar" and before "a product". I also move two new subsections; a new 4(6) that would read: "For the purposes of section 4(1) it shall be presumed that the controlled substance has not been imported from a third country and that it has been imported into the Community under licence if it has been imported into Gibraltar from within the Community". And a new 4(7) that would read; "For the purposes of sections 4(2) and 4(3) it shall be presumed that the controlled substance has not been imported from a State not Party if it has been imported into Gibraltar from within the Community". The reason for the difference there is that the relevant Articles of the Regulation in one place prohibits importation into the Community from third countries and in other places prohibits importation from States not Party to the Protocol emanating from the Montreal Convention and that is why the presumption has to read twice and in different form. The intention behind it is so that when goods are imported into Gibraltar if goods come from within the Community there is that presumption and it is not automatically presumed because traders are importing goods that come from a State not Party to a Convention or from outside the Community which would then enable them to have to prove to Customs that they have a licence obtainable from the EC Commission which I understand is not a simple thing to obtain. So because a lot of them may import from the Community and the people that they are buying their goods from have already obtained a licence from the Commission, this will avoid them undergoing any difficulties on importation.

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

Clauses 5 to 10 were agreed to and stood part of the Bill.

Clause 11

HON K AZOPARDI:

Mr Chairman, the final amendment that I want to move in relation to this particular Bill is in relation to clause 11, paragraph (a), after the words "9(b)" to insert the words "shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or on conviction on

indictment to a fine". The reason for that is that when the Bill was transformed from disc to this publication there was a typographical error and those words were omitted.

Clause 11, as amended, was agreed to and stood part of the Bill.

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

THE SOCIAL SECURITY (EMPLOYMENT INJURIES INSURANCE) ORDINANCE (AMENDMENT) BILL 1997

Clauses 1 to 4 were agreed to and stood part of the Bill.

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

HON CHIEF MINISTER:

Mr Chairman, I would like to move that the House take a 15 minute recess at this point.

MR CHAIRMAN:

We will now recess for 15 minutes.

The House recessed at 10.20 am.

The House resumed at 10.30 am.

THE APPROPRIATION (1997/98) BILL 1997

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I gave notice to you that I wished to move a number of amendments to the Draft Estimates which, in particular, affected the establishment and I think I referred to this when I made my opening remarks at the Second Reading. To assist hon Members' deliberations of those I have actually prepared a hard copy of all the amendments but

I will explain them at the time we go through each Head. We also do now in addition propose to make some minor adjustments in the appropriations to particular Heads but it will not affect the overall total that we are seeking. So if I can, with your agreement Mr Chairman.

Schedule

Part 1 - Consolidated Fund Expenditure

HEAD 1 - EDUCATION, THE DISABLED, YOUTH, CULTURE AND CONSUMER AFFAIRS

Head 1 - A - Education, Youth, Culture and Consumer Affairs

Subhead 1 - Personal Emoluments

HON J C PEREZ:

Mr Chairman, I did give notice yesterday and I believe the Financial and Development Secretary said they were looking at it, to see whether in each Head under Personal Emoluments we could have the number of vacancies of the complements for each Head and, if possible as well, the amount of money related to those vacancies under each Head.

HON CHIEF MINISTER:

Yes, Mr Chairman, before I give the information on a Head by Head basis and the hon Member is not the spokesman for education so I suppose he has raised it not in a departmental sense but in a broad sense, we cannot in the short time that is available to us be scientific with the answer but I think we can give most of the information and certainly a broad indication. The reason for this is that in addition to new posts, most of the new posts are actually promotions, in other words, they get filled from within and then it starts the usual domino effect; somebody gets made an SEO from an HEO and then the promotions come from within and vacancies eventually arise at the bottom, at the AA level. Some of the restructuring is not yet in place, it has not physically been done yet and the Government have not yet made a decision as to how many vacancies thrown up by transfers or promotions which reflect the restructure. In other words, how many of the musical seats left empty by the resulting musical chairs will actually

be filled. So at the moment, and this is why I said yesterday that there was this potential overestimation of the expenditure on emoluments because at the moment it has been done on the basis that all the new posts are new jobs and that all vacancies will be filled and that is an assumption which may not materialise. The restructuring plans will it seems throw up 51 new positions. That is not to say 51 necessarily new jobs, it means that there are positions which will be filled, it is what I explained before. I am excluding from that five legal assistants who are now included in the establishment of the judiciary who were not included in the establishment of the judiciary before and they are therefore strictly not new posts in the sense that they are in service but they are not established posts, I think they were dealt with under Legal Support Services or allowances or something like that but they were not listed under the establishment. The cost of what the Government have done is £1,125,200 minus whatever vacancies we do not fill. In education, for example, which is where the question has been asked, the new posts are one nursery teacher and five teachers. I do not know if Opposition Members want a list now, it is not that long. We will give them a copy so that they can identify what are strictly new posts including either new established posts or including posts created on promotion from within the service and it is from that category where there is still the question of doubt as to what the overall cost is going to be because it depends whether we replace right down to the last consequence each of those promotions. For example, if we have created a new SEO post in Customs and I use it only as an example and not to give an indication of what the Government's view is, well if one of the existing HEOs goes up to SEO do we then have an EO promoted to fill up the vacant HEO post, and do we have somebody promoted and eventually do we recruit a new Customs Officer at the very bottom? Those are the decisions that have not been taken in full in relation to the consequences of the Government restructure.

HON J J BOSSANO:

The position shown in the printed Estimates is as if that was going to happen. That is to say, the HEO is there and the EO is there as well as the SEO so are these shown as an additional cost and is there provision for all of it?

HON CHIEF MINISTER:

Yes, Mr Chairman, the answer is yes. That is exactly the basis on which it is done but there is an allowance made for the fact that it is not going to be for the whole financial year. For example, we are already two months in and there has been a guesstimation of when the duplication would occur, if it does occur, and we have provided for part of the financial year of duplication not for the whole of the financial year. So subject only to that, the answer is yes as far as numbers of people are concerned but no in respect of the full financial cost. The full financial cost has been apportioned for part of the financial year not extrapolated over the whole of the financial year.

HON J C PEREZ:

Mr Chairman, would Government consider perhaps next year returning to the position of some years ago where vacancies were shown separately in the Estimates?

HON CHIEF MINISTER:

We are willing to consider that in the context of what we know is at the moment a very fluid and established situation, we are in the throes of a restructure which is in the process of implementation. We do not know yet when the dust settles where the chips are going to fall in terms of staff levels; we are committed to a manpower review on a section by section basis. We hope during the course of this financial year to arrive at a new definitive level of establishment. That will be reflected in the next budget and as against that new scientific establishment, I think it probably will be possible and indeed helpful, for the future, to list vacancies against that. But to list it as against this establishment is too many balls up in the air.

HON J C PEREZ:

Will the Chief Minister give us the list?

HON CHIEF MINISTER:

Mr Chairman, in handing over the list I am just going to put a circle round Head 10 - Judiciary, five legal assistants. They are not new in the sense that they are there, they are the junior lawyers working in the Attorney-General's Chambers so they are only new in the sense that they are newly included in the establishment but they are not new in the sense that they are not new posts as such. When they interpret Head 11 - Police, they will see it only says 13 Police Constables. Well, they know we have recruited 25, the answer is that 12 of them were vacancies and therefore not new posts as such.

MR CHAIRMAN:

Does any hon Member want to say anything else on Personal Emoluments?

HON CHIEF MINISTER:

Perhaps we could move on on the understanding that once they have had an opportunity to consider that paper they can raise any question under the Head of Personal Emoluments on any department during the remainder of the discussion. Under Education all I can say is that it includes one nursery teacher and five teachers.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If I can just add to that, the changes in the document that I gave the House which contains the pages with hand-written amendments so that it can easily be identified what has been changed. I think they are relatively self explanatory on the Education Department. If hon Members have any questions I will be happy to answer them.

HON J J BOSSANO:

Mr Chairman, the changes in the establishment in the Education Department, page 17, does not require any change in the amount provided for Personal Emoluments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is correct. In fact, we have in some of the changes moved people from one part of the side of the sheet to the other but in actual fact what is there is what in this case is what we have calculated for Personal Emoluments. In net effect across the whole of the establishment, what we are saying is the Education Department is one less and in fact in the money we have provided for one less.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 5 were agreed to and stood part of the Bill.

Subhead 6 - Scholarships

HON J J BOSSANO:

Mr Chairman, can I ask what is the assumed number of scholarships to be given this year in arriving at the figure that there is in the breakdown given in the explanatory element in the annex?

HON DR B A LINARES:

Last year we had a lower figure in mandatory scholarships but a higher figure in the discretionary scholarships. I think we have calculated this year on a more sort of mean basis over recent years. Appendix G may be useful in terms of background information of that.

HON J J BOSSANO:

I know what is in Appendix G. What I am asking is in Appendix G it says Scholarships to be Awarded in 1997/98 - £658,000. I assume that to arrive at the £658,000 there must be an estimated number of people.

HON CHIEF MINISTER:

Mr Chairman, as the hon Member knows there must be because the Department knows what a scholarship costs roughly per student per annum and they provide in a lump sum it must be done on the basis of a guesstimate of the number of people that they will send. Of course, at

this time of the year it is not known because of the intake for 'A' levels in this summer. We just do not know how many people will be going to university in the United Kingdom beginning this financial year in September.

HON J J BOSSANO:

I accept, Mr Chairman, that the actual numbers when the time comes may be different from the assumption. I am asking what is the assumption.

HON DR B A LINARES:

Yes, we have got the figure, it is based on the figure of 180 scholarships at £2,919 per capita.

Subhead 6 was agreed to and stood part of the Bill.

Subheads 7 to 9 were agreed to and stood part of the Bill.

Subhead 10 - Contribution to Gibraltar Development Corporation

HON J C PEREZ:

Perhaps it is an opportune time here, Mr Chairman, to raise an issue related to the list that the Minister has given me. In respect of vacancies announced by the Government already such as the three posts in Tourism, the Maritime Administrator or the Financial Services Director, would this be paid by the Development Corporation and therefore not included in the Estimates?

HON CHIEF MINISTER:

I know what the hon Member is asking and I will give him the information but the formulation of the question suggests that he has not quite followed the mechanics for the funding of the Gibraltar Development Corporation. Even if an expenditure is going to be incurred by the Gibraltar Development Corporation, for example, if the Gibraltar Development Corporation is to recruit the Finance Centre

Director that my hon Colleague, the Minister for the Finance Centre, is recruiting that would still be shown in the Estimates under his department in terms of subvention grant to the Gibraltar Development Corporation. Specifically the posts that he has mentioned which from memory the tourism one and the Finance Centre Director and the Maritime Administrator, those will very probably - and I say very probably because the decision is always 95 per cent that but it has not quite crystallised - will be recruited through the Gibraltar Development Corporation. In the case of tourism, of course, the Gibraltar Tourist Board is indeed a part of the Gibraltar Development Corporation as is the Employment and Training Board. In the case of the Maritime Administrator this is a contract officer recruited from outside and is not at this stage an established civil service post. Hopefully in the future it will be possible to localise that position and of course when positions are localised it will then be much more attractive to put them in the establishment as opposed to including them in the Gibraltar Development Corporation.

HON J C PEREZ:

On the last issue that the Chief Minister has said, I do not think that that has operated like that ever. I think that all contract officers have always appeared in the complement as part of the establishment but obviously..... *[Interruption]* The Financial and Development Secretary appears there and he is a contract officer.

HON CHIEF MINISTER:

The chaps that we intend to recruit through the Gibraltar Development Corporation are not in the establishment because they are not civil servants. Contract officers that are engaged directly by the Crown, to so speak, are included in the establishment. So the question is, who recruits them? If the Crown recruits them they are included in the establishment whether they are contract officers or established officers; if the Gibraltar Development Corporation recruits them, they are not in the establishment although the cost of them is reflected departmentally in the Estimates of Expenditure through the subvention by that department to the Gibraltar Development Corporation.

Subhead 10 was agreed to and stood part of the Bill.

1-B - Support to the Disabled

Subhead 1 - Personal Emoluments

HON R MOR:

Mr Chairman, under the establishment for St Bernadette's do we have five full-time classroom aides or is it in fact six classroom aides and two are part-timers? The other question is whether the Administrative Officer is part-time or is it a full-time post?

HON CHIEF MINISTER:

Mr Chairman, there has been an exercise done in the Financial and Development Secretary's office on the treatment given to part-timers and I will give way to the Financial and Development Secretary to answer that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The principle we are following in the Estimates I think is the long established principle of a body counts as a body whether they are part-time or not. In the case referred to, of the five, two are part-time.

HON R MOR:

So there are less classroom aides now, is that the case?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

There are five classroom aides of which two are part-time. As to whether two of them are part-time in the previous year I am afraid I do not have that information.

HON CHIEF MINISTER:

What the hon Member wants to know, there has been no reduction. I do not know whether there is a vacancy of a body at present but there has been no reduction in the establishment of St Bernadette's as far as the Government are concerned.

HON R MOR:

Mr Chairman, what I am saying is that in the budget last year there were six classroom aids, two on a part-time basis.

HON CHIEF MINISTER:

This is the departmental return. What the present Estimates disclose is the departmental return of their establishment. So if last year it said six there must have been a long running vacancy which they have not bodily had filled for many years because what we have put in the Estimates is the department's own bid for personnel. This is their establishment as they have it, as they understand it and as they want it. The hon Member is quite right to say that it showed six last year but the difference between six and five, although it is one, does not reflect a reduction in personnel; they have this year the same personnel as they had last year and the year before that. So if it does say six it must be a long-standing overestimate or over provision in the establishment which has not been bodily the case for some time.

HON DR B A LINARES:

I can clarify that and I assure the hon Member that there has been no deliberate or intended, as a policy, issue to reduce the establishment there. I can give him every assurance that there is no intentional decrease in the establishment at St Bernadette's.

HON R MOR:

I was not suggesting that that was the case, Mr Chairman. Is the Administrative Officer on a part-time basis at St Bernadette's?

HON DR B A LINARES:

It is on a part-time basis. I can confirm really from the return of the department that there are six classroom aides, four full-time and two part-time. There must be an error in printing or whatever.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

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

HEAD 2 - EMPLOYMENT AND TRAINING AND BUILDINGS AND WORKS

Head 2-A - Employment and Training

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, perhaps I could just explain the changes to the establishment there. In actual fact under the Construction Training Centre we had misclassified a number of posts as being non-industrials when they were in fact industrials and we have corrected that. We have also on checking over these last few days corrected some of the information in Housing Support. The financial provision, we believe, is based on as the establishment shows there with one exception and that is in relation to the Senior Professional and Technical Officer where I believe that one of those posts was recently promoted to the Senior Officer so there is a very minor over-provision and we do not propose to amend the money for that.

HON J L BALDACHINO:

I would have to take it as, first of all, as the Employment and Training where I asked in my contribution if under the Head Office of the Employment and Training included, I think there are four civil servants who were seconded to the ETB and in what grade do they fit and how many of the 13 are now in post?

HON CHIEF MINISTER:

And the answer is, and this is a good example, Mr Chairman, of how when I said during the debate on the Second Reading that if one compares the establishment overall to these Estimates to the establishment overall in last year's Estimates, it showed a potential increase of 103 and that that figure had to be taken very much with a

pinch of salt because, for example, here are 10 individuals under Construction Training Centre who are 10 of the 103 but they are not new people. They were included in the calculation of the establishment but, of course, the hon Member knows that those 10 people were employed already so those were not 10 new jobs. The establishment now includes the following: a Senior Officer that is presently vacant, it is a new post created; one HEO which is also vacant; one EO who is an existing member of the Buildings and Works Department staff.

HON J J NETTO:

Mr Chairman, the one Executive Officer who the Chief Minister has referred to along with the Administrative Officer are the two staff in the Industrial Tribunal who are being transferred from Buildings and Works to the Employment side. The three Labour Inspectors are the three new posts which have been advertised in the Bulletin of Circulars. The Careers Officer is an existing post there. The one HPTO and the one Instructional Officer are the two factory inspectors who have been transferred from DTI to Employment. The three Instructors are the instructors who used to be the old instructors from GSL who are currently doing jobs in the Employment and Training Board as civil servants, so they are already there in the establishment.

HON CHIEF MINISTER:

Just to carry on the information that the hon Member wanted. One Senior Officer was vacant, that is a new post created and that is vacant and the HEO. The EO which is shown there is not a new post but was previously included in the Estimates under Industrial Tribunal Buildings and Works as was the AO also previously shown under Buildings and Works Industrial Tribunals. The three Labour Inspectors, as my hon Colleague has just said, those are new posts and they are vacant. The Careers Officer is a person who exists but he was previously shown in the Estimates under Personnel. I think the gentleman's name is Mr Gracia who has been working in the ETB for some time and he has always been a civil servant on secondment to ETB and he was booked for establishment purposes under the Personnel Department. The next person appearing on the establishment, the one HPTO, he is existing staff as well but he was previously shown under the DTI, in fact, that is a reference to the Factory Inspector. Then there is the Instructional Officer, he was previously shown under DTI as well. Then there are the

three Instructors who were all shown previously under Personnel. That is how the figure of 13 there is arrived at and then, of course, the Financial and Development Secretary has explained the slight mistake which has been made in including the eight Training Centre Instructors as establishment because they are really industrials and they will now go to (iv) at the bottom of page 22 which presently shows as zero, that will become 8.

HON J C PEREZ:

Mr Chairman, given that the Chief Minister has said that the three Labour Inspectors are new posts, perhaps he might have included them in the list of new posts which he has given us, they are not there.

HON CHIEF MINISTER:

It is true, it reflects the fact, as I said earlier, that it was not the full picture, this was an exercise that was began last night for the purposes of attempting to give hon Members as much an answer as possible to the very comprehensive information that he sought last night and it is most of the picture but not the whole picture and he has put his finger on part of the incompleteness of the picture. As soon as we have, Mr Chairman, even if it is during the course of this year, put together the definitive text of the establishment roll I will happily pass it over to Opposition Members just as soon as it is done.

HON J L BALDACHINO:

Mr Chairman, on the Buildings and Works, Housing Support, will there be any major difference on the total because I have not been able to work it out since I have just got this, seeing that there is, even though the Financial and Development Secretary has given an explanation that one of the SPTO was upgraded there are two less Works Supervisors and deleted two Technical Grade 1 so out of the total of 36 there is now a total of 31. Will that make a difference on the overall funding of the ETB in Buildings and Works?

HON J J NETTO:

Yes, Mr Chairman, originally as it was drafted it was put there as 19 Works Supervisors when it is really not the right figure because as the hon Member knows himself there are four depots and the ratio is three Works Supervisors in each depot counting to 12. But additionally to the 12 Works Supervisors covering the four depots we have five additional new posts which are the five posts that will go on the planning section and that is why he arrived at 17 and not at 19. That is why the Financial and Development Secretary arrived at the new figures we can see there. That will be taken into account in the level of cuts in remuneration there.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think, if I am right, there is an interesting financial provision in relation to the numbers of posts. I think as I explained earlier but obviously not clearly enough, the financial provision actually covers 32 posts because the one area where we have over-provided is, we have over-provided by assuming there will be two SPTOs whereas in fact one of those officers is now being promoted to take up the Senior Officer post. So that is the over-provision, the salary of one SPTO. Given these are Estimates, given the control that we put on personal emoluments, I do not propose to move an amendment to take that relatively small amount of money from the Estimates and just leave it there.

HON J C PEREZ:

But there are four lesser posts and not one. There are two Works Supervisors less; two Technical Grades less and I do not know what provision was made for eight Training Centre Instructors which are not going to be there.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have explained that I was amending the Estimates of the establishment to bring it into line with the money we have provided and the only one slight difference between the two was the one post I explained, the SPTO.

HON J J BOSSANO:

Does that mean then that the Instructors at the Training Centre that are industrials and who are therefore not included under personal emoluments and for which no provision was made under personal emoluments are, in fact, paid by the ETB?

HON CHIEF MINISTER:

Provision for the Instructors which were inadvertently included under "(iii) Establishment" as if they were non-industrials, provision for their emoluments has been made at Head 2-A(1) Personal Emoluments and some of that now has to be moved down to Head 2-A(2) Industrial Wages. What in effect has happened is that we have wrongly classified eight industrials as non-industrials and their salaries have been included and provided for as if they were non-industrials. Now that we are going to move eight of them down to the industrial staff on page 22, we also have to move their wages down on page 23 from Subhead 1 to Subhead 2 which is presently showing a zero. So financial provision is made but in the wrong place.

HON J L BALDACHINO:

Surely, Mr Chairman, if I understand the explanation that the Chief Minister has given because it is well explained in the amendments that we had but I was speaking on the overall picture. If we have, and I am not referring to the Construction and Training Centre, what I am referring to is the Housing Support unit where we have, even though the Financial and Development Secretary has explained what has happened to one of the SPTOs, but he has two less Works Supervisors and two Technical Grades I. Does that not make a difference on the personal emoluments?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I apologise if I am confusing the hon Member but I had thought I had made this clear but let me try again for the third time. The establishments that we are looking at here, as amended, is actually what equates to the amount of money in the Heads that we are seeking.

HON CHIEF MINISTER:

The answer to his question is yes, there is an over-provision but we are not going to amend to eliminate, we are just going to make jolly sure that it is not spent given that it is an over-provision.

HON J L BALDACHINO:

I also asked during my contribution if any of the posts under the Housing Support Unit was a Quantity Surveyor. Is any of those posts a Quantity Surveyor?

HON J J NETTO:

No, it is not, because the Quantity Surveyor happens to be now the Director of Buildings and Works.

Subhead 1 - Personal Emoluments were agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages

HON CHIEF MINISTER:

Mr Chairman, at this point the Financial and Development Secretary is going to move the amendment to reflect the wages of the eight Training Centre Instructors moving them down from subhead 1 to subhead 2.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, on page 23 of the Estimates, Head 2 - A, Subhead 1- Personal Emoluments, the figure of £425,000 should now read under (a) Salaries - £297,000; (b) Overtime instead of reading £33,000 should read £18,000 which brings the total for Personal Emoluments to £315,000. Under Subhead 2 - Industrial Wages which in the Draft Estimates shows £0, we will introduce a new (a) Basic Wages which will be £128,000; (b) Overtime which will be £15,000. The total industrial wages will then be £143,000 and that then will replicate down to the totals at the bottom where Personal Emoluments will be £315,000;

Industrial Wages will be £143,000 and Other Charges remains the same and the total amount for that Head remains at £2,777,000.

Subhead 2 - Industrial Wages was agreed to and stood part of the Bill.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 4 - Contribution to Gibraltar Development Corporation

HON J L BALDACHINO:

Mr Chairman, I did also mention in my contribution, as this is the contribution to the Development Corporation to the Employment and Training Board I suppose on the training side I asked, during my contribution, what type of training and the amount of people that it is expected to be trained, the wage subsidy to the amount of people that a wage will be given and also to what qualification will they be trained and in what grades?

HON CHIEF MINISTER:

Mr Chairman, as the hon Member knows, at the moment what is operating is the existing system except that the wage subsidy element is no longer being paid through the ETB to the ex-Calpe Cleaners and SOS employees; they are now employees of Gibraltar Community Projects and the totality of their wages is now shown through the Consolidated Fund. With that exception the structures in place in terms of wage subsidies and the cadet schemes is still in place as before. Government are not in a position to give details of changes that we propose to make to those schemes nor are we in a position yet to say what degree of certificate or qualification will be obtained by the apprenticeships that we wish to open in the Government workshops and garages. That is a matter that now has to be taken up with the technical people involved to see what formal structure can be given to those apprenticeships in a qualification sense. But the financial provision that has been made for training and for wage subsidy is a provision for either a continuation in the existing set-up until it is changed and then for the new set-up, when it is changed, but we are not yet in a position to explain to the hon Member what those changes are going to be.

HON J J BOSSANO:

Mr Chairman, are the Government in a position to say just like in the case of the scholarships, what is the underlying assumption about the number of recipients; in the case of the wage subsidy there must be an assumption that this will cover so many people for so many weeks a year presumably irrespective of the content of what they are engaged on? Equally with the vocational cadets, if there is an assumption that £1.8 million will be paid for vocational cadets, again that must be based on a per capita figure multiplied by a number of people presumably?

HON J J NETTO:

I have not got that kind of information available here but what I can say to be of assistance to Opposition Members is that they will have probably heard in my budget speech saying that the Government are reviewing the concept of vocational cadets system in general. What we have done here in terms of the money allocated, the £1,800,000, is a continuation of the same sort of money that was provided in years before and that is that because we would have to take into account a major review which will take place on the vocational cadets, probably with the new scheme for which we are not in a position to give the details at the moment which are under discussion, but the allocation is there whenever it is needed for the new scheme to take in place superseding the vocational cadets. Perhaps one other bit of information that can be of assistance to Opposition Members in relation to the training courses, the £1,200,000, that will have to be taken into account with the contribution made by the European Social Fund. But here the one thing that I will have to say is that the Single Programming Document of the European Social Fund has been quite delayed inasmuch that the concept that existed before was a national concept and Gibraltar formed part of that SPD within the national concept of the UK. In the new SPD we now have a process of regionalisation for which Gibraltar is now considered as being a region within the concept of the UK. That process has been delayed because originally it was delayed between Brussels and the UK and it has been delayed between the UK and Gibraltar and we find that Gibraltar, as a region in that concept, has not been up and running as some other regions in the UK are still not up and running. So therefore we still need to complete that, we still need to complete the monitoring team and obviously within the concept of the monitoring team all the decisions that administratively that will have to

go with it but at least the provision is there and also, as the hon Member will know, we have running some particular courses from the last SPD in terms like the training centre which we have just been discussing and the glass factory, which comes to mind.

HON J J BOSSANO:

Mr Chairman, we are grateful for that information but, in fact, I was addressing the £1.8 million of vocational cadets. Presumably in the month of April £x amount was spent from that £1.8 million and that represented 200 cadets or whatever. So what I am asking is, forgetting for the moment whatever changes may come in which will be financed from what is discontinued, on the basis as it exists at the moment, what does it involve?

HON CHIEF MINISTER:

The answer to that question is that we have not provided for any increase. In other words, it is the same amount as was provided last year and therefore we have not provided for a higher number of recipients nor indeed have we provided for any possible increase in what they receive. In other words, we have simply provided the same £1.8 million that we spent last year. What we have done is we have carried last year's forecast outturn figure forward, that is all that has happened.

HON J J BOSSANO:

So in fact it is not actually based on a calculation involving numbers but simply on taking the number that was already there?

HON CHIEF MINISTER:

Yes.

HON J J BOSSANO:

And is that also true of the £800,000 wage subsidy?

HON CHIEF MINISTER:

Yes, except that it reflects the fact that I explained before, it is lower than last year the wage subsidy figure. Last year on wage subsidy it was £1.5 million, now it is only £800,000 and the difference for that is what I explained before, that the Calpe Cleaning people and the SOS people have been taken out of this equation altogether and there are nearly 200 of them.

Subhead 4 - Contribution to Gibraltar Development Corporation was agreed to and stood part of the Bill.

Head 2 - B - Buildings and Works

Subheads 1 to 8 were agreed to and stood part of the Bill.

Head 2 was agreed to and stood part of the Bill.

HEAD 3 - ENVIRONMENT AND HEALTH

Head 3 - A - Environment and Heritage

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Cemeteries

HON J J BOSSANO:

On the upkeep of cemeteries the contract which I think it was indicated would not be continuing for the full financial year and that, in fact, Community Projects would take over. Will Community Projects have to be paid for taking over or is that covered by the money they are already getting?

HON CHIEF MINISTER:

Mr Chairman, the sum that is there is there in case the Government decide, notwithstanding our present ideas, to continue with a contract with Gibr Flora. If we do not then, of course, the cost to Community Projects Ltd is not that because most of that is labour cost, in fact it is

almost exclusively labour cost, that item there of £31,000 and of course it would be saved and the thing would be done at no additional cost, for all intents and purposes. This is one of the reasons for reviewing the contract, when we have got a labour force now available, paid for by the Government, the logical thing is that the taxpayers' interest is that they should do as much labouring work as possible for the taxpayer.

Subhead 5 - Cemeteries was agreed to and stood part of the Bill.

Subhead 6 - Heritage

HON J GABAY:

Mr Chairman, could the Minister clarify in some detail what is meant by Promotion of Heritage Issues for which we are allocating £30,200?

HON K AZOPARDI:

Mr Chairman, I indicated when speaking on the general principles of the Bill what that sum of money was for. I appreciate that the lateness of the hour perhaps some hon Members do not recollect what I said. To a large extent that is a sum of money that is dedicated to what will be heritage publications, some of which will be joint projects with my hon Colleague in tourism. The kind of project I was talking about was the walkabout touristic tour where one could go to the city centre, for example, go to the City Hall and have a pamphlet or a glossy brochure, discussing a particular site. That will have to be funded obviously. A whole range of heritage publications not only for the glossy pamphlet or brochure for the tourist but also the more serious heritage publication; the book on any aspect of Gibraltar's history, there are quite a few in the pipeline. I am working with the Heritage Commission and indeed with the Museum and the Trust towards compiling a programme of publications which will, I think, be formulated in the next couple of months and it will be clearer to what extent and how we will use this money in the next few months. It will also, of course, cater for the publication of any conference booklets or publications which are envisaged in connection with the Calpe '97 Conference to be held in August and indeed any preliminary expenses to be dealt with in relation to any publication for the next Conference.

HON A ISOLA:

Could I just ask the Minister, in relation to the Heritage Conferences, the £35,000 envisaged, is that actually to run the Conference itself, it seems little money or is it actually to promote or to subsidise or to go towards? What is the element of that?

HON K AZOPARDI:

I should say that it is in the plural because it targets three particular Conferences. The first is the Calpe '97 one to be held in August which is the principal and majority expense. The second is an Ornithological Conference that will be held which is an expense of about £5,000. Then while the Calpe '98 Conference will be held next year and the bulk of the expense will be in next year's Estimates, there are preliminary expenses to be gone into this year towards the preliminary booking and so on and publication of material, pamphlets, marketing material and so on. But the principal sum of that is for the '97 Conference; it is broken down into various subheads ranging from, for example, the actual cost of bringing the speakers over to Gibraltar and their accommodation, because some of the speakers are Spanish University Professors we are providing simultaneous translation, that sort of thing. But I have to say that even though there is a principal sum which we will expend, because of the delegates' fees attached to the Conference, we then intend to make a sum of revenue which is reflected, I believe, on page 8 under Consolidated Fund Revenue on Head 6, subhead 38, the House will see that there is a sum of £15,000 estimated as Heritage Conferences revenue. So while we are spending a degree of money there, we think that that will promote Gibraltar; we think that it will attract people to Gibraltar and we will recoup at least part, if not all of the money, but certainly part of it.

Subhead 6 - Heritage was agreed to and stood part of the Bill.

Subheads 7 to 10 were agreed to and stood part of the Bill.

Subhead 11 - Services provided by Gibraltar Community Projects Ltd

HON J J BOSSANO:

Mr Chairman, can I ask on the sums that are shown as salaries and wages, what are the number of bodies in each? How many people are being paid £115,000 and how many people are being paid £2.3 million?

HON CHIEF MINISTER:

Whilst the figures are passed up to me I can answer the question conceptually. The salaries are the new management structure that is being put over the top of it and the wages are in effect the people we have taken over from the two previous companies and the salaries are basically the management structure I think of five people; a General Manager, a Production Manager and Assistants; there were five people I think, Mr Chairman, it might be four but five I think and that is what it reflects. Of course, there is really more information here given in (a), (b), (c) and (d) that is strictly necessary; in other words, we have given information for Community Projects as if it were, it would have been enough simply to put there "Services provided by Gibraltar Community Projects Ltd - £2,713,000". We have just divided it between wages, salaries, materials and other costs to give as much information as possible as if this were a Government department which of course it is not and we are not willing that people should pretend that it is or have expectations that reflect that it is. It is strictly not and will never be and they will never enjoy the same conditions as are enjoyed in Government departments.

HON J J BOSSANO:

All I am asking is how many there are, Mr Chairman, I am not asking for anything else.

HON CHIEF MINISTER:

Subject to my not correcting this answer before the end of the day or later, it is five. The industrials I think are about 220.

Subhead 11 - Services provided by Gibraltar Community Projects Ltd was agreed to and stood part of the Bill.

Head 3 - B - Health

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

HEAD 4 - GOVERNMENT SERVICES AND SPORT

Head 4 - A - Support Services

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, could I just at this stage explain the changes to the establishment figures on page 32 in the amended sheets that we have given. Those are just simple typographical errors and in fact what we see there is what is being provided for in financial terms. There was a small change in the establishment dealing with industrial staff, there was a small change there which show an uplift of two for the Support Services. These will be seen later on when we come to Trade and Industry that they were the two industrials we wrongly classified there, it was just simply moving them into Support Services.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 7 were agreed to and stood part of the Bill.

Subhead 8 - Disposal of Fly Ash

HON J C PEREZ:

Mr Chairman, the Hon Col Britto I think indicated yesterday that there was a contract in place for the fly ash to be exported out of Gibraltar. I think I lost some of the details of that. I know that he said that there was a one-off where we are going to remove what was in the old rifle range tunnels and then there is going to be a quarterly one to remove the fly ash. Could I perhaps at the same time ask what I asked yesterday in my intervention when it was stated that the whole of the east side was going to be closed for dumping. I did say that quite apart from the fly ash there

is another more bulky type of ash which is at the moment mixed with rubble in that side and it seemed that Government Members had not yet looked at the possibility of opening up another area for rubble including the daily quantity of ash that come out from the incinerator?

HON LT-COL E M BRITTO:

Yes, Mr Chairman, the hon Member is essentially correct. The item that we are at presently discussing, subhead 8 - £55,000, has to be seen in conjunction with an item under Head 104 in the Improvement and Development Fund, subhead 12 which is Disposal of accumulation of fly ash - £120,000. The position is that that latter item of £120,000 is for the accumulated fly ash in the tunnel which the hon Member refers to and which has accumulated since the incinerator started operating. That tunnel is now full and, in fact, accumulation has started in another tunnel behind the incinerator. The situation has become unacceptable, for a number of reasons, and it has been decided to dispose of the accumulated ash in one go, under the terms of one contract and that is actually happening now. The contractors are on site and the disposal will be by ship and it will go to a plant in UK where it is being disposed under all the environmental controls imposed by the Government and approved by the Environmental Agency. Subsequent to the complete disposal and removal of the existing ash, we intend to put a contract in place for the on-going removal of the on-going production of new ash, as it were. That new contract is not yet in place, we are at the stage of accepting tenders, final tenders have not yet been submitted although some quotes had been submitted previously. A decision has not been made yet obviously on who the contract is going to go to so I cannot confirm a figure of a quarterly or weekly or monthly except to say that it will be on-going in whatever loads the successful tenderer envisages under the conditions imposed which is primarily that large quantities are not accumulated. But we are talking of the order of two monthly at the most, not more than that unless there are new developments that I am not aware of. Coming on to the second part of the hon Member's question, he refers to the bottom ash in the incinerator as opposed to the fly ash and to the disposal of the same. No doubt he will want to know more details on the actual dumping when we come to that but essentially the answer to the question is that the ground ash will continue to be mixed in the rubble as it is as the moment when the rubble is dumped in the new location where it will be dumped and I

suggest that I answer that in more detail when we come to that particular item. But the same arrangements as exist now will continue.

Subhead 8 - Disposal of Fly Ash was agreed to and stood part of the Bill.

Subhead 9 was agreed to and stood part of the Bill.

Head 4 - B - Electricity

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Generation

HON J C PEREZ:

Mr Chairman, has the Minister got any indication on why the price of fuel has increased so dramatically?

HON LT-COL E M BRITTO:

Nothing more than the price of fuel has increased so dramatically.

HON J C PEREZ:

Just in the market or because of the exchange rate in dollars?

HON CHIEF MINISTER:

Exclusively market terms. I think it was about three months ago that Shell gave notice of a very substantial increase in the price of fuel to the Government under the terms of the long-standing arrangement between the Government and Shell insofar as fuel and it is, as far as we are told by Shell, exclusively market driven. The price increase is calculated by them they say on the same basis as they have calculated all past increases and decreases on the rare occasions there have been those and that is all that there is to it.

Subhead 5 - Generation was agreed to and stood part of the Bill.

Subheads 6 to 11 were agreed to and stood part of the Bill.

Head 4 - C - Fire Service

Subhead 1 - Personal Emoluments

HON J C PEREZ:

Mr Chairman, not necessarily under personal emoluments but I did want to raise with the Minister the fact that he mentioned yesterday that the Fire Brigade was involved in preparing a five year development plan and that that would include the look at the marine capacity side of it as well. I wonder whether the Minister could commit himself to sharing the contents of that development plan with me when it is ready?

HON LT-COL E M BRITTO:

Mr Chairman, I certainly commit myself to considering that and I will come back to the hon Member. Fundamentally I do not see a problem but I do not want to make a commitment at this particular moment.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

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

Head 4 - D - Post Office

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Cost of Outgoing Mail and Bulk Mailing

HON J C PEREZ:

On this item I would just like to remind the Financial and Development Secretary that the breakdown I asked for yesterday he promised to send to me and I would be obliged if he does that.

Subhead 5 - Cost of Outgoing Mail and Bulk Mailing was agreed to and stood part of the Bill.

Subheads 6 to 8 were agreed to and stood part of the Bill.

Head 4 - E - Broadcasting

Subhead 1 - Personal Emoluments

HON J C PEREZ:

Mr Chairman, there are no personal emoluments so the total is on Other Charges that we are actually voting. Could I ask whether Government Members are aware whether the Telecommunications Controller is still paid by GBC or is he to be transferred to the Development Corporation?

HON P C MONTEGRIFFO:

Mr Chairman, Mr Canessa is still seconded from GBC and will remain so until the new Telecoms Authority, the statutory body I mentioned yesterday, is established.

HON J C PEREZ:

Is the Minister aware whether the problem with the pension was resolved in order for him to be able to transfer?

HON P C MONTEGRIFFO:

I am not aware of that, Mr Chairman, I am not aware if it has been resolved.

HON LT-COL E M BRITTO:

I have not been aware of the problem, Mr Chairman.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

Head 4 - F - Sport

Subheads 1 to 6 were agreed to and stood part of the Bill.

Head 4 - Government Services and Sport was agreed to and stood part of the Bill.

HEAD 5 - SOCIAL AFFAIRS

Head 5 - A - Department of Social Services

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I should perhaps explain. Again in the document I gave out this morning there were some slight amendments. In fact, these were correcting errors and in fact in relation to the money, what effect this had on the money if we probably slightly under provided in the sense that we had provided for 52 posts but in fact we estimated, it is a relatively marginal amount and we will have to tighten our belts and live within it.

HON R MOR:

Mr Chairman, during my contribution on the general principles of the Bill I raised the matter whether the administrative costs to the payment to Spanish pensioners, whether that was going to be recovered from the UK Government as there was no provision on the revenue side.

HON CHIEF MINISTER:

The hon Member is absolutely right but it is intended that it will be recovered. The actual detailed final written agreement is not yet in place but part of the agreement, as Opposition Members know, there will continue to be a contribution to the cost of administering the payment of pensions to Spaniards. I do not actually know for a fact that it is true that it is not there but if it is not there that is not to say that there is not going to be a contribution, there is going to be a contribution.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages

HON J J BOSSANO:

Mr Chairman, the payment presumably is now the Closed Long-Term Benefits Fund and therefore in the £260,000 of management charges to that Fund is part of that coming from the ODA payment into the Fund for paying Spanish pensioners or not?

HON CHIEF MINISTER:

Again, Mr Chairman, I cannot tell the hon Member whether that calculation of that particular charge is inclusive of the UK contribution or not. Of course he is right to say that the UK contribution is now paid into the Closed Fund and that payments out to the Spaniards paid now out of the Closed Fund but I cannot tell him, with any degree of accuracy, whether that calculation of the management charge on the Fund is inclusive or exclusive, perhaps I could find that out. Perhaps we could move on to the next point and as soon as the answer comes into the room I will stand up and give it to the hon Member.

Subhead 2 - Industrial Wages was agreed to and stood part of the Bill.

Subheads 3 to 5 were agreed to and stood part of the Bill.

Subhead 6 - Workers Hostels

HON J J BOSSANO:

The amount that is being provided for the expenses of the two hostels presumably does not include the expenses related to the running of those hostels by Community Projects given the answer we were given about the cemetery. What are these materials used in the hostels?

HON CHIEF MINISTER:

This is one of those areas where the restructure is still in the process. The hon Member is right, the figures reflect payments that were made to the contract holder and that from that money he used to pay wages for some activities which are now being done by people who are in Community Projects but there are some expenses that were not. In other words, there are some materials, cleaners, for example, who are not going to be taken in and there is an issue here with the Transport

and General Workers Union; there are an element of cleaners who were not Gibraltarian and who are not going to be taken into Community Projects and it is still very much in the air whether they are going to be retained, kept and paid for. But the essential point that the hon Member is making is right but when the dust settles on the new arrangement for the administration of these hostels, those sums at the end of the year of actual expenditure will be much lower than the sum because there is an element of over-provision there, double counting of wages which are also provided for under the Community Projects item that we were mentioning before. He is absolutely right. It certainly will not be all saved because some of it is materials, some of it is wages that are not going to be accounted through Community Projects because it is people that Community Projects will not take on for reasons which I am sure the hon Member would support. But he is right in spotting that, there is a large element of double counting there between that and Community Projects.

Once I am on my feet, Mr Chairman, could I just answer two other questions that have been asked hitherto. The answer is that the UK's contribution for the administration is included in the £260,000 shown there.

And in answer to the question put earlier, I think it was, by the Hon Mr Perez or the Leader of the Opposition, under salaries it is six people in Community Projects, I think I said five, it is in fact six. And wages is £229,000.

Subhead 6 - Workers Hostel was agreed to and stood part of the Bill.

Subheads 7 and 8 were agreed to and stood part of the Bill.

Subhead 9 - Transfer to Social Assistance Fund

HON J J BOSSANO:

Mr Chairman, can I say that we find it odd that in voting a transfer to the Social Assistance Fund it should be described as Import Duty Collections because, in fact, what we are doing is voting money out of the Consolidated Fund and once the money is put in the Consolidated Fund one cannot tell which pound note came from import duty and which pound note came from some other source of revenue. There is a

certain wisdom in having it from import duty and we would not be against the money going from import duty into the Social Assistance Fund without going through the Consolidated Fund first.

HON CHIEF MINISTER:

It is evident that they would not object to that given that that is what they have been doing for so many years with even larger sums so they hardly have grounds to object. What we have done is, without it being inconsistent with our general principles of financial accountability and transparency, we have tried to preserve as far as possible what we think is the reason for wanting to fund certain of the old Social Assistance payments from indirect, as opposed to direct, taxation. The question there is whether it is from indirect or from direct taxation and, of course, the hon Member is quite right in saying that once the money is in the pot the pot contains both indirect taxation moneys and direct taxation moneys and then the pot itself does not tell us which of the two sources of revenue it has come from. But this House votes the expenditure and the reason why it says import duty collections is to make it clear, as clear as it can be made within the appropriation mechanism, what this House is in effect saying to the Government is, "You may transfer to the Social Assistance Fund £100,000 from what you collect in import duty". I realise it is a different way of doing it but it is institutionalising, perhaps actually more visibly than before, whereas before the point was being made just by means of the mechanical route of the moneys, now it is actually being made as part of the appropriation mechanism. In other words, the House is voting £100,000 for the Social Assistance Fund albeit from a common pot of money but saying, as it votes it, "This money is from import duty collections". We think that to the extent that the point is worth preserving and the argument at the end of the day may not depend on this distinction between direct and indirect taxation and we have views about that, but certainly we thought it prudent not to abandon the point and to preserve it because it is there as a string in our bone for a possible challenge in the future. We think that this is a sufficient statement by this House that funding from the Consolidated Fund for Social Assistance comes from indirect taxation and not from direct taxation which is, I think, we will agree, the point that needs to be saved.

Subhead 9 - Transfer to Social Assistance Fund was agreed to and stood part of the Bill.

Subhead 10 was agreed to and stood part of the Bill.

Head 5 B - Prison was agreed to and stood part of the Bill.

Head 5 was agreed to and stood part of the Bill.

HEAD 6 - TOURISM AND TRANSPORT

Head 6 - A - Tourism

Subheads 1 to 8 were agreed to and stood part of the Bill.

Subhead 9 - Tourism Development Consultancies

HON A ISOLA:

Mr Chairman, what consultancies are intended from this vote?

HON J J HOLLIDAY:

This is the contract that currently exists to run the Gibraltar Conference Bureau in London.

Subhead 9 - Tourism Development Consultancies was agreed to and stood part of the Bill.

Subhead 10 was agreed to and stood part of the Bill.

Subhead 11 - Gibraltar Tourism Board

HON A ISOLA:

Mr Chairman, could I ask what numbers of people are we talking about within the Gibraltar Development Corporation?

HON J J HOLLIDAY:

During my submission yesterday I pointed out that there would be 21.

HON A ISOLA:

Does that include the three new positions that have been advertised?

HON J J HOLLIDAY:

Yes, it does.

Subhead 11 - Gibraltar Tourism Board was agreed to and stood part of the Bill.

Head 6 - B - Transport - Airport

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

Subhead 3 - Departure Tax Rebate

HON A ISOLA:

Can I ask in respect of what this vote is for, the £152,000?

HON J J HOLLIDAY:

During my submission yesterday I pointed out that during the GSLP administration my predecessor, the Minister for the Environment and Tourism, on the 17 January 1994 agreed with GB Airways for a £1 rebate on departure tax to be effective from the date of implementation by the Government, the new winter passenger departure tax. This rebate was only applicable to airlines operating two or more scheduled services a day but obviously at the time there was only GB Airways operating the London/Gibraltar route. This rebate was not applicable during the Christmas and Easter peak periods but had retrospective effect going back to the financial year 1992/93. When we came into office in May last year there was a sum outstanding to GB Airways going back to this date just short of £152,000.

HON A ISOLA:

The recollection from this side of the House in respect of that payment is that a claim was in fact made to the previous administration seeking the payment of £152,000 which was rejected on the basis that under the

terms of the agreement it was not due. The point here that we would make is that it may be of assistance to the Minister for Tourism in respect of these moneys to consult with Opposition Members who would be able to brief him on the terms of the agreement because clearly it was the view of the previous administration that this money was not due and consequently not payable and if any assistance can be brought to clarify the position of the agreement that was reached, it may be of assistance and indeed a saving of that £152,000. So that offer is open, Mr Chairman.

HON J J HOLLIDAY:

When this claim was made on the Government, obviously I took the matter up with the Controlling Officer of the Gibraltar Information Bureau at the time and we actually did go into an investigation to see whether this claim was in actual fact correct. What I wish to point out is that there is no question that this is outstanding because in fact payments in respect of the financial year 1992/93 were actually already paid by the previous administration on 1 February 1994 and 1 April 1994 in the sums of £16,487 and £25,000 respectively. So obviously there must have been an understanding between the GB Airways and the previous administration that this sum was outstanding because actual payments have been made on account of this. The balance outstanding when we came into office was short of £152,000. I take the hon Member's point on board and obviously I will make sure that it is considered again but at the time of my investigation of the matter there was no doubt in my mind that this was the case.

HON A ISOLA:

Mr Chairman, our understanding is, by way of assistance, that in fact notification for that claim had to be given by specific dates and indeed it was not given and when the claim was made in late 1995 or early 1996, the claim was rejected and nothing more was heard from it. Obviously what has happened is that the claim has come again after the election and therefore if any assistance can be given we will be happy to give it.

HON CHIEF MINISTER:

Mr Chairman, we are of course grateful for the hon Member's offer of assistance and we will take that. But having seen the papers and the

exchange of correspondence, of course he may not have been aware of all the correspondence exchanged by the then Minister and GB Airways, there is not a great deal of scope available to argue that this sum is not due but of course we are quite happy for him to see the papers and if he can put a different interpretation on them from the one that seems evident to us so be it, we do not want to pay out money to people unless there is an obligation; this is an historical obligation that we are respecting. It is no longer the case and as it is their obligation if they want a crack at looking at whether it really exists or not we very happy to give them access to the papers for that.

Subhead 3 - Departure Tax Rebate was agreed to and stood part of the Bill.

Subhead 4 was agreed to and stood part of the Bill.

Head 6 - C - Transport - Roads

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Materials and Other Costs

HON J C PEREZ:

Mr Chairman, I heard the Hon Mr Holliday yesterday say that the department is to undergo an employment audit to look at the numbers but it would seem to me that if the whole of the works announced yesterday by the Minister are to proceed, either that audit has to take place immediately or there is an intention already to put a lot of that work out to contract anyway.

HON CHIEF MINISTER:

The position is the latter; the position is that we will have a quick look at the road labour gang, I think it is important that immediately they have at least one viable gang and it may be necessary to give them one or two people so that there is a minimum unit available that can do some work and having done that they will certainly be allowed to do as much of the work as possible within their physical possibilities. It is true that there is a great possibility that some of it may have to be put out to tender and that is fully envisaged.

HON J C PEREZ:

Since the Minister also said that what was being prepared was a programme where roads had to be repaired on a year by year basis trying to cover all roads in Gibraltar over a cycle, is the Minister looking at a term contract for that or would it be on a tender basis on an annual basis that the contract would be looked at?

HON J J HOLLIDAY:

It is my intention to actually carry out an overall review of this department. I think there is a need to consider the requirements and what our objectives are and then subject to the findings of that, then a decision will have to be taken in due course that these are Government requirements and minimum feedback from this department itself.

Subhead 5 - Materials and Other Costs was agreed to and stood part of the Bill.

Head 6 - D - Transport - Traffic

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

Subhead 4 - Traffic Security Services

HON J C PEREZ:

Mr Chairman, can I ask whether the overall study of traffic that is being undertaken by a company is being costed by that company itself as part of proposals to the Government or whether any provision is being made to pay for that study?

HON CHIEF MINISTER:

I think we ought to clarify that the hon Member asks these questions on the basis of the answers that he got back in the early meetings of the House. There is no longer a company doing a traffic study. The Canadian company that was doing the traffic study was doing it as part of a parking management proposal and their approach to parking management was not politically acceptable and therefore, given that the

traffic management study was part of traffic management proposals that we indicated we were not interested in pursuing, they are no longer doing the study but, of course, we have had the benefit of their ideas and indeed we have ideas of our own and the thinking of traffic flow changes is now being done internally within the Government, as I indicated yesterday to the hon Member.

HON J C PEREZ:

Could we have a commitment from the Government that once there is a plan to follow that that plan is made public so that people are able to put their views on the overall traffic flow plan of the Government, particularly the most interested parties but motorists generally do often put views directly to the Traffic Commission and some of those views have in the past been taken on board?

HON CHIEF MINISTER:

Well, Mr Chairman, I think what I said the last time he asked me this was yes subject to trial periods which could be introduced without consultation.... [HON J C PEREZ: *That is already happening.*] Well, now it is happening by necessity because of roadworks rather than for any other reason but not driven by traffic flow ideas but rather driven by roadwork requirements. But of course changes in traffic flows are invariably unpopular amongst the sector of the community most affected by it; if one pedestrianises a street invariably the residents of that street do not like the idea that they can no longer drive up to their front door with their car. So consultation yes to give people the opportunity to improve the Government's thinking and by way of improving and contributing to what the Government want to achieve. But consultation of the sort that was being suggested yesterday in relation to the closure of Catalan Bay School, in other words, to see on the whole whether the Government's ideas were popular or unpopular with 50 per cent plus one of the population, that is not the sort of consultation because we know that whatever plans we come up with are going to meet with much objections as indeed we are seeing with the widening of Lover's Lane. Some people think it is a good idea; other people think it is a bad idea and one cannot just do things only if one has the unanimous support of the whole community.

HON J C PEREZ:

Could we at least have a commitment from the Government that the groups most affected, not by pedestrianisation but by traffic flow, are consulted?

HON CHIEF MINISTER:

Yes, they will be consulted, Mr Chairman. Government already consult interested groups before we do things and of course there will be consultation, I suppose he means the essential services, and the road transport people, yes all that category of persons affected by the traffic flow changes will most certainly be consulted because apart from anything else we welcome their input into (a) the viability of what we propose, and (b) possible improvements to it.

Subhead 4 - Traffic Security Services was agreed to and stood part of the Bill.

Head 6 - E - Transport - Port was agreed to and stood part of the Bill.

Head 6 - Tourism and Transport was agreed to and stood part of the Bill.

HEAD 7 - TRADE AND INDUSTRY

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Marketing, Promotions and Conferences

HON A ISOLA:

Is this money based on a programme or is it a real estimate of what the Government would like to do or do they actually have a programme?

HON P C MONTEGRIFFO:

It is a provision, there is an element of programmed expenditure, for example, I have made public in the House that we have a joint marketing promotion with regard to insurance passporting that the hon

Member is aware of, but it is a provision which is not all earmarked for specific initiatives at this stage.

Subhead 5 - Marketing, Promotions and Conferences was agreed to and stood part of the Bill.

Subhead 6 - Contribution to Financial Services Commission

HON J J BOSSANO:

Can I ask, is it that the Commission is unable to meet its expenses without a subsidy?

HON CHIEF MINISTER:

Is that a rhetorical question?

HON P C MONTEGRIFFO:

Mr Chairman, self-evidently that is the case. As I have indicated in my various contributions that touch on the position of the Financial Services Commission, there has been a significant resourcing of the Commission over the last year. I mentioned yesterday the appointment in particular of three further supervisors. The Government have agreed, on a temporary basis, to underwrite the Commission's expenditure in the way outlined in the Estimates. Obviously the Commission is designed to be and we look forward to it becoming a self-financing body, that is the logic. The logic must be, Mr Chairman, that the industry should, through the payment of licence fees, pay for its own regulation but we accept that we are caught in a period which involves the transition that we have explained to this House which did not start with us, it is a transition that has been undergoing for a couple of years now and that there is therefore the need to resource the regulator beyond what is an amount of money that the industry through fees can currently generate. This subsidy is clearly within the context of the Government's intention that the Commission should ultimately be self-financing in the way I have described.

Subhead 6 - Contribution to Financial Services Commission was agreed to and stood part of the Bill.

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

Subhead 8 - Contribution to Gibraltar Development Corporation

HON A ISOLA:

Mr Chairman, are these repayments amounting to £245,000 in respect of salaries and, if so, under "(c) Other Staff Services" would that be where the Financial Services Director comes from?

HON P C MONTEGRIFFO:

Yes, the hon Member is correct, they are salary payments and the provision under subhead 8(c) is the indicative provision with regard to the Financial Services Director that I have described.

Subhead 8 - Contribution to Gibraltar Development Corporation was agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, we were moving along so quickly and efficiently, there was an editorial amendment to that page in the Estimates that I had meant to point out. Under Subhead 3(e) Contracted Services: Office Cleaning Services, it says ABC Services Co Ltd, in actual fact that is an error, it should have read Europroperty Ltd.

HON CHIEF MINISTER:

Consequential of that when I in my speech on the Second Reading listed the value of the contracts enjoyed by ABC Cleaning Services they were, of course, overstated by that amount which is not a contract enjoyed by that company. I think I said they had 12 contracts totalling £200,000-odd; well it is 11 and the value is lower by that amount.

Head 7 - Trade and Industry was agreed to and stood part of the Bill.

HEAD 8 - ADMINISTRATION

Head 8 - A - Secretariat

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, again we have supplied to hon Members a changed establishment page. This simply reflects the mistake made in the classification of seconded officers from the UK working in the Gibraltar Co-ordinating Centre for the Criminal Intelligence and Drugs. As a result of that change when we come to going through the Heads of Expenditure we propose to remove a certain amount of money from that vote and transfer it into a supplementary funding head.

Subhead 1 - Personal Emoluments, as amended, was agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages

HON J J BOSSANO:

The Legislation Support Unit. We were told that the UK financed the ELU.

HON CHIEF MINISTER:

Mr Chairman, the position there is that the policy of the Government is that as far as we are concerned the creation of legislation is a matter for the Government of Gibraltar whether it is domestic legislation in origin or whether it is EU legislation in origin. We do not share the view which may have been or may not have been, I am not ascribing the view that created the view that somehow there is a UK controlled body in respect of the transposition of EU Directives into our local laws. Therefore what we wanted to do was to bring it all together under a Gibraltar Government department which is now the Legislation Support Unit. There are two seconded officers and I think one part-time secretary who are being paid for by the FCO. One of those seconded officers, Mr Stafford, who is UK funded, is shortly expiring and he will be returning. The other one is Mr Nilsson and he is being taken on on contract by the Government because we do not presently have somebody within the Government of Gibraltar that can continue that function but it is one of those posts that are being understudied locally so that that position can

be localised as soon as possible. In other words, although the FCO funding for Mr Nilsson finished, given the importance that the Government attach to the completion of the process began by Opposition Members of eliminating the arrears of EU Directive transposition, it would have been a tremendous handicap to lose the services of the man who is, in effect, driving and co-ordinating the various private sector draftsmen that have been engaged. Regrettably the need for that has become even greater by the fact that we have not yet been able to recruit for ourselves any law draftsman which we have been trying to do for months and months and months and hon Members will see that the Legislation Support Unit establishment provides for one Senior Draftsman and two Draftsmen, on page 58. Well, of that at the moment we have one guy, Mr Benzaquen, who I think was in the Department of Environment before, but much as we have tried to recruit for the Government of Gibraltar our own in-house, these people just do not exist and where they exist they do so at rates of pay which are telephone numbers strung one after the other; they are a rare breed of people and we have not yet in 12 months been able to find an acceptable quality recruit from the UK, there are none available locally as a draftsman and that increased the need to maintain the drafting resources that we had which include Mr Nilsson. So the answer to the hon Member's question is yes, that it includes elements of emolument which previously were funded by the Foreign Office and is now going to be funded by us.

HON J J BOSSANO:

The point that I want to make about that, Mr Chairman, is one is not questioning the expertise of Mr Nilsson but why did the Foreign Office not carry on paying? Why should they have stopped? Presumably the system still is anyway that the proper transposition of Community obligations into our national law are vetted by the UK to make sure that they are not exposed to infraction proceedings anyway, however independent we want to be on the subject. But since they have got an element of responsibility for the proper transposition into Gibraltar law, why are they not making a contribution towards paying for it?

HON CHIEF MINISTER:

Mr Chairman, the hon Member's point is steeped in politics rather than in finance. It is our view that Gibraltar should pay its way and I do not accept, and I am surprised that the hon Member did, as a matter of political importance, I do not accept that there is a difference between the statutes that are passed in this House depending on whether they are my brain wave or the brain wave of one of our local Ministers or whether it has to be done by imperative of European Union Directive or other requirement. It is certainly the policy of the Government, which we think is correct and advisable, that we should be paying our own way and the fact that the United Kingdom have an element of input into laws we pass in Gibraltar which derive from Community obligations for which they are responsible ultimately in an EU context, is not a reason that would justify, still less requires, them to contribute to the cost. We think that we should be able and willing and we are able and willing to stand on our own two feet in matters of legislation drafting as we are in many other matters, and that is something which I think we should collectively welcome and not make political points which have side effects in terms of the signal that it sends back.

HON J J BOSSANO:

Mr Chairman, we are both paying for it, not just him, and therefore I am as entitled to make them as he is and the point that I am making is not that we are as capable in terms of our ability to draft our legislation because he has just told us that people with the ability to draft do not exist in Gibraltar so the nationality of the drafter is going to be UK irrespective of who pays. But the fact is that the UK, and if we are going to make a political point then the political point is that we were constantly urged to seek financial help from the UK on a number of things. But the greater commitment to be independent is something that philosophically is a good idea but whilst we can get them to contribute without losing our independence then why should we not want them to contribute and then the money is available to the Government for not having to pay for this so that they can pay for something else, there is nothing wrong with that. I am not asking that the Government should go with a begging-bowl to London. I am saying London was paying for it until now, why are we letting them get away with not paying for it and we pick up the bill?

HON CHIEF MINISTER:

Well, because the Foreign Office say that what they funded was an exercise with a beginning and an end which was the transposition of the Directives in the infamous letter and that that was an exercise that was calculated to take x years, or two years, or whatever it has been and that that period has expired and that they have no provision for this and that the funding has run out and Mr Nilsson was getting ready to go home and that would have created a problem for us and I suppose I could have kicked and screamed, frankly we do not think the matter is that important. At the end of the day it is the question of one salary, we are not in a position to insist that they pay for it and they have not offered to pay for it and when we have suggested that perhaps they might, they say the funding has run out. So it is not that I want to pay £50,000 more or £40,000 or whatever he earns, but if we want to keep the service given that the exercise that he was doing has not been finished, we have got to pay for it otherwise we lose and we have got to struggle on by some other means.

HON J J BOSSANO:

All I can say is, Mr Chairman, that I think it is pretty mean of the Foreign Office to stop paying for something and it is certainly not true that it was because of a list or anything, the point is that when they were insisting on us devoting resources in the Government to this particular exercise because otherwise they were at risk of infraction proceedings, our argument was, "We make a judgement" - as the Government that is today has to make a judgement - "as to how much money we put in support of one particular facility and what we put in support of another and if it is so important to you that this thing should be moving forward more rapidly because of risk of infraction proceedings then it must be important enough for you to make a contribution towards getting it done quicker", and they accepted the argument and they started paying.

HON CHIEF MINISTER:

And that explanation contains the difference in political philosophy in the management of the relationship between Gibraltar and the UK between the previous Government and the present Government. Our philosophy is that if this community wants to send its Government to Brussels to assert itself then we have got to be ready, willing and able to

discharge and comply with our European Union obligations not in that period of time which the Government's priority allocation of resources permits but in accordance with the time scale required of us by that European Community law because otherwise what we are saying is that we are not a viable political administrative unit within the Community. If we can only comply with our obligations over three or four years because that is all the resources that we can devote to complying with them, what we are saying is that we are not able to comply with our obligations within the time scale required and we take a different view. We say that overall, and whatever pros and cons there might be on the way, it is in Gibraltar's interest to signal the fact that it is both able and willing to comply with its obligations which include the transposition of directives at an appropriate time within an appropriate time scale and within its own resources and at its own cost. And that is our philosophy which is reflected not just in the transposition of EU Directives but indeed in the point that my hon Colleague, the Minister for Trade and Industry, was making earlier in respect of the financing and the resourcing of the Financial Services Commission.

HON J J BOSSANO:

All I can say to the Chief Minister is that since we have been members of the European Union in 1973, irrespective of who has been in Government, we have been making a case to the European Union that we shoulder our responsibility but that there should be a recognition of the disproportionate burden it can be for a community of 30,000 compared to a nation of 54 million and when we have asked for acknowledgement of that is not so that we should be treated as second class citizens in the European Union which we have been treated anyway and which we continue to be treated as and it has nothing to do with whether we have the legislation done quicker or not but it was in fact something that every other Member State does, it makes a case for itself. Therefore it seems to me that the whole idea that every single Member State is fighting over each other to implement everything as quickly as possible in order to be held up as a paragon of virtue to everybody else is something that is not reflected in the conduct of other Member States. All I can say is we believe that the Government should have put up a case with the United Kingdom to say that the very least they could do was to keep on financing Mr Nilsson here until the exercise he was in the middle of should be finished, at the very least, and that it is very odd that suddenly now the difference in attitude is that

if we press for the United Kingdom to shoulder some of the responsibilities it has in this place, that is not the right approach because it is going to bring us into conflict with the UK although it was what they were urging us to do all the time from the Opposition.

HON CHIEF MINISTER:

Not conflict with the UK, simple constitutional and jurisdictional assertion on our part. It is not a conflict, that I can ask the UK to contribute and they can say yes or no. My answer to no is not what his might have been which is, "Well if you will not contribute I will not transpose" and that is where the conflict came in. The conflict does not come in from we willing to pay for it, his approach was, "Since this is something that you are asking us to do you should pay for it and if you do not well wait for me to do it in whatever time scale I decide my allocation of resources permits". That is a perfect description of his approach. Our approach is that we ask the UK and we have made a case, we ask the UK to continue to pay for this and if they do not we say, "Fine, well then do not, we will pay for it ourselves". *[HON J J BOSSANO: You do not get a lot like that.]* Well, fine, I take the view that this community is viable and should stand up on its own two feet and for administrative recurring expenditure of this sort, I do not take the view that we should look to London for what is in effect budgetary support on recurrent expenditure. We have got to have in-house the administrative machinery to transpose into our laws all the statutes that we want and some of them come as a result of Government policy; others come as a result of EU Directive transposition and it is the policy of this Government that that is an in-house facility that we must have and paid for, it is as simple as that.

HON J J BOSSANO:

Mr Chairman, all I can say is that it is very peculiar that their policy is to be independent, their policy is that this is not desirable because it is budgetary support but it becomes undesirable when it gets turned down. If he had made a case and they had said, "yes", then we would not have lost our independence and it would not be a disagreeable budgetary support. It is quite obvious that his approach is that he will go there and appeal for help and then they say, "Yes, bwana" and I used to say, "No, bwana" and that is the difference.

HON CHIEF MINISTER:

I do not accept that analysis but of course the consequences of him saying, "No, bwana" on issues on which it was not important for him to say, "No, bwana"; when the time comes of an issue in which it is really important for Gibraltar to say, "No, bwana" he can rest assured that I will say it and then fight all the battles necessary. The mistake that he made and consistently made and the whole of Gibraltar and most of the world now know what the consequences of his unnecessary combative style is that he was willing to create a constitutional political crisis in the relationship with London over a £40,000 salary for a law draftsman. This is what he was saying. He would have gone back to London and said, "No, bwana, if you will not pay Mr Nilsson I will not either and we just will not transpose" and I say that that issue is simply not important enough to generate the heat that saying, "No, bwana" would generate. But when there is an issue important enough and it is certainly not this one, then I can say, "No, bwana" just as lively as anybody else.

MR CHAIRMAN:

You are both fighting to have the last word.

HON J J BOSSANO:

In the meantime let me say that I did not have to put up a fight, for the record, because in fact the support from the United Kingdom came without a fight. There was no question that they were saying, "No" and I said in that case, "Well we will stop" and then they changed their "no" to a "Yes". The issue did not arise. I am surprised they have not wanted to continue it with him. Maybe it is because now that he is telling everybody that we have got so much money and before he was telling them that we did not, they feel that we can pay for it ourselves.

HON CHIEF MINISTER:

There is nothing there to answer.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Moving on to another point, I certainly would not want to comment on that one, Mr Chairman. It was just simply that I had referred earlier to the change in the Estimates, I thought I ought to read the numbers in before we passed on from Personal Emoluments. The effect of the Gibraltar Co-ordinating Centre for Criminal Intelligence and Drugs which I referred to earlier. The changes would mean that the £87,000 for salaries would change to £18,000 and the £18,000 allowances would change to £4,000 giving a total of £22,000 and this, Mr Chairman, will have an effect on Head 8 - A, what that expenditure is and Personal Emoluments will change from £1,146,000 to £1,063,000 which will reduce the total Secretariat to £4,487,000 and the money that we are taking away there, the £83,000 will be placed into the supplementary funding head.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

The House recessed at 12.45 pm.

The House resumed at 3.00 pm.

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

Subhead 5 - Gibraltar Co-ordinating Centre for Criminal Intelligence and Drugs

HON J J BOSSANO:

Is there a UK contribution to this Centre?

HON CHIEF MINISTER:

Strictly speaking Mr Turpin is not strictly GCID, he is GFIU which is this thing under the Drug Trafficking Offences Ordinance, this reporting chap. Mr Browne is the UK Customs chap who came out to start GCID. Mr Browne's salary is hitherto being paid by the United Kingdom and it is my intention to put up a very good fight for that to continue to be the case. It is one of the reasons why the Financial and Development Secretary moved the amendment that he did this morning, to remove

these two gentlemen from the establishment and to remove from the vote under personal emoluments and put it in the supplementary fund so that this House will not be voting the salary for those two persons. But as far as Mr Turpin is concerned, GFIU, his contract came to an end in March as did the FCO's funding for him and we have agreed to fund him for six more months, that is to say, from March six months forward, exclusively to give him the opportunity to train a local graduate or some other person because we do not believe that that function has any need for it to be done by an ex-pat recruit. The receiving of reports from financial institutions and putting them in a word processor is something that we think can now be localised and that function will be localised and then when it is localised we will pay for it. As far as Mr Browne is concerned, the position is not yet clear. The Foreign Office has paid him until now and we think that that should continue to be the case notwithstanding all the other things I said this morning.

Subhead 5 - Gibraltar Co-ordinating Centre for Criminal Intelligence and Drugs was agreed to and stood part of the Bill.

Subhead 6 was agreed to and stood part of the Bill.

Subhead 7 - Legislation Support Unit Expenses

HON J L BALDACHINO:

On subhead 7(e), is this in case they are not able to recruit a law draftsman or is this something else?

HON CHIEF MINISTER:

Mr Chairman, it is a figure which is actually less than has been spent in recent years on getting private sector law firms to draft Government legislation but mainly EU Directives, he is right in that respect but we are determined to minimise the cost this year and the only way we can do it is by recruiting our own draftsman which is much cheaper than paying law firms their fees. There has been expenditure of about that order or higher in each of the last two years on that item of expenditure.

Subhead 7 - Legislation Support Unit Expenses was agreed to and stood part of the Bill.

Subheads 8 and 9 were agreed to and stood part of the Bill.

Subhead 10 - Compensation Scheme - Fast Launches

HON J J BOSSANO:

Have they got any particular fast launches in mind which to compensate with £1,000?

HON CHIEF MINISTER:

The figure of £1,000 is a token provision so that the subhead can be fed as necessary from the supplementary funding head. Government are about to publish legislation which will redefine a fast launch and which will make the presence in Gibraltar of any fast launches newly defined illegal and, of course, for constitutional reasons it is necessary to compensate people who are owners of boats that are presently lawful possessions, even though there are certain uses to which they can be put which are not lawful, but as we are now making the possession of the boat unlawful, it has got to be subject to a compensation scheme because otherwise it amounts to expropriation of property without compensation.

Subhead 10 - Compensation Scheme - Fast Launches was agreed to and stood part of the Bill.

Subhead 11 - Private Sector Fees for Legal Advice

HON J J BOSSANO:

This is not presumably EEC legislation, this is something different, is it?

HON CHIEF MINISTER:

Yes, Mr Chairman, the EEC legislation we had just finished before the hon Member came in. That is at Subhead 7(e). This is for legal advice when the Government seek legal advice, for example, on a commercial contract or somebody comes with a commercial proposal, satellite proposal or the Government go to a lawyer. Legal fees in the private sector are now provided under three different subheads; there is legislation drafting which is a bit further up the page; there is legal

advice and then under the Attorney-General's Head there is litigation, civil or criminal; that is to say, when the Attorney-General instructs a private sector lawyer to prosecute or indeed to represent the Government in civil litigation.

Subhead 11 - Private Sector Fees for legal Advice was agreed to and stood part of the Bill.

Subheads 12 to 14 were agreed to and stood part of the Bill.

Subhead 15 - Contribution to Gibraltar Development Corporation

HON J J BOSSANO:

Mr Chairman, what is the nature of the staff services that one can take for £1,000?

HON CHIEF MINISTER:

Mr Chairman, it is a token in case we need to recruit more people to the Gibraltar Development Corporation and it is a way of channelling supplementary funding through that.

Subhead 15 - Contribution to Gibraltar Development Corporation was agreed to and stood part of the Bill.

Subheads 16 and 17 were agreed to and stood part of the Bill.

Head 8 - B - Personnel

Subhead 1 - Personal Emoluments

HON J J BOSSANO:

Under Personal Emoluments, the Personnel Department of course provides the service of handling industrial relations on personnel matters for the Health Authority without a charge. If in fact it is intended, and we are not sure whether it is that that should happen in the current financial year, but if it is intended to create an in-house Personnel Department in the Health Authority, how does this impact on the

provision of the personnel service for the whole of the Government which currently covers that function?

HON CHIEF MINISTER:

Mr Chairman, I think the Gibraltar Health Authority is getting a Personnel Officer, in other words, some capability but it is not intended to create a Personnel Department as such and therefore it is not envisaged that the Personnel Department will cease to have a connection with and a degree of responsibility for Gibraltar Health Authority matters. But certainly to the extent that there is a transfer of personnel management functions out of the Personnel Manager's Office up to the Health Authority, it has got to be provided for by a reduction in numbers in the Personnel Manager's Office for the rest of the Department. What we are not willing to do is given that the Health Authority is a substantial number of the overall employees in the public service, what we are not willing to do is to allow the Health Authority to develop their own personnel management capability and at the same time keep the same number of bodies doing personnel management in what is left of the public service. So any transfer would have to be matched by a reduction in personnel and resources in the existing Personnel Office.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

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

Subhead 5 - Rent of Residential Property

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, just a minor clarification on that. That should read, "Rent Property" not "Rent of Residential Property" because in fact it does include the rent of some Government offices such as DTI.

Subhead 5 - Rent of Residential Property was agreed to and stood part of the Bill.

Head 8 - C - Civil Status and Registration Office was agreed to and stood part of the Bill.

Head 8 - Administration was agreed to and stood part of the Bill.

HEAD 9 - FINANCE

Head 9 - A - Financial and Development Secretary was agreed to and stood part of the Bill.

Head 9 - B - Treasury

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, could I again in one of the pages to the amendment page 65 take the House back to the establishment. There is there an increase shown against the number of Administrative Officers in the Treasury from 32 to 38 which is an increase of 6. In fact, the reason for this is that the Treasury, as one would expect from a Treasury, counting two part-timers as one person but I can report that they have not just been doing that this year, they have been doing that in the previous year and all years before and so we are therefore correcting it on this occasion but the money again is the money for those people as shown amended.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 8 were agreed to and stood part of the Bill.

Subhead 9 - Insurance Premiums and Claims

HON J J BOSSANO:

Mr Chairman, can I ask whether this in fact covers the Gibraltar Health Authority and whether it is intended that there should be any change?

HON CHIEF MINISTER:

No, Mr Chairman, it does not cover the Gibraltar Health Authority. It is insurance cover taken out for the Government and not the Health Authority.

HON J J BOSSANO:

So the provision then for any claims on the Health Authority or any insurance premiums the Health Authority may require for equipment that it has or whatever, is included in the Health Authority budget, is it?

HON K AZOPARDI:

Yes, Mr Chairman, there is an item, I cannot remember under what specific Head, but the insurance of the Health Authority is quite comprehensive. In fact, it is the same insurance that the previous administration had which I think it took first out in 1995, it is quite comprehensive, it is taken out with Lloyds Underwriters and it covers a whole variety of issues.

HON J J BOSSANO:

And the premium is included in the Health Service budgetary annex I take it?

HON K AZOPARDI:

Yes, indeed.

HON MISS M I MONTEGRIFFO:

Can the Minister confirm whether it might come out of the subhead on operational expenses under miscellaneous expenses?

HON K AZOPARDI:

I believe that is the particular subhead. The Opposition Member will bear with me because she will understand when I say that because that format is different to the format traditionally used by the Health Authority, within the format traditionally used by the Health Authority there was already some division of the several of the 35-odd heads so I cannot recall specifically which of the subheads of the Health Authority traditional format it was included in but I understand it to be one of the seven or eight subheads which correlate to this figure of miscellaneous expenses. I say that with a degree of caution because I think the figure

for miscellaneous expenses is about £157,000 and from memory the premium that we are paying this year is about £170,000 so I suspect that it might not be that one, it might be another one but it certainly is included in the Health Authority budget. What I can do, if the Opposition Member wants to have that information, I can supply that particular information to her in due course if she wishes.

HON MISS M I MONTEGRIFFO:

I would be grateful, Mr Chairman.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, just on insurance, could I add a minor point of clarification that just comes to mind. I think in the insurance premiums and claims that perhaps the hospital buildings are actually covered under the Government's insurance policies but, again, if it is different I will let the Leader of the Opposition know subsequently.

Subhead 9 - Insurance Premiums and Claims was agreed to and stood part of the Bill.

Subhead 10 - Contribution to Gibraltar Development Corporation

HON J J BOSSANO:

Is this in the nature of a token or is there a specific service which is expected to cost £20,000?

HON CHIEF MINISTER:

Mr Chairman, this is not a token. This is the vote for a lady who had previously been employed by the Gibraltar Information Bureau Ltd as part of the PAYE Arrears Collection staff that we have seconded to the new Central Arrears Collection Unit in the Treasury and as with all other employees in the Gibraltar Information Bureau that we retain she will be employed through the Gibraltar Development Corporation but because her service has been effectively provided for the benefit of the Treasury, her salary cost is shown there under this head in the Treasury Department.

HON J J BOSSANO:

There must be something else there to come up to £20,000, surely, Mr Chairman?

HON CHIEF MINISTER:

Yes, this should not be the cue for a debate on something that has nothing to do with the Estimates but there are one or two months of other people who used to be involved in the collection of PAYE for a couple of months at the beginning of the financial year.

Subhead 10 - Contribution to Gibraltar Development Corporation was agreed to and stood part of the Bill.

HON K AZOPARDI:

Mr Chairman, if you give me leave to go back to the other point that we were discussing. I found a note in my notes and it would avoid having to write to the hon Member. The figure for insurance is actually included under Recruitment/Contractual Expenses on the appendix. The figure for the insurance premium is included in that figure of £237,000.

HON MISS M I MONTEGRIFFO:

Mr Chairman, I think that perhaps the Minister is mistaken because on the question of Recruitment/Contractual Expenses, we are talking about bringing over contracting officers for the Health Authority so perhaps he might have another look please.

HON K AZOPARDI:

Mr Chairman, yes, the hon Lady is indeed correct in that it does cover a degree of recruitment and bringing people over as she says but it is my note of what the General Manager has passed me of the subheads is that that particular subhead which in the traditional format is no. 29 of the traditional format, is itself subdivided into eight little subheads one of which is the insurance subhead and it is the major one and I suspect that the other expenses to do with recruitment, such as visiting consultant fees, etc are taken out of another particular subhead. That is my understanding.

HON CHIEF MINISTER:

The answer is, Mr Chairman, I think for future years we ought to return to a more traditional type format for the Gibraltar Health Authority information.

HON MISS M I MONTEGRIFFO:

As I said in my contribution, thank you, Mr Chairman.

HON K AZOPARDI:

Indeed I would just add, for the sake of clarity, that as the hon Member knows, Head 18 of the traditional format covers expenses of visiting consultants and the House will see that there is an item also to cover that. This is why I remarked yesterday in the ante room that perhaps we should discuss the correlation between the traditional format and the new format for the assistance of both sides of the House.

Subhead 11 - Contracted Services

HON J C PEREZ:

Did I get it right when I heard the hon Member say yesterday that all the Government arrears were going to be centralised and if that is so the contract in force for electricity arrears with Land Property Services, would that remain or would that be done away with?

HON CHIEF MINISTER:

I think I made it clear that they would take direct responsibility for arrears that had not been the subject matter of contracts and that to the extent that they were contracts which the Government were happy with or otherwise could not get out of, they would be responsible for the monitoring and supervision and direction of the contractual performance but there is no decision in relation to the matter that he has mentioned one way or the other, it is just that we are assuming for the moment that certainly the electricity one will continue as it is.

Subhead 11 - Contracted Services was agreed to and stood part of the Bill.

Head 9 - C - Customs

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, again referring to the list of amendments. There is one additional post, one of Administrative Assistant which was I recall decided upon after we put together these Estimates and so there is no financial provision for it but it is our judgement that there is sufficient there in the overtime to be able to not make any amendment to the amount we are seeking to appropriate.

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

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

Head 9 - D - Income Tax was agreed to and stood part of the Bill.

Head 9 - Finance was agreed to and stood part of the Bill.

HEAD 10 - JUDICIARY

Head 10 - A - Supreme Court

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, again just to draw hon Members' attention to a change in the Supreme Court. Again the department have been counting two part-timers as one so in fact it should be six Administrative Officers and, again the financial provision does not need to change. The original estimate said four and in fact there are six of which four are part-time.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

Subhead 4 - Operational Expenses

HON A ISOLA:

Could I just ask on Law Reports - production?

HON CHIEF MINISTER:

The Government are going to enter into a contractual arrangement with a specialist, I cannot remember the name of the company but they do it for many small territories this size; the Channel Islands for example, to produce proper law reports in the cases in our Courts. They have got a well tried system for doing that, for editing the cases, for reviewing the cases, for deciding the ones for editing and producing the law reports. This is not statute, this is case law in the Supreme Court and other courts.

Subhead 4 - Operation Expenses was agreed to and stood part of the Bill.

Subhead 5 was agreed to and stood part of the Bill.

Head 10 - B - Magistrates' and Coroners' Court

Subheads 1 to 4 were agreed to and stood part of the Bill.

Head 10 - C - Law Officers

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

Subhead 4 - Private Sector Legal Fees

HON A ISOLA:

Is it the intention of Government to brief out prosecutions, is that an increase or a decrease?

HON CHIEF MINISTER:

It is the intention of the Government to continue to brief out private prosecutions in measure that it may be necessary. However, as the young batch of lawyers in the Attorney-General's Chambers develop experience and expertise, it is envisaged that the need to farm out prosecution work to the private sector will diminish. How the Government bridges that gap in the short term is a matter that is presently under careful consideration.

Subhead 4 - Private Sector Legal Fees was agreed to and stood part of the Bill.

Head 10 - Judiciary was agreed to and stood part of the Bill.

HEAD 11 - POLICE

Subhead 1 - Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, if I can draw hon Members' attention to some changes to the establishment. I think the reason for the change has arisen because there were some changes in the administrative support just as we put these Estimates to bed. How it should read, as on the amending pages, is the three Administrative Officers should be five; there are no Administrative Assistants; instead of two Typists there are four; and some of those staff are part-time but it increases the overall complement from 229 to 231. It probably does have a slight marginal effect on the Police expenditure in that there is probably a very small under-provision but we do not propose to amend the subhead Personal Emoluments.

HON J J BOSSANO:

Mr Chairman, last year there were five AOs and three AAs. Is there a particular reason why the AAs have been done away with?

HON CHIEF MINISTER:

Some of those AAs were engaged in immigration office duties and that during this financial year is under the Civil Status and Registration Office so all the people involved, I think there were four, in issuing the various types of ID cards are now to be found under the Civil Status and Registration Office under the Administration Head which is this new Home Office type department that I announced yesterday.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 8 were agreed to and stood part of the Bill.

Subhead 9 - Ambulance Service

HON J J BOSSANO:

Is this confirmation that we intend to keep the ambulance service in the Police for the whole financial year?

HON CHIEF MINISTER:

Well, it is confirmation of the fact that there are presently no plans to alter the existing arrangement. If somebody comes up with a proposal and the Government consider it, our minds remain open but we are not considering any plans at the moment to take the ambulance service out of the Police Force.

HON J J BOSSANO:

I thought we had been led to believe that it was being considered, in fact, when they were talking about civilianising certain activities of the Police, I believe it was suggested that this was one of the ones high up on the agenda so if it is not under consideration does it mean that the consideration is now complete and a decision has been taken and it is going to be kept in the Police?

HON CHIEF MINISTER:

It was an item on the list submitted by the Commissioner of Police as an area that he thought he could throw up civilianised posts. In other words, get people who are not doing police jobs on the street and recruit them but it has not been necessary, given the level of recruitment that there has been, to have recourse to that yet and therefore that proposal is on the shelf, as far as the civilianisation of the posts within the Police. However, the Minister for Health has just informed me that he has received a proposal from St John's Ambulance which I suspect is not a new proposal but, anyway, he has received it expressing an interest in taking over the running of the ambulance service but it has certainly not been considered by the Government yet.

HON J J BOSSANO:

I seem to remember, Mr Chairman, that in fact when it was announced that the taking of the ambulance service out of the Police force was going to take place, it was announced as being moved to another part of the Civil service. That is no longer one of the options that is being looked at?

HON CHIEF MINISTER:

That is correct, it is not one of the options presently being looked at.

Subhead 9 - Ambulance Service was agreed to and stood part of the Bill.

Head 11 - Police was agreed to and stood part of the Bill.

HEAD 12 - HOUSE OF ASSEMBLY

Subheads 1 to 5 were agreed to and stood part of the Bill.

Subhead 6 - Commonwealth Parliamentary Association Expenses

HON R MOR:

Mr Chairman, as a point of interest, what exactly does that cover, the CPA contribution?

HON CHIEF MINISTER:

It is the subscription and part of the travel involved to the CPA because the subscription is not £53,000, from memory. It is CPA related expenditure; travel, Regional Conferences, etc. Mr Chairman, I do not know if the hon Member is interested in the breakdown of that, it is general expenses - £1,000; subscription - £13,000; visits by MPs, MEPs - £6,000; London Seminar - £1,200; Regional Conference - £15,000; Plenary Conference - £12,000; half-yearly Executive Committee - £2,500; Hansard Editors' Conference - £1,200; Student attendance - £1,500; that is the breakdown.

Subhead 6 - Commonwealth Parliamentary Association Expenses was agreed to and stood part of the Bill.

Subhead 7 - Secretarial Assistance to the Leader of the Opposition

HON CHIEF MINISTER:

I suppose even though he never raised it for me and £500 now buys much less than it used to, I suppose that sooner or later that is a figure that will have to be reviewed unless it is going to become meaningless completely. I understand the figure has not changed since it was introduced in the early 1980's and it is in serious risk of becoming completely meaningless so we will have to consider for the future a review of that upwards, of course, although the temptation to review it downwards is almost irresistible.

HON J J BOSSANO:

All I can say, Mr Chairman, is that the level of the figure determines the proportion that is produced hand-written or typed of my correspondence.

HON CHIEF MINISTER:

Then there is no question of reviewing it.

Subhead 7 - Secretarial Assistance to the Leader of the Opposition was agreed to and stood part of the Bill.

Head 12 - House of Assembly was agreed to and stood part of the Bill.

HEAD 13 - OFFICE OF THE PRINCIPAL AUDITOR

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Professional Fees

HON J J BOSSANO:

The Value for Money Audits is just a figure because it is intended to do some of these audits or are there specific areas that are earmarked to be audited?

HON CHIEF MINISTER:

It is a general provision to give to the Principal Auditor resources if he thinks he needs them to engage in value for money audits. It is not that the Government intend to conduct value for money audits in particular departments, if that were the case it would be elsewhere. This is under the Principal Auditor and it is a matter for him, whether he uses it or not and if he decides to use it, on what areas of Government he thinks he wants to investigate this year into statutory responsibilities which are separate to the Government.

Subhead 5 - Professional Fees was agreed to and stood part of the Bill.

Head 13 - Office of the Principal Auditor was agreed to and stood part of the Bill.

HEAD 14 - SUPPLEMENTARY PROVISION

Subhead 1(a) - Pay Settlements was agreed to and stood part of the Bill.

Subhead 1(b) - Supplementary Funding

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the consequential amendment that we moved earlier to take out £83,000 from Personal Emoluments of the Secretariat in relation to GCID. I notified the Committee that we would be moving the

money into the Supplementary Provision and that has the effect, therefore, of increasing the £1.5 million provided to £1,583,000 and that increases the total of that Head to £2,583,000. So that the amount we will be appropriating in part 1 of the Bill still remains at £90,601,000.

Subhead 1(b) - Supplementary Funding, as amended, was agreed to and stood part of the Bill.

Head 14 - Supplementary Provision was agreed to and stood part of the Bill.

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

Part II - Consolidated Fund Contributions was agreed to and stood part of the Bill.

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

HON CHIEF MINISTER:

Mr Chairman, before we move on to the Improvement and Development Fund, can I just indicate that I may be in a position to come back in about 10 minutes time with a much more thorough answer to the Hon Mr Perez in relation to these posts of the establishment. So if it comes to hand we can deal with it even though we might then be discussing the Improvement and Development Fund.

Part III - Improvement and Development Fund

HEAD 101 - HOUSING

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

Subhead 2 - Edinburgh House Refurbishment

HON J L BALDACHINO:

Mr Chairman, Edinburgh House Refurbishment, have the Government got a starting date on the refurbishment and how long it will take?

HON P C MONTEGRIFFO:

There is no starting date. The final transfer details are still being completed but I would certainly not envisage any delay other than the logistics of getting such refurbishment going because the Government do attach priority to allocation of those flats as soon as possible. But there is no formal start date currently in place.

HON J L BALDACHINO:

I suppose that since the Government have estimated £1.5 million it must have been done on the basis of the survey that they conducted. Therefore is there a time which the survey states that will be required to refurbishment even though they have not got a starting date?

HON CHIEF MINISTER:

Well, he should not assume that in the sense that I think one of my hon Colleagues in an earlier debate in this House indicated that there was a conditioned survey, really more than a detailed survey, of the estate and that it threw up a figure which was actually much higher than this but, of course, it is really a question of how long is a piece of string? There are various degrees of standards to which one can refurbish property; one can either buy a Rolls Royce or one can buy - I would not like to insult any car manufacturer - something less expensive than a Rolls Royce, a Skoda or something, yes. This is a provision and should not be thought of by the hon Member as the scientific cost of what it would cost to refurbish Edinburgh House, much depends on the extent of the refurbishment and much depends on the period of time over which the refurbishment is done. That is not the estimate shown on the bottom of the report that Government have which is a much higher figure than that.

HON J L BALDACHINO:

I presume from that answer that depending on the level of refurbishment that they will be doing it will be the time scale that the property will be finished so that the Government can allocate the houses. Am I correct in assuming that?

HON CHIEF MINISTER:

He is correct in assuming that the Government want to be able to allocate those houses as quickly as possible and are determined that the refurbishment period will be kept to a minimum consistent with putting the houses in a condition in which the Government feel that they can be allocated which may not be to install gold plated water taps but on the other hand it cannot be of the condition that they are going to be handed over to us. There will be a need for some degree of refurbishment which has to be taken into account with the allocation, the method of the allocation and Government are certain that we will need to spend at least £1.5 million to put the houses in a condition in which we would be content for them to be occupied which may not be perfect but at least they will meet that minimum threshold of condition.

HON J J BOSSANO:

Presumably there is enough information available to be able to give an indication of whether we are talking about the level of refurbishment that could reasonably be done in six months or a year? Are we talking about something that will take several months or are we talking about something that is going to take much longer?

HON CHIEF MINISTER:

There is nothing structured in the report, there is a degree of dampness problem resulting from the fact principally that this is built on reclaimed land and the water table rises and falls with the tide and when the tide is high the water level is very close to the foundations of the building. There is dampness and water ingress problems, there is nothing structural. The report that the Government have suggests that there may be a year's worth of work in relation to the whole of the estate but, of course, we do not have to do the whole before we start allocating so there will be a gradual process.

Subhead 2 - Edinburgh House Refurbishment was agreed to and stood part of the Bill.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 4 - New Housing for Senior Citizens

HON J L BALDACHINO:

On New Housing for Senior Citizens, can the Government give more details of how many units, what composition of units they are and where will they be allocated?

HON H CORBY:

There are 86 flats and this consists of bedroom, sitting room, kitchen, bathroom; they are ground floor, first floor, second and third floors with lifts and the whole area of the flats is 43 square metres. They are a little bit bigger than the ones in Gib 5. They are especially tailored for elderly people. I have had representations from various people in my office who are house bound because they now live in Tankerville, in a fifth floor, they are elderly and homebound unless they have somebody of the family coming in and doing the chores for them. There are also people who are hospitalised and live in high floors and they need somewhere to live insofar as that is concerned. The area within that is the complex of Edinburgh House.

HON J L BALDACHINO:

Out of interest, Mr Chairman, they will be an integral part of Edinburgh House, they will not be isolated as such will they?

HON CHIEF MINISTER:

No, they will not be isolated, we are not building a brick wall or anything, it will be part of the community. I think if I can just add to what my hon Colleague has said, this is an experiment with the concept of sheltered accommodation for elderly people outside Mount Alvernia. In other words, it is for people who are still well enough to live at home but who would benefit from living in an environment which is tailor-made for elderly people; there will be an element of round the clock warden coverage, on site round the clock; it is tailor-made sheltered accommodation for the elderly. So that, for example, the conditions of tenure will not be available for elderly couples to bring other members of their family with them and they will not acquire tenancy or security or tenure rights of any sort, it is for the couple or single elderly person who

releases a Government flat elsewhere, perhaps a bigger flat than they need or want which the Government can then use for the general waiting list, they go by themselves without members of their family, this accommodation will not be available to take children with or grandchildren or anybody else, it will be just for the elderly persons themselves, married couple or single or widows or widowers and when the last survivor of them passes away it becomes vacant for allocation to another elderly couple and to keep the turnover that way. It is a sort of almost residential care but in a personalised structure where they are in their own homes, in their own flats but there is an element of supervision provided by the Government for them.

HON J L BALDACHINO:

I fully appreciate that explanation and I would agree in part but the main thrust of what I was asking was that even though the whole idea of what the Chief Minister has said is a good one, but if we have elderly people who are not integrated within the society and that is what I am asking, even though it is being built within the Edinburgh House complex they will form part of that area and form part of that society rather than be isolated in any other way, it will not be a ghetto, let us put it that way?

HON CHIEF MINISTER:

Not only will it not be a ghetto, and as I say there will be no isolation from Edinburgh House, there will be no walls or fences but indeed far from being a ghetto there will be landscaped gardens around it and it will be very much a desirable place to live. The hon Member can rest at ease and when the plans are ready they will be made public and they can be inspected and I am sure the hon Member, if he has any improvements to suggest, they will be very welcome.

Subhead 4 - New Housing for Senior Citizens was agreed to and stood part of the Bill.

Head 101 - Housing was agreed to and stood part of the Bill.

HEAD 102 - SCHOOLS, YOUTH AND CULTURAL FACILITIES

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

Subhead 4 - Improvements to Cultural Facilities - Ince's Hall and John Mackintosh Hall

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, under subhead 4, the improvements to cultural facilities, in fact it should delete "and John Mackintosh Hall", in fact, it is just a provision for Ince's Hall.

Subhead 4 - Improvements to Cultural Facilities - Ince's Hall and John Mackintosh Hall, as amended, was agreed to and stood part of the Bill.

Head 102 - Schools, Youth and Cultural Facilities was agreed to and stood part of the Bill.

HEAD 103 - TOURISM AND TRANSPORT

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Roads Construction - Europort and Upper Rock

HON J C PEREZ:

On a point of clarification, I wonder why Government are treating roads in Europort and the Upper Rock differently to those elsewhere given that roads elsewhere appear in the recurrent expenditure vote and the ones in the Upper Rock and in Europort are included in the Improvement and Development Fund vote.

HON CHIEF MINISTER:

Yes, that is not the difference. The difference is that this is road construction as opposed to the other which is road resurfacing. So road construction is unquestionably - it is a one-off - an improvement and development matter whereas road resurfacing is more in the nature of maintenance and therefore we thought fit to put it in the Consolidated Fund. That is the distinction not the location, the fact that the road construction projects happen to be in Europort and Upper Rock is immaterial.

HON J C PEREZ:

On the Upper Rock, are we talking about the construction of a new unknown road or the construction of an existing one which would be a major maintenance one?

HON CHIEF MINISTER:

Yes, it is that, it is the reconstruction of an existing road round the Rock, not the whole of it, sections of it.

Subhead 5 - Roads Construction - Europort and Upper Rock was agreed to and stood part of the Bill.

Subhead 6 was agreed to and stood part of the Bill.

HEAD 104 - INFRASTRUCTURE AND GENERAL CAPITAL WORKS

Subheads 1 to 6 were agreed to and stood part of the Bill.

Subhead 7 - Resiting Marine Section

HON J C PEREZ:

Mr Chairman, are we still talking about resiting it in the area that was being looked at which was going to be handed over by the MOD? Where exactly is the Marine Section to be resited? Why is it that it costs £250,000?

HON CHIEF MINISTER:

It is not that it costs £250,000, that is the provision that we have made. The site is not where they presently are. In other words, it is not a re-provision of facilities on their existing site because that clutters up both the water front of that site which is going to be used, as the hon Member knows, for the small boat club and it would simply occupy too much of it and on the land side it clutters that whole site which is available for redevelopment now; everything from the ex-Technical College to Coaling Island Road is one site. The site that has been

identified for it is adjacent to the Boat Squadron, that building next on that new reclamation so that they can share as many of the facilities as possible, the slipway which is already there, so really we are just encroaching into the site where the fair is normally held, we are encroaching into that site a little bit to give them space for their own building. The principal expenditure or one of the main single items of expenditure is on pontoons and pylons for pontoons and jetties and things of that kind. It is more than just four walls and a roof with lockers and changing rooms in it.

Subhead 7 - Resiting Marine Section was agreed to and stood part of the Bill.

Subheads 8 to 13 were agreed to and stood part of the Bill.

Subhead 14 - Maintenance of Existing Structures

HON J J BOSSANO:

Mr Chairman, I am not clear what is meant by existing structures? Are we talking about buildings or what is it that we are talking about?

HON LT-COL E M BRITTO:

No, Mr Chairman, we are not. The figure relates predominantly to the provision of slopes stabilisation matter, as it is called, for the upper catchment area; for the stabilisation of the sand slopes once the sheeting is removed. There is also an item of provision for Smith Dorrien and Orange Bastion bridges but it is mainly the matter.

Subhead 14 - Maintenance of Existing Structures was agreed to and stood part of the Bill.

Subhead 15 was agreed to and stood part of the Bill.

Subhead 16 - Beautification and Refurbishment Works - Main Street Extension; Winston Churchill Avenue; East Side Reclamation Area and Line Wall Road

HON J C PEREZ:

The Minister did give an indication earlier on that he would be in a position to tell us where or what facilities are to be open for the disposal of rubble and the ash at the incinerator once these site development commences?

HON LT-COL E M BRITTO:

Indeed, Mr Chairman, I did. I think to put the matter in perspective I have to say that the Government have made a policy decision to end the east side reclamation as it exists and therefore that is a start point. Starting from there, there are a number of alternative locations where once we finish depositing rubble in the existing site we will continue elsewhere. There is more than one, there are a number of locations that have been identified. Most of them have sensitivities and therefore I am not in a position or prepared to disclose what those areas are at this moment in time. But we are certainly looking at some way down the road; the end of the present reclamation is of the order of four to six months, that sort of scale, before we are looking at anywhere else.

HON J C PEREZ:

I urge the Minister to find a site before we look at subhead 17 which is demolition works because if not the Minister is not going to know where he is going to throw the rubble.

HON LT-COL E M BRITTO:

The hon Member might be surprised if he asks me about the demolition works but I will know what to do with the rubble.

HON A ISOLA:

Might I ask in respect of the Main Street extension, is there provision to include all the areas that were detailed yesterday by the Minister for the Environment, is that provision coming from here?

HON K AZOPARDI:

That is part of the figure that is allocated in the column on the right hand but as I indicated in my speech on the general principles, I think the sum we are looking at is over £1 million, that is the proportion of it. Yes, it will include all the streets that I listed when I made that speech.

HON A ISOLA:

Any element of this vote in respect of the uncompleted Main Street works which are, I assume, more than what they originally budgeted for?

HON K AZOPARDI:

I do not think so. The hon Member is correct in that the sum that was originally budgeted for the Main Street beautification project has now been exceeded partly because of the delays to the project that we are still negotiating with the contractors. There is a sum that will be due to the contractor by way of compensation under one of the clauses for delay but I do not understand that it forms part of this particular estimate though I place a caveat on that, I may be mistaken.

HON J J BOSSANO:

On the east cost reclamation, Mr Chairman, I assume that in the sensitivities of the alternatives which presumably are environmental; I assume that in evaluating the sensitivities at the end of the day if the alternative proves to be more sensitive than the place that is being used now, the rubble has to go somewhere and obviously if the rubble can lead to a place with a potential future use all the better. So presumably that consideration will be there.

HON LT-COL E M BRITTO:

Indeed, Mr Chairman, the Leader of the Opposition is partly correct. Some of the sensitivities are indeed environmental. But the primary location or the location most likely to be chosen, the difficulties there are not so much environmental but one of reaching final agreement with the people concerned with the site and therefore that is why I cannot go further and disclose it at this stage.

HON J L BALDACHINO:

Under Main Street works, I think that I heard from the Government during the debate that no side roads would be leading into Main Street. Does that also include the road just here which links up to City Mill Lane?

HON K AZOPARDI:

When the hon Member says no side street perhaps he misunderstood me. This one is part of the original project. There are other side streets that lead on to Main Street but also lead on to Irish Town that will form part of the extension to the project which will be phase 2 which is what we are budgeting here. This one is part of the original contract.

HON J L BALDACHINO:

I was referring to traffic. I think it was the Chief Minister who said during his contribution that on the beautification of Main Street no traffic would be allowed to enter that area and what I am asking is does that also include the road just here where the taxi stand is which links with City Mill Lane?

HON CHIEF MINISTER:

It is the only part of the length of Main Street where there is a potential problem. The taxi drivers are anxious to maintain, for obvious commercial reasons with which the Government fully sympathise, a taxi rank in the Piazza area and one that is contactable directly, one that is in effect on Main Street as opposed to being sent back to the City Hall side of the Piazza and the Government have a fair amount of sympathy with that and we are looking at ways of accommodating it. One idea that has been put down is can they reverse up from the City Hall, it is not a particularly appealing prospect either to them, to us or to anybody else. If some satisfactory solution is not found it may be necessary to make an exception to the no traffic rule by allowing them to have the taxi rank where they presently have it and allow them to do what they are presently doing which is to go south past the front of the House of Assembly and then down the other side of the House of Assembly. In other words, queue up where they presently queue up, drive north up

Main Street 20 or 30 yards past the two kiosks and then left down into the other side of the Piazza and out that way. That is a possibility if no other solution can be found and it would be a regrettable exception to the complete pedestrianisation of the whole length of Main Street.

Subhead 16 - Beautification and Refurbishment Works - Main Street Extension; Winston Churchill Avenue; East Side Reclamation Area and Line Wall Road was agreed to and stood part of the Bill.

Subheads 17 to 20 were agreed to and stood part of the Bill.

Head 104 - Infrastructure and General Capital Works was agreed to and stood part of the Bill.

HEAD 105 - ELECTRICITY

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

Subhead 3 - Rosia Road Relocation and Refurbishment

HON J L BALDACHINO:

Could we have an explanation on what is meant by Rosia Road Relocation and Refurbishment?

HON LT-COL E M BRITTO:

Yes, Mr Chairman, maybe the explanation is not as full as it ought to be. It is the relocation of the depots to Rosia Road, the old Public Works depot in Rosia Road from Orange Bastion. As I detailed in my speech earlier on it is the facilities that are at present at Orange Bastion and King's Bastion which are being relocated to the ex-Public Works Department depot in Rosia Road. It is not the relocation of Rosia Road.

Subhead 3 - Rosia Road Relocation and Refurbishment was agreed to and stood part of the Bill.

Head 105 - Electricity was agreed to and stood part of the Bill.

HEAD 106 - INDUSTRY AND DEVELOPMENT

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

Subhead 2 - Eastside Development

HON A ISOLA:

Is this entirely the reclamation and the road widening?

HON P C MONTEGRIFFO:

Yes, this is the work that has been discussed during the course of the debate.

Subhead 2 - Eastside Development was agreed to and stood part of the Bill.

Subhead 3 - EU - Konver Projects

HON J J BOSSANO:

When I spoke earlier I expected that either in the general principles or when we came to the Improvement and Development Fund we would find out if there were now specific things on which the money from the Konver Project which is, of course, money which has to do with the MOD rundown, would be devoted to. Is there an idea, which is expected to produce work worth £1.5 million, or are we just putting £1.5 million in the expectation that some time during the year they will think of something?

HON P C MONTEGRIFFO:

The £1.5 million is directly related to the Casemates project. One of the attributes of Konver is that it exists to reconvert buildings that previously had military use to commercial use and that £1.5 million is indeed the estimate for the first phase of the Casemates Project which would involve the reconversion of the square and the barracks and the area behind the barracks for the retail and restaurant outlets that the House is being appraised of. So that is purely for that project. Should there be

obviously more applications for Konver money in the course of the year we will have to make further provision for that.

HON J J BOSSANO:

Seriously nobody is expecting that that will produce alternative employment for redundant MOD workers?

HON P C MONTEGRIFFO:

The use of the Konver money is not just to produce jobs for ex-MOD workers. One of the strands is to produce general employment to help with the impact of the rundown. That is the use to which the funds will be put. I do expect that facilities such as Casemates will provide openings some of which may go to ex-MOD workers. We would be happy, for example, in the reconversion of Casemates to then assist through the enterprise initiative a particular set of MOD workers who might want to open a restaurant or retail outlet within the Casemates project. That would be an example of the project itself having received Konver funds and the business interest which might involve ex-MOD workers receiving separate assistance under the other enterprise initiative measures. Of course, the Leader of the Opposition does touch on the equally important point that the balance of Konver moneys must continue to be focused for reconversion purposes and for purposes generally for providing openings as a result of the rundown, that is the main focus, the Government recognise that but the £1.5 million is destined specifically for the purpose that I have indicated.

Subhead 3 - EU Konver Projects was agreed to and stood part of the Bill.

Subhead 4 - EU - Objective 2 Projects

HON A ISOLA:

Can we have an indication of the projects envisaged in respect of the Objective 2?

HON P C MONTEGRIFFO:

Most of that money actually is in respect of the previous project. There is expenditure, the actual Head, Mr chairman, simply describes the source as Objective 2, it does not say it is the Objective 2 second programme, as the House knows we had a first programme. Roughly, £4.5 million of the £6.5 million is in fact work under the old programme. For example, Sir Herbert Miles Road being the principal example. The £2 million is the extra money which we would envisage spending in this financial year. There is no specific earmarked projects but we would envisage that as part of the assistance we are giving to the private sector those projects that would involve employment creation would be able to benefit directly from the programme quite apart from other Government initiatives; tourist site developments; a whole series of other issues that we may want to leave at the public sector stage. But we have not got specifically earmarked projects for the £2 million which is the balance over and above the previous programme's expenditure. I could add, Mr Chairman, by way of completeness that of course part of the money in the new programme will be used to fund one of the schemes in the enterprise initiative. Mr Chairman, we will recall that one of the funds which does benefit from EU moneys does not receive, as opposed to say the Gibraltar Enterprise Scheme, a separate capitalisation figure. So assuming that there is demand, as we hope, and that that scheme within the enterprise initiative money will flow from the Objective 2 programme into that scheme. I hope I have not confused hon Members entirely.

HON J L BALDACHINO:

Maybe the Minister can clarify because I am not too sure, when the Minister for Education and he actually mentioned that Bleak House was going to be used for training within the tourist industry, will that money be coming out of that fund too?

HON P C MONTEGRIFFO:

It is entirely possible that it shall, Mr Chairman. Both Konver and Objective 2 would be able to be used for those purposes, it is a matter for which the Government will have to decide but it is probable that there will be an element of EU funding in that reconversion and in the subsequent training that will be provided.

Subhead 4 - EU - Objective 2 Projects was agreed to and stood part of the Bill.

Subhead 5 - Airlines Assistance Scheme

HON A ISOLA:

Mr Chairman, may I ask how this figure is arrived at because from the answer to Question No. 182 of 1996, I cannot really work out how over a 12 month period that figure could be arrived at. Perhaps if the Minister could just tell me how it is broken down I would be grateful?

HON J J HOLLIDAY:

Mr Chairman, our agreement with Monarch Airlines agreed that during the first year they would get a subsidy of £210,000. Out of those £210,000 part of this would be paid by landing charges which are 50 per cent reduction which are given by the MOD. Our estimate is that the actual landing charge subsidy will be in the region of about £65,000 to £70,000. Obviously that depends on actual landings that take place during the course of the year. The actual subsidy in terms of departure tax which is how the Gibraltar Government intend to account for the agreement, will be in the region of about £145,000. This is the same amount of money which we have agreed to support GB Airways with and therefore the sum actually totals in the region of about £320,000 in total. We have made provision for £365,000 because obviously there could be fluctuation in the number of flights coming in and therefore we have allowed some leeway in order to cover any increases as a result of more passengers wanting to come to Gibraltar.

HON J J BOSSANO:

Mr Chairman, if this provides for the refund of departure tax, how come it is not a charge on the Consolidated Fund which presumably is the recipient of that departure tax?

HON CHIEF MINISTER:

I think that raises a very good point. I think the view that we took insofar as we had discussed this but then events overtook the discussion and

here it is, was that because the aid was in the form of development of the airline industry in Gibraltar, that it was the Improvement and Development Fund but frankly I am sure that if we had reflected on it longer by itself as an item, we would come to the conclusion that the suggestion that the Leader of the Opposition makes has a lot of merit to it and that this might well probably have been better put as an item of departmental expenditure in the Consolidated Fund. It is just one of those items that stayed there and we never discussed long enough to come to that conclusion. If it should survive to next year I think it will be put in the Consolidated Fund.

HON A ISOLA:

Does the Airline Assistance Fund not continue for three years? A three-year period I think it was originally.

HON CHIEF MINISTER:

Yes.

Subhead 5 was agreed to and stood part of the Bill.

Subhead 6 - Hotels Assistance Scheme

HON A ISOLA:

Mr Chairman, again could we have a breakdown of the £2 million for this financial year?

HON CHIEF MINISTER:

No, Mr Chairman, in the sense that it is a provision based on a guesstimate of what we think the hotel industry is going to be able to spend in what will be left of this financial year by the time the money starts flowing to them which is when the European Commission has approved it. We think that that will be August the latest, money will start to flow in in September, with the best will in the world on the hotel industry's part we think that they will not be able to spend more than £2 million but if it should turn out to be wrong, we are certainly not willing to hold them up, if they are able to spend more than £2 million in this year we shall simply have to come back to the House on a Supplementary

Appropriation Bill. This is a provision based on what we think will be spent this financial year but if we are mistaken we will come back rather than hold them up until next year.

HON J J BOSSANO:

What is it that the Commission has to approve?

HON P C MONTEGRIFFO:

As I mentioned in my contribution yesterday, the assistance to hotels would be structured through the Gibraltar Investment Assistance Scheme effectively although it appears as two separate items in the table. Since assistance to hotels or any other business would fall foul of State Aid Rules to business, it requires European Commission clearance before assistance of this type can be delivered. As I mentioned yesterday, there are rules that if assistance is delivered to businesses below 100,000 ECU over a three-year period then no European Commission consent is required hence the reason why we have limited two of the other schemes of the enterprise initiative to that figure. This fund or this facility, more properly described, will have the ability to give provisions over and above 100,000 ECU every three years. This is the first example, the hotel assistance, of that type of measure and therefore is something that requires EU Commission consent.

HON J J BOSSANO:

That is not the question I am asking, Mr Chairman. What I want to know is, has the Commission been told, "We want to be able to buy new uniforms for the cooks in the hotels?" Is there a specific.....

HON P C MONTEGRIFFO:

Yes, Mr Chairman. The Commission has detailed the type of expenditure which we are seeking to allow the hotels to make using public funds. So this does require a detailed breakdown. I cannot tell the hon Member to what extent the breakdown involves aprons for the cooks or hats for the chefs but it is a detailed breakdown for the Commission to have a good idea of what sort of assistance is being delivered.

HON J J BOSSANO:

What I would like to do is find out whether I can have a good idea so my question is, what is it that we are planning to give them £2 million for? If they are able to tell the Commission something it ought to be possible to tell us something?

HON CHIEF MINISTER:

What we have told the Commission, Mr Chairman, is what the hotels have asked us for. In other words, it is not our bid to the Commission; what we have done is we have got what the hotels want to do. In other words, we have said to the hotels, "We are willing to provide financial support for projects which match Government's broad policy parameters. What is it that you think your hotel most desperately needs?" Each hotel has come back with what they think are its obstacles, the obstacles facing its development and its growth and its attractiveness and that has been put into a package and forwarded to the Commission. I think I am right in saying that the only item that can be excluded from the need for Commission consent is external beautifications because that comes under environmental improvements which does not require, I think I am right in saying, Commission support. So things that they want to do outside; painting the building and things like that, that is allowed without EU Commission because it is, as I say, environmental enhancement and things like that. But for the actual main part which are some things as, and the hon Member will have to acknowledge that I am speaking from memory, it is such things as developing a conference facility, necessary structural works to make a conference facility and to equip it; replacement of lifts; works necessary to comply with modern fire regulations required by English tour operators but not necessarily required by the laws of Gibraltar, but things which, if they are not done, the hotel is struck off the list of hotels usable by English tour operators; refurbishment of kitchens; refurbishment of bedrooms and public areas in hotels. So really it is all the things that the hon Member would expect to need to be done to some of our hotels here to spruce them up and to convert them into attractive places for tourists to visit which I think he will agree is not the case with most of them at the moment. The other point that I would make, if the hon Member would allow me just another three seconds, is that although this is put under the Improvement and Development Fund as expenditure, because these are cash accounts and not accrual

accounts, they are in fact soft loans and this is not outright... with the exception of a very small part of it which is grants, the vast bulk of the £5 million is soft loans which are repayable to Government. So it is not out and out expenditure, although it is accounted for as expenditure here because of the fact that these accounts are drawn up on a cash basis.

HON J J BOSSANO:

So effectively what the Government are saying is that this is a loan at less than the market rate of interest?

HON CHIEF MINISTER:

And in more generous repayment terms in terms of the quality of the security that we might demand for it, the length of repayment period, the sort of terms that would not be available from a bank on strictly commercial terms in Gibraltar. I am sure it is available from banks elsewhere but the way banks in Gibraltar see lending and security, it would not be available here.

HON J J BOSSANO:

And even that requires the permission of the Commission?

HON CHIEF MINISTER:

Yes, Mr Chairman, because the European Union Regulations puts a capital value on soft loan terms and the capital value of this form of assistance for Community purposes, they have their own formula. What is the capitalised value of the soft loan terms and they have a formula whereby they convert reduced interest rates and commercial repayment dates and things like that into a capital amount. For example, these £5 million may actually be worth only £1.5 million in terms of State aid for Community purposes so those are the rules, one cannot just say, "Because it is a loan it is not State aid", it is State aid. What is the amount of the State aid, the advantage to the recipient of this arrangement as opposed to a market arrangement and then they subject that annual value, they capitalise it by a formula that they presented us with.

Subhead 6 - Hotels Assistance Scheme was agreed to and stood part of the Bill.

Subheads 7 and 8 were agreed to and stood part of the Bill.

Subhead 9 - Shipyard

HON J J BOSSANO:

I would have thought there would be some indication without needing to ask but since there appears to be none, can I ask what are the expectations of the Government - I know that it is a token, I know they expect to spend more than £100,000 but apart from that.

HON CHIEF MINISTER:

It is a token but it is not a token for what the hon Member thinks. It is not a token for the operation of the yard, it is a token for the maintenance of the yard on a mothball basis between the time of departure of the party that is presently paying for its upkeep and security until the date of entry of a new operator. For example, if Kvaerner left tomorrow and stopped providing security, essential maintenance works to keep the yard maintained, the Government would have to step in, provide security, retain a number of people to grease cranes or make sure that the docks do not flood or make sure that the pumps of the dry docks stay in functional order; in other words, to prevent the whole thing from becoming dysfunctional through lack of care and attention and maintenance. That is what this is a token vote for and I think the hon Member's question suggests that it might be a token vote for supporting the actual operation of the yard. I indicated to him this morning or yesterday that it is not something that the Government are willing to do.

HON J J BOSSANO:

Can I ask, in the light of that explanation, Mr Chairman, from what I read in the press the present operator gave the government one year's notice, that is what was reported, that they had given I think it was in March or April of this year, one year's notice in accordance with the terms of their lease that they would be relinquishing the lease for the dry docks at the end of the year and that seems to take us almost to the end of this financial year.

HON CHIEF MINISTER:

Mr Chairman, that is the interpretation of Kvaerner of what they have done which is not our interpretation which is why we are about to engage in litigation with them. They should have given us one year's notice and continue to operate the yard as a yard in the meantime. In fact what they did in breach of their obligations both under the lease and under the overall agreement, as we interpret it, is that they should have given us a year's notice and stayed on operating. Instead what they have done is they have made the workforce redundant, they have stopped operating a shipyard and they think that they are complying with their obligations by sitting in the yard greasing cranes until March next year. That is, as far as the Government are concerned, a breach of a covenant to operate the yard as a shiprepair yard in accordance with prudent normal practices for the operation of a yard during the term. The term, once they gave notice, is the year's notice and that is precisely the position. The litigation that we are engaged in is, firstly to seek damages from Kvaerner for breach of that covenant and, secondly if they do not intend to comply with the covenant, to get out of the yard now. In other words, to seek immediately repossession of the yard because it is simply not acceptable to the Government that they should just sit there carrying out maintenance duties and thinking that that is all that they need to do to comply with the agreement. So the position is not as the hon Member suggests. I do not know if that is what the press have said but if they have said it I have not seen the particular report which the hon Member refers but that would be a misreporting position.

Subhead 9 - Shipyard was agreed to and stood part of the Bill.

Clauses 4 and 5 were agreed to and stood part of the Bill.

The Long Title

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, before we move on, we have now compiled some of the figures that the Opposition Spokesman for Government Services, I think, has been asking us about together with other Opposition Members over the last couple of days. I really seek the guidance of the

House about how they want to play this. I am very happy to hand it out and talk people through it.

HON CHIEF MINISTER:

Can I suggest, I think hon Members are not going to be able to digest this document, that they just accept this as the information that I said I would pass to them and if any of them have any queries at all about it they can perhaps write in and make enquiries or telephone me and we can discuss it rather than now spend time discussing a document that they have not had an opportunity to look at. They may want to summarise the effects on it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, let me just summarise the decision for the record and then perhaps after we finish I might just explain how it works so that there is no misunderstanding. Essentially we have calculated that in fact with all the amendments that we have been making to the Estimates that in fact comparing the 1996/97 Estimates to the 1997/98 Estimates, that there is an overall increase shown as 88 established posts at the end of the day of which we estimate and all these come with a health warning because of the speed with which we have done them, is we estimate that 12 of those were existing posts but not included in the establishment last year for one reason or another. So in fact the net increase, the real increase in the establishment if one likes, is 76. *[Interruption]* That is still subject to confirmation.

HON CHIEF MINISTER:

No, it is still subject to not filling some vacancies.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I was going to say, the actual number of vacancies we have given, and again this comes with a health warning in the sense that we have worked overnight and fairly quickly in what is quite a complicated area to work out the ins and outs, but we estimate that we are currently carrying 93 vacancies, that there are 93 unfilled posts as of this moment. All the information we have given the House, of the exact grades and cost, is so that it is all clear. Thank you, Mr Chairman.

HON J J BOSSANO:

Mr Chairman, we are quite happy to study this in slow time and then if there is any further clarification we will ask for it because obviously any information we are asking is in relation to what is published so it is just a question of going back and see if there is anything that does not seem to make sense.

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

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Port (Amendment) Bill 1997; the Environmental Protection (Controls on Substances that Deplete the Ozone Layer) Bill 1997, with amendments; the Social Security (Employment Injuries Insurance) Ordinance (Amendment) Bill 1997; and the Appropriation (1997/98) Bill 1997, with amendments, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Question put. Agreed to.

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

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

Question put. Agreed to.

The adjournment of the House was taken 5.00 pm on Friday 30th May, 1997.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

26TH JUNE, 1997

(adj to 22nd July 1997)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Seventh Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly Chamber on Thursday the 26th June, 1997, at 2.30 pm.

PRESENT:

Mr Speaker.....In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon T J Bristow - Financial and Development Secretary
The Hon R R Rhoda - Attorney-General

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 29th April, 1997, 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) Report and audited accounts of the Gibraltar Broadcasting Corporation for the year ended 31st March 1995.
- (2) Report and audited accounts of the Gibraltar Heritage Trust for the year ended 31st March 1996.

Ordered to lie.

MINISTERIAL STATEMENT

MR SPEAKER:

I have received notice that there is going to be a Ministerial Statement by the Chief Minister so I will call on him.

HON CHIEF MINISTER:

I am obliged, Mr Speaker.

As hon Members know the Member States of the European Union have for many months been negotiating the Treaty of Amsterdam under the umbrella of the EU Intergovernmental Conference to amend the Treaty establishing the Union.

During the last few months the Gibraltar Government have deployed its own resources to obtain copies of all drafts of the Treaty texts, as and when they became available, and have studied those texts to identify provisions which might operate adversely to the interests of Gibraltar.

During April 1997 the Government studied the then latest draft text dated 20th March 1997. Two points were identified, which were the subject of a letter dated 22nd April 1997 by me to HE the Governor.

The points were these:

1. In Section 2 which deals with free movement there was an Article on Customs Co-operation which stated:

"In order to facilitate the good functioning of the customs union and of the internal market, customs co-operation in relation to economic transactions which cross the external borders of the Member States shall be strengthened."

This linkage between the customs territory and the external borders in effects suggested that the boundaries of the Customs Union and the external frontiers coincide. They do not, e.g. Gibraltar and other EU territories. This incorrect linking of "external borders" with "customs union" and "internal market" issues would effectively lend weight to the Spanish argument that because Gibraltar is not part of the customs union, it should not be included within the external borders of the Union. The Treaty text has been corrected to address this point.

2. The second point related to the terms of British inclusion in the future in the Schengen Agreement which establishes a frontierless zone between its members. Until now Schengen has not been a EU matter, it was an agreement outside the EU. However, the Treaty of Amsterdam now incorporates Schengen into the EU framework. In doing so it provides for the UK's exclusion from the application of the Schengen Agreement which is something required by the UK as a matter of policy. Accordingly it will be lawful for there to be immigration controls between the UK (and Ireland that is also excluded) and other Member States. Gibraltar is excluded with the UK so we are subject to the same regime as the UK and Ireland.

However, the Treaty also makes provision for how the UK can join the Schengen Agreement should it decide that it wants to do so at some point in time in the future. In this respect that draft of the Treaty provided that UK could join "on terms agreed with the Schengen countries", which of course, include Spain. In my letter dated 22nd April to HE the Governor I pointed out that if this proposal were to be agreed, Spain would be in a position to impose Gibraltar's exclusion or suspension as a condition of her agreeing to UK's entry in the future. This would be tantamount to allowing Spain to veto our inclusion.

Whilst I was in New York to address the Committee of 24 in early June, I received in New York by telefax from our lawyers in Brussels the next draft of the Treaty - that draft was dated 30th May 1997.

That draft contained two major points of importance to Gibraltar, upon which I wrote directly to the Foreign Secretary, Robin Cook, on 10th June 1997, as follows:-

1. A protocol had been inserted in the Treaty containing a provision that nothing in the Treaty confers powers on the Community with regard to the adoption of provisions determining the precise geographical location of borders between Member States.

It seemed to me likely that it would enable Spain to avoid compliance with many of her EU obligations in relation to Gibraltar by alleging a dispute over the "precise geographical location of borders". Amongst many other matters it might have enabled Spain to refuse to recognise Gibraltar Airport as an External Frontier of Europe. Indeed given that Spain maintains that Gibraltar has no territorial waters, it might even have enabled her to argue that Gibraltar port is not an External Frontier of Europe either. This would, in effect have marginalised Gibraltar from free movement measures in Europe. It might even have enabled Spain to avoid the judicial co-operation provisions in the new draft treaty.

It was difficult to see what such text would add to the current legal situation under Article 227 (sub-clause (4) of which regulates Gibraltar's EU status). On the other hand, even if (or especially if) the new text was ambiguous, it was contained in a protocol which would, if adopted, be an integral part of the Treaties. There may therefore have been a presumption that the text was intended to add something to the present situation. Only confusion (and political uncertainty) for Gibraltar could result. I urged the Foreign Secretary that the UK should not agree that protocol.

2. The second was the Schengen entry veto point which was still in the text albeit as one of two possible options to choose from. I pointed out to the Foreign Secretary that this provided for UK's inclusion at some future date on the unanimous decision of the Council. This would enable Spain to veto a hypothetical UK wish to be included in the future, unless the UK agreed to exclude Gibraltar, which had been Spain's position on the External Frontiers Convention from the very outset.

I was delighted to note that when the next draft text dated 12th June was published both these points had been saved. The Borders location Protocol had been removed altogether and the option chosen to regulate how the UK could enter Schengen in the future was the option that did not give Spain a veto.

The Heads of Government met at the Amsterdam Summit on Monday 16th June 1997, that is four days after the date of that draft. The next draft of the Treaty was dated 19th June 1997. Contrary to the 12th June draft, the draft of 19th June re-inserted the option effectively giving Spain a veto on UK entry into Schengen as the Treaty provision. I therefore wrote again on 23rd June to the Foreign Secretary expressing my consternation that the veto provision was back in and again urging HMG not to place Gibraltar's inclusion in Schengen in the future at the mercy of a Spanish veto.

Although I have not yet received a reply from the Foreign Secretary I have been informed by the Foreign Office through the Convent that HMG has mobilised to retrieve the situation on this potentially vital matter affecting Gibraltar's interests. The European Foreign Ministers are meeting in Luxembourg today. I do not yet have any information about whether the draft Treaty has been changed to remove this threat to Gibraltar's interests. I should emphasise, that the Treaty has not been signed, is still in draft and capable of alteration. It will not be signed until the autumn.

Today's press reports appear to confirm that HMG is indeed seeking to retrieve the position. Today Madrid's ABC reports that the UK does not accept the draft Treaty of Amsterdam produced by the Dutch Presidency due to one of the clauses which makes a "double key" available to Spain to guarantee the frontier controls over Gibraltar in the event of the UK choosing to join Schengen. The ABC report continues by saying that the rejection of the text, if it continues, could provoke very serious problems for the ratification of the Treaty by Great Britain, but that the Spanish representatives have warned that that was the text negotiated and accepted by Spain and that if the UK wishes to modify it it would have to table the question in a new summit.

Today's London Times carries a report under the headline "London to challenge 'dog's dinner' treaty". The Times reports that:-

"A week after the European Union produced its Treaty of Amsterdam, Britain is claiming that the text has inserted conditions on frontiers and police work that were demanded by Spain but not approved by EU leaders at their summit."

Britain's challenge, to be made by Robin Cook, the Foreign Secretary, at a meeting in Luxembourg today, is one of several complaints about items that slipped into the treaty apparently as a result of the confusion in the hectic final session in Amsterdam last week.

The complaint of Britain and Ireland focuses on the special arrangement which exempts them from taking part in the removal of all frontier controls on the EU's internal borders.

In a move strongly questioned by legal experts, the "Maastricht II" treaty incorporates as EU law the 2,000 pages of Schengen and says Britain may join in but only with the unanimous approval of other States.

This condition, which creates a potential veto, was requested by Spain, with an eye to its dispute with Britain over Gibraltar and the application of EU law to the territory. "We don't know how this got in, but we're going to make sure it's reversed," a British official is quoted in The Times as saying.

Dutch officials said the confusion over the 142-page treaty was inevitable, given the hectic end-game at Amsterdam. Their text, which an EU ambassador called a "dog's dinner", was the best they could do with their notes and tapes of the final session.

The Dutch are working with officials from the other states to "sort out the loose ends and prepare a final text in the 11 languages for signature by EU leaders in Amsterdam this autumn", they said."

The Government anxiously await confirmation that the draft treaty has been altered to exclude language which may severely prejudice the interests of Gibraltar in the future by putting Gibraltar's interests at the mercy of a Spanish veto over UK's interests at some point in time in the future. This will occur if the existing language stays in the Treaty, when and if a future Government, however unlikely the prospect may seem now, decide to subscribe the Schengen Acquis in whole or in part. A future British Government will be placed in the invidious position of having to choose between advancing the UK's greater interest at Gibraltar's substantial expense or sacrificing the UK's greater interest for the benefit of Gibraltar. The last time that the UK found itself in this position related to the Air Liberalisation Directives, and Gibraltar was indeed excluded.

HON J J BOSSANO:

Mr Speaker, I do not intend to ask questions for clarification but I propose to make a statement reacting to what we have heard from the Government benches. Let me say that I think it is regrettable that all these drafts should have been available and that they have been available to the Government and not to anybody else. I do not really think it is the responsibility of the Government to make the drafts available to us or, indeed, to have to obtain it for themselves under their own steam. If the United Kingdom is the Member State responsible for our external affairs in the European Union then they have got the responsibility for making available in Gibraltar what is available to other

European citizens in other parts of the Union. I have certainly been unable to get it from official Government sources and have had to rely on what is summarised in press reports which is not always the best way in which to make judgements on these things. I hope, therefore, that now that the Government have chosen to record the matter in the House they will make available to the Opposition the text to which they refer in the Government statement. I agree entirely with the ending paragraph that the consequence of putting the United Kingdom in the invidious position that they were in 1987 over either protecting British interests or meeting their obligations towards Gibraltar is that they choose to protect British interests and that if that situation is repeated it is not too speculative to bet on the UK putting its interests higher than ours. The pressure, logically, will be that if it is for the UK to consider entering Schengen there would have to be powerful commercial arguments in favour and that those should be sacrificed because Gibraltar was going to be left out which was in fact a similar position, it was the airlines in the UK that wanted liberalisation and the airlines in the UK that were arguing that the commercial price was too high to protect Gibraltar. What is clear is that even if the clause that has been included in the draft agreement that has emerged from what the Dutch have understood was agreed, even if that clause is removed and the UK can re-enter, presumably, I do not know, because I do not know what the other option is, but presumably if one option is unanimity the other one must be majority, is it not?

HON CHIEF MINISTER:

No, Mr Speaker, the other option is not majority, the other option is through the intervention of the Commission but without the ability on the part of the Commission to impose conditions on entering. In other words, the Commission makes due arrangements for the incorporation of the UK into Schengen.

HON J J BOSSANO:

What is clear is, of course, that the very strong position held over the External Frontiers Convention would be difficult to reproduce in the new system and presumably the External Frontiers Convention of 1991 is not now going to be proceeded with, one assumes from this date. It is clear that there we have a situation where the United Kingdom is putting up a fight to achieve a text that protects Gibraltar and that Spain sees that as being in conflict with its own national interests and I feel that it is absolutely essential that we mobilise the support that we have in the United Kingdom, when the pressure comes on between now and September, to make sure

that the Government in the United Kingdom does not feel that it cannot retrieve what the officials say they do not understand how that got in. It would seem that from the figures we have been given by the Chief Minister it was re-inserted on the 19th June, anybody would think from reading The Times that they had woken up this morning and discovered it for the first time. It is certainly a very serious situation. It is a situation where the only advantage we seem to have over similar previous instances of this kind of thing is that we appear still to be in a position to do something about it. Quite often in the past we have tended to find out beyond the point of retrieving it.

HON CHIEF MINISTER:

Mr Speaker, the Government are certainly willing to make a copy of the latest treaty text that we have available to the Opposition to study it. The reason why the Government statement has been made today is, firstly, that I thought this was a statement that ought to be made in the House and secondly that I was hoping that the solution, in other words to be told, "I am sorry Chief Minister it has been a terrible secretarial error, of course the text is as it was on the 12th when you last saw it." That that might have happened by now and it has not and given that a date for the meeting of this House has arrived before the solution I thought it proper to appraise the House of exactly what is going on. I share the assumption of the hon Opposition Member although it has not been made clear by anybody that the incorporation of the Schengen Acquis into the European Union framework obviates the need for the External Frontiers Convention, although, of course, there is a difference between the External Frontiers Convention and the Schengen Acquis and that is that the Schengen Acquis is for the removal of borders between Member States without erecting an external frontier common to the Union, whereas the External Frontiers Convention would have extended a frontier common to the whole Union. But I agree with what the hon Member suggests and that is that there is now no need for it because Schengen within the European Union plus common visa requirements and a series of other things which can be done outside Schengen between them replicate what the External Frontiers Convention was going to achieve and my guess is that the External Frontiers Convention has now been buried for good. So that is my view on that. Certainly, Mr Speaker, it is the intention of the Government, if this matter is not resolved as I am confident it will, given the degree of activity which I am told is being deployed on our behalf in this respect but that of course the Government will not hesitate to recruit the assistance amongst our Parliamentarians to ensure that their Colleagues in

Government in London fully understand the consequence of this for Gibraltar and our status in the future within the European Union.

ANSWERS TO QUESTIONS

The House recessed at 4.35 pm.

The House resumed at 4.45 pm.

Answers to questions continued.

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn to Tuesday 22nd July, 1997 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 6.30 pm on Thursday 26th June, 1997.

TUESDAY 22ND JULY 1997

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon R R Rhoda - Attorney-General
The Hon E G Montado OBE - Financial and Development
Secretary (Ag)

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

ABSENT:

The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of various documents on the table.

Question put. Agreed to.

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

- (1) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 13 and 14 of 1996/97).
- (2) Statements of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 3 of 1996/97).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

THE ESTATE DUTIES (REPEAL AND CONSEQUENTIAL PROVISIONS) ORDINANCE, 1997.

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to provide for the repeal of the Estate Duties Ordinance, and, in connection therewith, provide for transitional matters and savings to be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Government had a manifested commitment to abolish estate duty between spouses and to reduce the rate of estate duty between next of kin. However, upon consideration of the amounts involved in the collection of estate duty and the resources that would need to be dedicated to it to collect it effectively and efficiently compared to the amounts actually collected, the Government decided that it would be better to go the whole hog, so to speak, and abolish it altogether, because the categories of individuals that would be left paying the full rate and the reduced category of individuals, namely next of kin, who would be paying the reduced rate in accordance with our manifesto commitment, simply rendered the amounts collected not worth the administrative effort. Hon Members may be interested to know the figures for collection of estate duty over the last six years:

1991/2	£67,000
1992/3	£85,000
1993/4	£583,000

Mr Speaker, it has to be said that that is an extraordinary year due to the incident of one particular estate.

1994/5	£108,000
1995/6	£194,000
1996/7	£40,000

Mr Speaker, underlying Government policy on this matter is that in its operation this tax has, in effect, become iniquitous in the sense that it does not catch the people who most deserve to be caught and catches most easily the people who least deserve to be caught and the reason for that is this: it is an old piece of legislation and therefore it is relatively unsophisticated. It is straightforward to plan your affairs in a way that enables your estate to escape the incident of estate duty and most wealthy sophisticated people actually do that and as the hon Members will see from the figures that I have just read, with one exception, in 1993 or 1994 it is extremely rare for estates to be subjected to the full rigour of the Estate Duties Ordinance. It is therefore mainly small estates from people of moderate modest means that perhaps have worked all their lives and have left a nest egg for their widows or for their families, that are caught and in those circumstances, Mr Speaker, and given the relatively small amounts involved compared in particular with, for example, the loss to Government revenue from a reduction, or rather from an increase in personal allowances of the sort that we announced last year where we are talking about £1.9m, nearly £2m of revenue every time the Government increases personal allowances, those figures compared to the figures of takings from this tax rendered it, in the Government's opinion a justifiable and desirable measure to abolish estate duty. Mr Speaker, the law saves the position in relation to existing estates. In other words, it is only retrospective to the beginning of this financial year and does not apply to any estate of a deceased person who died before the beginning of this financial year on the 1st April. The Estate Duties Ordinance will continue to apply to the estate of any person who died before the 1st April 1997. Mr Speaker, I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE MEDICAL AND HEALTH ORDINANCE, 1997.

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to consolidate the Medical and Health Ordinance and its amending provisions, to transpose into the Law of Gibraltar Council Directive 77/452/EEC (as amended by Council Directives 81/1057/EEC, 89/594/EEC, 89/595/EEC and 90/658/EEC), Council Directive 78/686/EEC (as amended by Council Directives 81/1057/EEC, 89/594/EEC and 90/658/EEC), Council Directives 80/154/EEC and 85/433/EEC (as amended by Council Directives 80/1273/EEC, 85/584/EEC, 89/594/EEC and 90/658/EEC) and Council Directive 93/16/EEC concerning the mutual recognition of diplomas, certificates and other formal qualifications and the free movement of medical practitioners, dental practitioners, pharmacists and of nurses responsible for general care and of midwives, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services, to deal with the constitution of the Medical Registration Board and to give effect to other amendments relating to various purposes including promotion of international co-operation in the training of medical practitioners who are not nationals of EEA States, through a system of limited registration be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill seeks to effect several changes into the registration system and to consolidate the old Medical and Health provisions. It has several purposes which affect all the different professions that are concerned by this Ordinance. In the first place there is a general consolidation and clarification of many of the sections that have been in the 1973 Ordinance, some of which have lapsed by substitution of certain bodies like the consolidation or the coming together, the amalgamation of the different nursing councils in the UK and so therefore there is a clarification in that regard and everything is being

specified as now is the case. There are consequential amendments where we have tried to tie up and clarify certain wording. We have, in line with the now evolved practice, substituted and deleted the word "Governor" and empowered the Minister for Health of the day with the powers that the Governor used to have under the 1973 Ordinance.

The other effect is of course to transpose several EC Directives as has been read out by the learned Clerk just previously. If I can deal with the registration of doctors first. There is indeed a substantial transposition of EC Directives in relation to doctors, nurses, pharmacists and dentists. Generally these are the mutual recognition of qualification directives. The Bill makes provision for the mutual recognition of such diploma certificates and other formal qualifications of doctors, dentists, pharmacists and nurses by transposing into our national law the relevant EC Directives. The Directives in question being principally 93/16 in relation to medical practitioners, 80/154 in relation to midwives, 85/433 in relation to pharmacists, 77/452 in relation to nurses and 78/686 in relation to dental practitioners. All of those Directives taken together provide the necessary measures, we think, to facilitate the effective exercise of that right of establishment and freedom to provide those services as envisaged by the particular Directives and the transposition that is required in Gibraltar. The Community obligations by virtue of the transposition therefore have created a category of doctor, namely the EEA doctor who are automatically entitled to practice in Gibraltar by virtue of their qualifications which are schedule to the Directive and schedule to this particular Bill. The legislation recognises the acquired right of persons who were practising as doctors before the date of this Ordinance. Provision is also made for persons to establish as a doctor in any EEA State to render medical services on a visiting basis as was the case under the previous Ordinance in relation to other fully-registered practitioners. The Ordinance also requires doctors who have obtained particular qualifications if they are to practice certain specialisations, or if they are to set up in general practice, these specialisations are annexed at schedule 3 to the Ordinance.

Dealing briefly with dentists and pharmacists in the EEA context in transposing those Community obligations the existing regime for registering in Gibraltar remains largely unaltered but provision is made in section 23 allowing dentists and pharmacists holding European diplomas listed in schedule 5 in respect of dentists, and in schedule 6 in respect of pharmacists, to be registered in Part 2 or as the case may be, Part 3 of the Register

kept under section 7 of the Ordinance. The Medical and Health Ordinance is further amended to allow nurses and midwives who hold European diplomas listed in schedule 9 to be registered in the appropriate part of the register for nurses and midwives in the Ordinance and again it allows, in section 34, for persons established as nurses or midwives in an EEA state visiting Gibraltar to provide such services as appropriate. Apart from the EEA EC Directive transposition, I should highlight several other aspects which the Bill seeks to do. In relation to doctors generally, the old entitlement and the old ability of registration of doctors who were registered in the UK and indeed of doctors who had a relevant Commonwealth or foreign diploma still kept under the Ordinance, albeit in a different form, but it is still kept by virtue of the fact that doctors who are entitled to full registration in the UK under section 3 of the Medical Act 1983 are allowed to register and those who are registered, who are entitled to be registered under section 19 of that particular Act are also entitled to register, the difference being that section 3 and 19 are the expositions of the full registration and the possession of the UK primary qualification and section 19 is the Commonwealth section, if I can put it that way, the foreign overseas doctor qualification that allows overseas doctors to be registered in the UK. Those are maintained and what the EEC Directives are doing is to extend by transposition the ability of doctors to register if they have certain qualifications and they are listed in the EEC Directive. I do say also though that we have clarified the provisional registration section. That provisional registration section was giving the Medical Registration Board some difficulty because of the tight nature of the wording. When the previous Ordinance was passed in 1973, much water has gone under the bridge since then in the UK and because of the evolution of the systems of registration in the UK and Ireland particularly it is giving the chairman of the Medical Registration Board some difficulty so there has been a need to clarify the wording and the system of provisional registration and that, this Ordinance seeks to do. The Ordinance also creates a system of limited registration. That system of limited registration is very similar to that in the United Kingdom. It is succinctly mentioned in the Explanatory Memorandum. The object of that particular system is to foster technical and social links between Gibraltar and overseas countries by making provision to enable junior doctors and overseas specialists of high calibre qualified in non-EEA states to obtain limited registration and practice in the Government hospital or in teaching clinics under strict supervision and for specified periods of time. These provisions are in line with similar provisions in the United Kingdom and EEA states such as Luxembourg and

contain safeguards to ensure that only doctors of a standard of competence similar to EEA and United Kingdom qualified doctors may practice in Gibraltar. The sections on limited registration are contained in sections 14 to 22 of the Ordinance. I should explain that the nature of the registration is that they are limited, not limited as to qualifications, but limited in time. It is usually contingent on proof of English language experience and certainly professional competence. The registration is linked to practice within a teaching environment and so they would have to work within a teaching hospital approved by the Board, as is the case in the UK under the Medical Act, it would be a teaching hospital approved by the GMC. There are similar systems in the United Kingdom, in Ireland, Luxembourg and, I believe, in other EEA states. The importance of introducing a system of limited registration is also because of the explanation I gave just earlier in relation to the evolution of the registration system in other countries. The fact is that if we did not introduce a system of limited registration akin to that prevalent in other countries we might have a difficulty in registering some doctors in Gibraltar. At the moment we have full and provisional registration. In the United Kingdom and in Ireland they have full provision unlimited registration because some of the doctors that are seeking to come to Gibraltar are in possession of qualifications that entitle them to be registered in the limited register in the United Kingdom, but not in the full register. They have qualifications that are acceptable to the General Medical Council but because they are not fully registered in the United Kingdom, or provisionally registered, then it is difficult to provide for their registration in Gibraltar and we can only do so if we introduce a similar system which will allow us to register these doctors so that they can practice in Gibraltar as indeed they would be entitled to practice in the United Kingdom or indeed in Ireland. The reason of the importance to Gibraltar of all of that background is that because the systems are evolving and because it is now more and more, it is increasingly difficult to get a Consultant's job in the United Kingdom, there is a wealth of good quality practitioners who are seeking to practice elsewhere who may not be registered in the full register who may be registered in the limited register and unless we are able to have a system of limited registration we may curtail the potential pool of applicants that can come to Gibraltar and work within our hospital and we may be limiting ourselves to people who are not registered under any systems in the United Kingdom and that we would seek to avoid. I would stress that the Medical Registration Board will be working very closely with the General Medical Council in relation to the system of limited

registration. Any doctor who wishes to be registered in the limited register in Gibraltar must have an acceptable overseas qualification as defined in the list kept by the General Medical Council, that is at the wish of the Medical Registration Board because they themselves expressed a desire to be linked in this way so that they could monitor, they found it easier that they could effect the GMC list of qualifications rather than having the burden of monitoring the quality of qualifications world wide themselves. The Bill also seeks, moving now from limited registration, the Bill also seeks to provide a system of re-registration of doctors and provides the possibility in future of further regulations allowing specialisations to be annotated against the registration of particular doctors in Gibraltar, doctors who are registered at the moment, not EEA doctors because that is already possible under the particular schedules. The BMA and MRB have been extensively consulted in relation to this Bill. Indeed many of the points brought to the House today in this Bill are points made by the BMA and the MRB. They particularly were concerned at the re-registration points. It was important, I think, to tackle that particular issue. The fact is that registration at the moment in relation to nurses and, indeed, in relation to doctors, is for life and the difficulty that that creates is that the Medical Registration Board have no idea who are the doctors. They have an idea because Gibraltar is a small community and so they may be able to see them in the street, but they have no particular specific idea as to how many doctors they have on their lists are practising in Gibraltar or are occasionally practising and it is, I am advised, far more expedient for the medical interests of the community at large that there be a system of annual registration so that there can be close monitoring by the Medical Registration Board of who is practising in Gibraltar and whether they are indeed doctors that should be practising in Gibraltar at all. I have mentioned the particular sections but that relates to dentists and pharmacists and I do not believe I need to do that again. In relation to dentists and pharmacists there is little change. What we are doing effectively is transposing the EC Directives in relation to both and the systems are remaining largely unaltered in relation to both professions. We are introducing a new section - I believe section 68 of the Ordinance which ties EEA pharmacists from controlling a pharmacy that has been in operation in Gibraltar for less than three years. To an extent that is to attempt to protect our market from a potential flood of applicants in a way that has been done before and tested and I say that because it is a similar section that has been introduced in the UK and the Government are also considering the possibility of further legislation to try to protect the pharmaceutical

market from the flood of potential applicants in a similar way that has been done in other EC countries so that we do not fall foul of EC law but protect all the pharmacy students that have been sent by our Education Department to the United Kingdom or, at least, to attempt to protect them as much as we can. That is not within this present Bill but the Government are considering proposals to that and either they might come by regulation or the Government will seek to present to consider presentation of other legislation before this House.

In relation to nurses, Mr Speaker, apart from the EC Directives, I should highlight that again in relation to nurses, for the reasons that I have expressed before, we are introducing a system of re-registration. For doctors it is re-registration every twelve months. For nurses it is re-registration every 36 months. There is also a concept of re-training as prescribed by the Board. There will be a system of continuous training and refresher courses for those who have not been in practice for a certain amount of time who the Board may feel require refresher courses to continue in practice. There is also provision enabling regulations to be made by myself in future for the registration of Nursing Auxiliaries and Nursing Assistants in a specific part of the Register of Nurses, in the same way as Enrolled Nurses are allowed to register under the Ordinance. There are provisions changing the composition of the Nurses and Midwives Registration Board to add Health Visitors in line with the evolution of that profession in the United Kingdom. There are changes in the composition of the now Nurses, Midwives and Health Visitors Registration Board, we think, to make the Board more representative by adding a Health Visitor, by adding more nurses on the Board, by adding an educationalist on the Board and by injecting a degree of greater democracy in the sense that nurses themselves will have the possibility of electing representatives to the Nurses, Midwives and Health Visitors Registration Board and so they will have their own voice on the Board that would seek to discipline and regulate that particular profession. Again, I have had extensive consultation with nursing management, the educationists and the union in relation to these sections and again I can say to the House that many of the points made to me by nursing management and the union are indeed reflected in this Ordinance and that all of those sectors are in broad agreement with the provisions included in the Bill. Of concern to them was the re-registration provisions, the greater independence of the School of Nursing and the possibility of having continuous training and the strengthening of ties with the UK Central Council. We expect that an incidental effect of the passing of this Bill will be that the links

and the standing of the Board and the profession in Gibraltar in the eyes of other professionals in other EC countries will be raised by us having a system of re-registration, better control and better training for the nursing professions.

I should make a point in relation to the profession's ancillary to medicine. For the first time hon Members may have noticed that those professions have been given a seat on the Medical Registration Board. That is because apparently it is being considered that legislation may come to be able to regulate the professions supplementary to medicine. Indeed, there is already legislation to regulate those professions - I am talking about opticians, occupational therapists, dieticians, speech therapists and so on. There is already legislation to regulate those professions and to register those professions in the United Kingdom because it is recognised that those particular professions are the equivalent in their fields to other health professionals such as doctors, nurses and midwives and so on and they should be recognised as such by having them register in a professional register and having a professional body monitor those particular professions. To that end it is important that the professions supplementary to medicine should have representation on the Registration Board and that is linked to another section which allows the Minister with power to introduce regulations providing for the registration of those professions and so, hopefully, once those regulations are introduced we will have registration and that registration will be reflected by that particular Board playing a part in the regulation of those professions and those professions will be represented on that Board and that is the effect of those particular sections.

In closing, I should say, Mr Speaker, that the EC transposition is somewhat overdue but we think that the consolidation effort in this Bill will make the registration system more efficient and thorough and certainly more democratic in the case of nurses and midwives and that the Bill, both transposes the necessary EC obligations that we have and falls in line with our aspiration that the registration system in Gibraltar as amended in this Bill will become more efficient and will provide a better system of training and regulation for the health professions in line with our general feeling that affords a Medical Registration Board and the Nurses, Midwives and Health Visitors Registration Board should take a more vigorous line in regulating and leading in their professions. Mr Speaker, I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON MISS M I MONTEGRIFFO:

Mr Speaker, on the general principles of the Bill I would like to make a few observations. Part 2, Medical Practitioners, Dentists and Pharmacists, Section 8 relating to registration of dentists and pharmacists and Section 9 relating to full registration as medical practitioners, Mr Speaker, for ease of reference I am referring to pages 156 and 158. In the existing Ordinance all three, that is medical practitioners, dentists and pharmacists are registered under the same criteria. If we look at the new Bill before the House in the case of medical practitioners under sub-section 6(c) we are leaving it to the discretion of the Board who can accept higher or lower qualifications than in the UK from a medical practitioner outside an EEA State, yet, when it comes to registration of dentists and pharmacists, section 8(1) specifies that he is registered in the Dental Register or the Register of Pharmaceutical Chemists of the UK under or pursuant to any law for the time being in force in the UK or is in possession of such Commonwealth or foreign other than EEA diploma in dentistry or pharmacy and has such professional experience as would entitle him to be so registered in either of those Registers. As I have already mentioned in the case of medical practitioners with overseas qualifications, section 9 sub-section 6(c) specifically says "in possession of such Commonwealth or foreign diploma other than one granted in an EEA State in medicine and has such professional experience as the Board considers appropriate". Perhaps the Government can explain the distinction or why the same principle has not been applied to the registration of dentists and pharmacists as in the case of medical practitioners.

Moving now to another point I would like to make and that is the Opposition will be voting against the words "the Authority" as they appear in different sections when they refer to being employed by the Authority which means the Gibraltar Health Authority. During my budget contribution I explained our position on this matter fully, we believe that employees of the Gibraltar Health Authority should continue to be employed by the Government and civil servants as they are presently and not become employees of the Gibraltar Health Authority. The last point I would like to make refers to section 31 on page 178 on the admission to register of Nurses, Midwives and Health Visitors of countries other than Gibraltar and the United Kingdom. The Government already announced in the last Question and Answer session in this House that they will be requiring local applicants who

wish to train for nurse registration level to be in possession of five GCSEs. We believe very strongly that a person should be judged by the standard of the training and the passing of the final examination they are required to do irrespective of any entry qualifications. Section 31, Mr Speaker, provides that any person wishing to be admitted to practice as a nurse proves to the satisfaction of the Board that he has been trained in a country or territory outside Gibraltar or the United Kingdom where the standard of training is not lower than the standard of training and examination required under this Ordinance. So we have here a situation where we are talking about the Board being satisfied on the standard of the training and the standard of the final examination only. In effect we could have a situation where our nationals could well go to such countries or territories, train, pass the final examination and come back to Gibraltar as indeed the nationals of such countries and territories can also do. This is another argument why we believe that the Government should not go ahead with the requirement that local residents should be in possession of five GCSEs before they can train for nurse registration level. We hope that after all the points we have raised in the House we are able to convince the Government to allow local applicants to be able to train without the need of having in their possession five GCSEs. We believe this would be an unnecessary and retrograde step. Thank you, Mr Speaker.

HON J J BOSSANO:

I would like to ask the Minister when he contributes again perhaps to clarify what is the position of nurses trained and registered in Gibraltar who are not in the UK register in terms of being able to enter in another EEA State to be able to practice there? There is a reference here to obtaining a certificate from the Board but in fact one of the things in this Directive of 1977 like in so many other Directives is that in the listing of qualifications on titles which we are reproducing in this Ordinance we see that it states that in the United Kingdom somebody described as a State Registered Nurse enjoys the freedom of establishment for England, Wales and Northern Ireland or a Registered General Nurse for Scotland. These titles were changed in amending Directives but in this particular Directive we see how a particular Member State can in fact provide for different parts of that Member State to have a level of independence within the Member State. For example, in terms of the qualifications, it talks about the Certificate of Admission to the general part of the registry awarded in England and Wales by the General Council for England and Wales, in Scotland by the General Council for Scotland, in Northern Ireland by the Northern

Ireland Council for Nursing and Midwives. That shows that there is a Member State but there are, for want of a better word, equivalent of competent authorities in different parts of that Member State.

HON K AZOPARDI:

If the hon Member would give way. That was indeed the position but I am advised now that all those bodies have been amalgamated into a United Kingdom Central Council and that those individual councils no longer exist which is, I think, something that may be relevant to the point the hon Member is making. That is why this particular Ordinance now no longer makes reference to the individual councils, because now everything is amalgamated into one body and the central headquarters is in London, I understand.

HON J J BOSSANO:

I am aware of that, Mr Speaker. I said that this was the original version and that it had subsequently been amended. The point I am making is that here we have an example of where, in a particular Member State, it is permissible and it would have been permissible, presumably, for the registration in Gibraltar to be reflected as something in its own right that would need to be accepted by host countries in the European Economic Area. The point that I am raising and on which I would like an answer is: is it the case that in our legislation we accept the obligation to accept people who are registered in other Member States as reflected in the Directive? The reciprocity does not exist from other Member States unless the nurse in Gibraltar is registered here and in the United Kingdom. Is it that they have to have United Kingdom registration to be able to exercise those rights in another country? Is that the case or not?

HON CHIEF MINISTER:

Well, Mr Speaker, I cannot tell the hon Member whether it is in fact the case but it is certainly intended that that should not be the case and the legislation would have to be corrected if it did not have the effect of entitling Gibraltar-registered nurses to exercise their reciprocal rights elsewhere in the EEA. That is certainly the intention and that is how it should be and another question is whether our locally-qualified trained nurses have the right degree of qualification on which I do not express a view one way or the other because it is not a matter with which I am knowledgeable but certainly from a political point of view I can tell the hon Member that the intention is that it should be the opposite of

what the hon Member has just described. In other words, that the case should be that Gibraltar-registered nurses should be entitled to passport, if you like, into other jurisdictions without the need to first register in the United Kingdom.

HON K AZOPARDI:

Mr Speaker, can I just add to that.....

MR SPEAKER:

This is not your final word?

HON K AZOPARDI:

It is if the Leader of the Opposition has finished.

MR SPEAKER:

All right, on a point of clarification, when you have finished, you have finished.

HON K AZOPARDI:

This is my last word as well, Mr Speaker?

MR SPEAKER:

No, no, if it is a point of clarification, you are entitled to intervene.

HON K AZOPARDI:

Very well.

HON J J BOSSANO:

Mr Speaker, that was the only point I was seeking to have explained and I think it has been explained by what the Chief Minister has said. Certainly, if it is not produced here we agree that it is desirable that that should be the result and certainly we have got no problem with that.

HON K AZOPARDI:

I only want to add to what the hon Chief Minister said which was rather a political point to the medical point which is that we certainly intend that any training that is given in Gibraltar in relation to SRN training which is what the Directive relates to will be as good as any training which is carried out in the UK and that is why we want to strengthen our links with the UK Central

Council who have already been apprised of the proposals in this Bill and they are certainly extremely enthusiastic of the contacts that have been made with nursing management and the explanations that have been given to them. Certainly, it is the Government's view that this should deliver a system whereby nurses registered in Gibraltar, who have been trained in Gibraltar, can go elsewhere. There may be problems from time to time. I think perhaps the Leader of the Opposition was alluding to some difficulties that have been experienced in the past by nurses that have been trained in Gibraltar by registering. An incident in Barcelona comes to mind but certainly we would expect that under the mechanism established in Articles 16 and 20 of the relevant Directive that the Member State concerned takes the matter up as required, if there are doubts on the authenticity of the qualifications and that the aspiration of the Government is indeed delivered as we ourselves seek to do under this Ordinance.

Mr Speaker, if I can deal with the other points made by the hon Lady Opposition spokesman for health, she mentions the difference between section 8 and 9 of the Medical and Health Bill. Section 8 is in terms of the previous Ordinance. Section 9, I agree, is slightly different. There are three possibilities for registration in the full Register by medical practitioners, those listed in 9.1(a), 9.1(b) and 9.1(c). Section 9.1(c) then explains which sub-categories, if you like, of person are injected into 9.1(c) and there is a reference, quite rightly, the hon Lady mentions in 9.6(c) that a person is in possession of such Commonwealth or foreign diploma other than one granted in an EEA state in medicine and has such professional experience as the Board considers appropriate. Let me say that I envisage, and the Board envisages, that there is a certain overlap between those sections. What I was keen to do when I gave instructions to those drafting this Bill at the Legislation Unit, was to preserve the ability of the Medical Registration Board of registering Commonwealth doctors in the same way as those who had acceptable qualifications in the same way that those doctors could be registered under section 19 of the Medical Act. What I did not want to do in transposing the EC Directive is just to create a system where either UK or EEA doctors could register in Gibraltar thus depriving ourselves of a potential market of doctors that could come to Gibraltar who would be able to go to the United Kingdom. That is why there is a reference there to registration under section 19 which, to a very large extent, overlaps with the provision in 9.6(c) which was the old provision, if you like. The only addition is the words "as the Board considers appropriate" and I am advised by the Medical Registration Board that they will consider appropriate

only those qualifications that are considered appropriate in the United Kingdom and so the effect will not be a different one. The Board will not take it upon themselves to decide which qualifications are acceptable irrespective of acceptability by the GMC. They will consult and indeed they do so when it is obvious that a qualification will be accepted by the GMC they will register and when there is a vague area they will consult closely and so the effect will not be that the Board will take it upon themselves to consider qualifications. The Board indeed feel that they do not wish to do that and that is why there is another reference in another section which directly links it to a list held by the General Medical Council in London. The other point that the hon Member makes is in relation to training generally and to section 31 of the present Bill and she says that the Opposition's argument is that there should be no entry requirements and that she cites section 31 as lending support to the argument that because of its mere presence that should persuade us that we should drop the training requirements that we mentioned during the budget speech or during the Question and Answer session. I have to say that while I am going to deal with the points on training and entry requirements in relation to what are the Government's particular views in relation to entry requirements, I cannot see the point in section 31 lending support or otherwise to the hon Member's submission as to entry requirements, purely because section 31 is merely a reflection of section 15 of the Medical and Health Ordinance, 1973, and if that created such a difficulty in the Member's mind, then it was open to the hon Member to amend it throughout the eight years that she was Minister for Medical Services. I really do not see the point in the hon Member's.....

HON J J BOSSANO:

Mr Speaker, the reason why there was no reason to amend it is precisely because there has never been any attempt to introduce minimum entry requirements. We are saying that we are imposing an obligation to accept somebody from elsewhere who may not, in that particular country, have to have five 'O' levels as being suitably qualified to be a nurse in Gibraltar purely on the training they have undergone and the success they have achieved. That is the position at the moment for our own nurses. That is being continued for nurses from elsewhere but is going to be changed for our own nurses, that is the point.

HON K AZOPARDI:

Yes, I understand the point now. I cannot agree that that necessarily is the case. If the hon Member cares to look at the schedule to the Directive, he will see that

many of the qualifications which are scheduled in this particular Nursing Directive are university qualifications. Certainly my advice from the nursing management is that the nursing career is moving quite quickly towards requiring entry qualifications. In the United Kingdom it is five 'O' levels and certainly in the Project 2000 Nurses it has now become a university career and so I cannot envisage that that will necessarily be the case. Of course I cannot speak for other countries such as Greece, and so on, purely because I do not understand Greek, I do not know what the reference in the schedule to the particular qualifications are but let me say that I think that we should, certainly the Government think that we should have entry requirements and we should increase the attractiveness of the education system and increase the incentive of people to succeed academically and increase the pool of applicants that will be able to apply to have nursing as a career and I do not accept the point made by the hon Member during the last meeting of the House that we would unduly restrict ourselves in Gibraltar by having entry requirements purely because in relation to the recent advert placed in the Gibraltar Chronicle for six or eight vacancies for enrolled Nurse training, there were 37 applicants who had more than three 'O' levels. I do not think that it is unduly a high onus on applicants but I do think that it is important and so does nursing management and the Unions for there to be requirements of entry which will help certainly the nursing education list in achieving the system of training and efficiency of the profession in the evolution of the profession that they would like to achieve and certainly the Government's decision was made clear during the last session of the House of Assembly. We stand by the fact that we should have entry requirements. We think that it would be good for the nursing profession. We do not pass any comments on the quality of the profession now. We think the profession has indeed got good standards of care and good quality of nurses but that is not an argument we think to not having any entry requirements. It is the way things are going and it is the way things should go, we believe and certainly it is Government's policy that there will be an entry requirement for enrolled nurse training for SRN training three and five 'O' levels respectively and in due course there will also be an entrance exam for Nursing Assistants and certainly that is the Government's position and I am not persuaded by the arguments put to me by the hon Member and while I accept that she does not agree with the Government's view, that is certainly Government's view.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

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

Question put. Agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1997

HON CHIEF MINISTER:

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 CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker this Ordinance amends Part V and Part VI of the Income Tax Ordinance. Part V of the Ordinance lays down the process for the issue of returns, the making of assessments and the settling of objections and appeals. Part VI of the Ordinance, amongst other matters, lays down the penalties which can be charged for failure to comply with the Ordinance. In the majority of cases the settling of the liability of a taxpayer is a straightforward operation. The taxpayer will be sent a Tax Return, he will complete it and send it back within the prescribed time limits and an assessment will be made on an agreed basis. In a significant majority of instances however this is not the case. The taxpayer will either refuse to send in his Tax Return and the information needed to make his assessment or he will send an account of information which clearly do not reflect his true liability. In those cases the failure of the taxpayer to comply with his obligations under the Ordinance start what often turns out to be a complex, time-consuming process to reach the final measure of liability. The process will start with an estimated assessment and if no agreement is reached they end up in the dispute being resolved in the Supreme Court. An unscrupulous taxpayer may therefore be able to delay the settlement of his liability for a number of years. The tax will not be due and payable until the dispute is settled and there are no provisions to enforce collection of the part of the tax which is not in dispute. This means that nothing will be paid until the lengthy process of settling disputed tax liability is at an end. Mr Speaker, the current structure of the Ordinance therefore acts against the prompt and efficient collection of tax due and rewards the unscrupulous to the detriment of the

citizens who comply with their obligations. In those instances where there is a genuine dispute on the interpretation of the Ordinance both the Commissioner of Income Tax and the taxpayers are faced with the fact that the only forum to resolve the dispute is the Supreme Court. This is an expensive procedure for both parties and because of the workload of the Court can import delays which neither party desires. In practice this has produced a stalemate in such areas with disputes being left unresolved for a long period of time. In those instances where the taxpayer has submitted accounts and information which the Commissioner of Income Tax wishes to challenge, the Commissioner of Income Tax has at his disposal an array of information powers in the Ordinance. Some of these powers duplicate themselves but all have one thing in common. There is no accountability. the Commissioner of Income Tax is free to issue formal notices demanding information from taxpayers or those who have information relating to taxpayers with no check on the Commissioner of Income Tax. Where in the case that the demands of the Commissioner of Income Tax had no compliance cost this might be a cause for concern but this is not so. For instance, the Commissioner of Income Tax may form the view that he needs to see and analyse the personal bank account for a company director before he can agree that the drawings shown in the company accounts are reasonable. If the director has not retained these account statements he will need to obtain duplicates from the bank, an expensive investigation going back several years, this may cost him several thousands of pounds. It may well be that the request of the Commissioner of Income Tax is perfectly justifiable and reasonable. What is not justifiable is that there is no cost-effective method of bringing the Commissioner of Income Tax to account to ensure that the requests he makes are reasonable and in proportion to the problem that he is trying to resolve. There is the process, of course, of Judicial Review but this would normally be as costly as compliance with the request however unreasonable that request might be and whether or not the cost provides the taxpayer with a viable solution, depends very much on the financial resources available to the taxpayer. If we were to simplify and make more effective the process of assessing tax and agreeing liabilities, then we have to counterbalance this with a simple and cheap method of resolving disputes and creating the accountability of the Commissioner of Income Tax.

The new Ordinance, Mr Speaker, addresses the problem outlined above by changing the emphasis of the administration of tax away from the tax return towards the making of the assessment and by creating a Tax Tribunal to resolve disputes and act as the forum of

accountability for the Commissioner of Income Tax. It has been long recognised in the Tax Department that the Tax Return is, for all intents and purposes, a voluntary document. It has been an offence to fail to make a return but the chances of proving that offence to the criminal standard are negligible. This reality is recognised and the return now becomes a voluntary document. Mr Speaker this, in a sense, is parallel to the system used in many European countries and now being introduced in the United Kingdom of self-assessment. As a voluntary document it will still have value because it will be the means which enables each taxpayer to inform the Commissioner of Income Tax of his liability before the Commissioner of Income Tax commences the process of assessing liabilities. This process will commence as soon as possible after the 30th September in each year of assessment. At that stage the Commissioner of Income Tax is obliged to assess each person who he has reason to believe is chargeable to tax. Assessment will take place whether or not the person has sent the Commissioner of Income Tax a return or the details which will enable him to make an agreed assessment. If there has been a return, the Commissioner of Income Tax will be able either to accept the information on the return or he will be able to dispute it. If he reaches agreement on a dispute then he will make an assessment in the agreed figure. If he is unable to agree or if there is no return the Commissioner of Income Tax will be obliged to make an estimated assessment to the best of his judgement. In exercising his judgement the Commissioner of Income Tax will be able to use information he has been collating over the past few years on the performance of various trades and various other items. The assessment process will therefore be an informed one. It will then be open to the taxpayer to appeal against the assessment. The appeal will lie to a Tax Tribunal. The previous system of due and payable dates based on the date an assessment is made is replaced by set due and payable dates. Provided an assessment is made in good time the tax will be due in two equal instalments with due and payable dates of the 31st March and the 30th June in the year of assessment. If the assessment is made in March, or later, the due and payable date of each instalment will be 30 and 60 days respectively after the issue of the assessment. The making of an appeal will not by itself delay the payment of tax. If there is a good reason for delaying payment of the tax the applicant will have to make an application for the postponement for the collection of tax. The initial application will lie to the Commissioner of Income Tax but if the Commissioner of Income Tax and the taxpayer are unable to agree the Tax Tribunal will decide on the matter. Postponement will only be effective for a limited period sufficient to have the original appeal determined. In the case of a

disputed liability the Commissioner of Income Tax will, of course, still be able to ask the questions and seek the information necessary to reach an agreement. However, he will not be able to enforce his requests without the agreement of the Tax Tribunal. The information powers which previously were exercised by the Commissioner of Income Tax without accountability have now been amended to ensure they are relevant to the appeal procedure and placed in the hands of this independent appellate body. If the Commissioner of Income Tax makes a request for information which the taxpayer feels unable to answer because he feels it is too onerous or irrelevant he will have to justify that request to the Tribunal and the request will only be enforceable if the Appeal Tribunal agree with it and adopt it as their appellate order. The Tribunal will have power to summarily determine penalties where the taxpayer fails to comply with one of its information requests. The Tribunal will be free to add any request of their own at any stage of the appeal process when the matter comes before them or indeed to summon witnesses to appear before them. The Tribunal will also be able to enforce proportionality by being able to determine and appeal at any stage in the process whether the Commissioner of Income Tax is still seeking information or whether he is not seeking information. The Tribunal will be the first and final Court for findings of fact and an appeal from the Tribunal to the Supreme Court will lie only where there is a point of law in dispute. The aim in creating a Tribunal is to bring into existence a body which is easily accessible and relatively cheap to use. Proceedings before the Tribunal will therefore be informal where possible and pleading before the Tribunal will not be limited to lawyers. The members of the Tribunal will be drawn from those whose experience is such that they are likely to have a sound understanding of the principles of tax and the realities of the business world. Access to the Tribunal will be available for all appeals made from the date that the new Ordinance comes into force. In case of objections or appeals which have been made before the date of entry into force access to the Tribunal will be available for those taxpayers who signify in writing to the Commissioner of Income Tax that they wish to submit to the jurisdiction of the Tribunal. In other words, although the law will not impose retrospective effect on this Tribunal, if there is a taxpayer that has a historical tax problem which arises before the date of the Ordinance and the taxpayer wants to voluntarily submit the dispute to the Tribunal he will be allowed, if he exercises that choice. The law will not impose retrospection in the changing of the appeal procedure. All information notices outstanding at the date of entry into force will be processed in accordance with the previous legislation. The simple aims of these

changes in legislation are to make it quicker and easier for the Commissioner of Income Tax to agree liabilities while ensuring that the means to attain that speed and ease do not place excessive powers in the hands of the Commissioner of Income Tax. The Tribunal, by exercising an independent view on the matter, will enable the Commissioner of Income Tax to deal with unreasonable or spurious arguments with efficiency whilst ensuring that his own actions are reasonable and in proportion to the problem he is addressing. The placing of the information powers in the hands of the Tribunal will not diminish the effectiveness of the Commissioner of Income Tax enquiries where they are appropriate but will add to their force in that the recalcitrant taxpayer will know that the request comes from an independent body and that body itself will be able to determine penalties for failure to comply with the requests. Mr Speaker, I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, on the general principles a number of points cause us concern on this side of the House. The first point of concern is that if indeed the powers the Commissioner presently has under the Ordinance do not give him the teeth, if you like, to deal with late payers of tax in an efficient manner then there is always the possibility to give him those teeth. The removal of the powers of the Commissioner and replacing them in the hands of the Tribunal perhaps with a greater degree of power in the sense that they will be able to pass fines for late payments and everything else, remove from the civil service and from the Commissioner of Income Tax those powers which we believe should be held there. The hon and Learned the Chief Minister has just mentioned that the Tribunal will be composed of people who have experience in tax and other matters and are familiar with the business. Yet, in the Bill before us there is no mention of the criteria which the members of the Tribunal will be required to satisfy, simply that they will be appointed by the Chief Minister. Another point that was mentioned by the Chief Minister was this question of people not paying in between the termination of the tax in respect of taxes that are due. From my reference to Section 79 which deals with the current position in respect of appeals against assessments, my understanding of that is indeed that it says in sub-section 79(2)(a) "the bringing of an appeal under this Ordinance shall not leave any person pending the determination of the appeal from any liability to pay tax under this Ordinance". It seems that the provisions in fact are there and are being

passed on to the Tribunal. In effect, what the Bill does or intends to do, I assume Mr Speaker, is to put the boot on the other foot - instead of the Commissioner of Income Tax at present having the ability to seek information, to enquire before making a valued assessment, if a voluntary return is not made an assessment is made and then it is up to the individual taxpayer if not satisfied with an assessment to take matters on with the Tribunal. I assume from that that if a taxpayer receives an assessment which is inferior to his income he would happily accept it and run. I am not quite sure whether that person will be caught up with in the new provisions.

The concerns which lead us not to support this Bill, Mr Speaker, stem from the total removal of powers from the Commissioner in respect of employers, partnerships which will not be required to file a return, will not be required to give information as and when they are so required to do. Mr Speaker, we believe that the appointment of a Tribunal is a very dangerous point. These are people who will be outside the civil service, presumably, who will be directly involved for the first time - in Gibraltar's history certainly - in income tax matters. We believe that when a step like that is being taken everything possible has to happen to ensure that that Tribunal and we speak before we know who the persons are, so we do not wish to cast aspersions on anybody, but the dangers of individual people in a community the size of Gibraltar, 30,000 people is a small village. With a village of 30,000 people having people appointed as Tribunal members determining the income tax of individuals we think is difficult. We think that the powers that the Commissioner has, if they need be strengthened, should be strengthened, but that to turn it in this way where the powers to even fine people we believe to be excessive and we will not be supporting the Bill.

HON J J BOSSANO:

Mr Speaker, the Government have defended this totally new concept of a Tribunal on two counts. One is the inefficiency of the present system in terms of the length of time it takes to deal with appeals in the Supreme Court which in any case is the route still open presumably for somebody that is not satisfied with the decision of the Tribunal and, secondly, on the basis of accountability. I do not know whether the accountability comes about from the Tribunal to the person that appoints a Tribunal. If that were the case, certainly I do not think it is an accountability that would be welcomed by anybody in Gibraltar other than those that think that they stand to benefit from that line of accountability. But I am not aware that people have complained in the

past that there has been bias in the assessments made by the Commissioner because the Commissioner is not accountable to anybody. The Commissioner, like any other civil servant, is accountable to the extent that what he can do is what the law allows him to do and no more and no less and certainly he is required to deal with every client in accordance with the law and not discriminate between different clients. So I do not see where there is a problem of accountability about the present arrangements under which the Income Tax Department makes assessments on persons and, of course, for the vast majority of the taxpayers who have PAYE and little else, this makes no difference. The vast majority of the taxpayers will still be in a situation where their employer makes a return and is required to make a return to the Tax Office about the wages and the salaries he pays his employees. He is in the fortunate position not to have to do the same thing for himself so under the new provision the owner of the business happily gives the Tax Office all the details of all his employees and salaried staff but if he does not want to there is not longer a requirement that he should tell the Tax Office what he is earning himself. How that is better, more accountable and more equal treatment than the system we have got now is something that I am unable to fathom. It seems to me that when the Chief Minister talks about unscrupulous taxpayers, presumably all the things that are being taken away were put there in the first instance in order to deal with unscrupulous taxpayers, that was what they were there for. I do not see how removing them is going to make it more difficult for the unscrupulous taxpayer. If anything, it will make it easier. Presumably, we will have a situation where this will be reflected subsequently and we are not prepared to give our support to a piece of legislation which changes the foundations of the tax collection system. It is obvious that nobody likes paying tax and it is obvious that those that can avoid it do their best to avoid it and there is an entire industry called the tax avoidance industry where for the first time in the UK in a budget the new Government in the UK has started questioning tax avoidance as opposed to tax evasion which was this dividing line between what was a legitimate use of the loopholes provided in the law as opposed to simply ignoring the law. It will certainly no longer be ignoring the law not to make a Tax Return because all the Commissioner can do to people who are not on PAYE is to say, "please will you tell me how much money you are making so that I can make you pay tax on it?" The sensible thing, in terms of tax avoidance, is not to tell the Commissioner and if he has got it wrong by going over the top then you tell him and if he has got it wrong by underestimating it then you keep your mouth shut and pay up. I do not see how that can be avoided with the provisions that are here and I would have thought, if

the purpose of the exercise is in fact to make sure that the tax collection on those who are not on PAYE is more efficient so that the burden of the fiscal policy falls evenly on all sections of the community, then it seems to me that this is taking us further away rather than pointing to that objective.

HON CHIEF MINISTER:

Mr Speaker, I had given the Leader of the Opposition a private indication of the underlying thinking and needs of this particular piece of legislation. It is a matter of some regret that the points that they have made, which are of course entirely legitimate points, but it is regrettable that in the points that they have made they have not recognised the indication that I gave the Leader of the Opposition about this legislation. The Government have consulted closely with the entire Finance Centre industry and has explained to them the purpose of this legislation and why the Government consider that it is essential that this legislation be introduced. That thinking has been accepted by the Finance Centre Council and all the constituent parts of it. I do not know, it may well be that the Leader of the Opposition did not indicate to the hon Opposition spokesman that has led to the opposition in this matter the observation that I made to him, if he did not, it would be regrettable. However, I am not simply, for the satisfaction of answering him and for the satisfaction of defending the Government from the assertions and the underlying points that the hon Members have made, I am not, for those purposes, willing to sacrifice what is, and everybody appears to accept, a fundamental interest of Gibraltar which is being protected by this legislation. Therefore, I will not address the points made by the hon Opposition spokesman about giving teeth or not giving teeth or removing powers from the civil service or not removing powers from the civil service, except to say this, Mr Speaker, there are several instances of lay staff tribunals which adjudicate the interests of the citizens without requiring the citizen to go to the expense of the Supreme Court, for example, the Rent Tribunal, the Industrial Tribunal and the Trade Licensing Tribunal. I suspect that the average taxpayer, the average citizen, will much welcome that if one wants to dispute a point with the Commissioner of Income Tax, a person that has the full resources, the financial resources of the Government behind him, that the average citizen will welcome the Government placing at the citizen's disposal a mechanism which enables the citizen to have a quick and cheap method of challenging the exercise of power by the executive rather than what happens now, which is, that the cost of challenging the Commissioner of Income Tax is so lengthy and expensive that most citizens give in and therefore this can often

lead to an excessive use of power by the administrative machinery.

Mr Speaker, the hon Member said that the existing law puts the boot on the other foot. It does so but not in a way that prejudices the taxpayer because the position already is that if the taxpayer fails to submit a return, the Commissioner of Income Tax, if he has his wits about him, sends in an assessment in the absence of a return. Even under the existing law, whether or not there is a return, the Commissioner of Income Tax can, if there is a return, dispute it and then one is stuck in years of dispute in which the practice, that the hon Member knows, is that no tax is in fact paid until the matter has gone through the Court of Appeal or if there is a return, the Commissioner of Income Tax disputes it if he does not accept it and says to the taxpayer, "I do not think this return is correct, here is an assessment on the basis that I think is right regardless of what you told me in your return". The position now will be that the taxpayer sends in a return, if the Commissioner of Income Tax accepts the return, just as he does now, he simply raises an assessment on the basis of the information provided in it. If he does not accept the return he is still free to levy his own assessment regardless of the contents of the return. If no return is filed he issues assessments. This is where the change now occurs. At the moment the Commissioner of Income Tax is able to say to the taxpayer, "I do not accept your return, give me this back and that information to enable me to levy my own assessment on you because I do not believe your return". The new procedure will be that the Commissioner of Income Tax may do that, or rather may levy an assessment, without the powers to demand information but he still has the right to put whatever figure he wants in that assessment. In other words, he uses his judgement. If the taxpayer is aggrieved by that assessment he may appeal in order to discharge the assessment and it is up to the taxpayer to produce to the appellate body whatever information the taxpayer can in order to have the assessment appealed against removed successfully. Mr Speaker, the position of the taxpayer who gets an assessment who fails to put in a return gets assessed by the taxpayer and then says, "This is fine, this is less than I was due to pay and therefore I will pay". This is happening now and has always happened and that is not something which will be facilitated by this new legislation. That, as the hon Member well knows has always been the case and is still the case and happens now under the existing legislation. Mr Speaker, I just want to make clear that if by the phrase, "Put the boot on the other foot" the hon Member says that this puts the taxpayer at a disadvantage to the position that he was in before then I would just like to say that this is not a

correct analysis of the provision. If, on the other hand, he means by "putting the boot on the other foot" that this is onerous or excessively onerous on the taxpayer then of course that is not consistent with some of the other observations which have been made which is to the effect that this is a weakening of the regime.... I will give way to the hon Member.

HON A ISOLA:

Mr Speaker, what I meant by, "putting the boot on the other foot" was simply the onus of providing the documentation is now up to the taxpayer and not at the demand or the request of the Commissioner.

HON CHIEF MINISTER:

In other words, if the taxpayer wants his appeal against an assessment to succeed he has got to provide information as opposed to the position now which is that the Commissioner of Income Tax simply demands the information. Therefore what is happening in effect is a postponement in time of the ability to link the production of information with the collection of revenue by the Government. But that postponement of time leads to greater accountability and leads to a balancing of the respective rights and interests. It is clear to me that the hon Opposition Member has not had a brief conversation with the Leader of the Opposition on this matter, but it does not matter, I shall speak to him privately afterwards perhaps.

I do not know what is dangerous about a Tribunal in a small community like Gibraltar. In a small community like Gibraltar we have Justices of the Peace who are locals, we have Stipendary Magistrates who are locals, we have Judges of the Court of First Instance that are local, we have Judges of the High Court, of the Supreme Court, that are local and I think it is a dangerous argument and one to which I certainly would not subscribe and I am surprised to hear that the Opposition Members might subscribe to it, that because we are a small place we are not fit to adjudicate between ourselves in relation to internal matters. I am sure that is not the philosophical point that the hon Opposition Member was trying to put and just as Gibraltarians are quite capable of adjudicating between themselves on matters of industrial tribunal, rent tribunal, Trade Licensing Ordinance and the various courts in which Gibraltarians have so successfully served in the past, I have no doubt that the Income Tax Appeals Tribunal will not be an exception to the long history that there is in Gibraltar of fair adjudication on disputed matters.

Mr Speaker, dealing with one of the points made by the Leader of the Opposition when he asked in my submission with an extraordinary degree of mischief whether accountability was only intended to secure accountability of information to the point to the person appointing the Tribunal, it ought not to be necessary for me to remind the hon Member that it was him as Chief Minister who altered the law in order to give him as Chief Minister access to taxpayers' tax files, something which had been sacrosanct before and which had never been allowed and he obtained, certainly under the guise of seeking statistical information, that he put into place a mechanism by which he would call for the production of information and records including taxpayers' files from the Commissioner of Income Tax's office to his office. I never said publicly, as well I might have..... I shall give way to him just as soon as I finish making the point, Mr Speaker, so that he can defend himself. I did not say when he did that that he was doing it in order to find out the private details of taxpayers as well I might have done because that mechanism certainly lent itself to that, this mechanism does not lend itself to that because, Mr Speaker, if the hon Opposition Member who is constantly arguing and in large measure with support from the Government, when we were in Opposition and he was in Government, with support from us in Opposition that this community should seek to move forward constitutionally rather than backwards. In England the power to make appointments to the Tax Appeal Tribunal is exercised by Ministers. In Gibraltar, therefore, it can either be a Minister or I suppose if he had preferred it, he could have given the power to the Governor but I suppose that when an English Act contains a power giving a Minister the ability to make appointments to a Tax Appeals Tribunal, the Opposition does not leap to its feet to say, "Is the hon Minister in Government seeking to put that power in so that they can seek information, so that they can have accountability to them of the details of taxpayers that go through the Appeals procedure". I think that the hon Member does both the administration and indeed the Government a disservice by suggesting that that is the reason for this. I will give way now, Mr Speaker.

HON J J BOSSANO:

Mr Speaker, the first thing is of course that I want to categorically deny that there is anything in the change that was brought in the law seven years ago that enabled me then, or him now, to look at the individual tax paid by one individual taxpayer. In fact, all the statistics that have been produced, even the statistics, for example, on the profits of banks were produced on the

basis of the banking sector or the construction industry and if I have asked the Chief Minister for breakdowns of those areas, it is in the knowledge that that information which is produced statistically cannot identify an individual. To the extent that when the Commissioner of Income Tax was asked by the Financial Secretary to provide breakdowns of incomes for the Spanish pensions negotiations with the United Kingdom, he was unable under the provisions of the law to give a breakdown to such a degree that there was a category of income in which there was only one person. In fact, he is wrong and the fact that he is wrong now and he was wrong then did not prevent them from saying it then. The second thing is, of course, that we actually decided, in order to improve the collection, to engage somebody from outside the civil service to chase up arrears of PAYE in those cases where the Commissioner delegated that job. That was seen as a major inroad into the independence, impartiality, accountability and fairness of the system. We now have individuals appointed by the Chief Minister of Gibraltar who will be able to make assessments and of course we can agree in this House that the Gibraltarians are so morally correct that they will never show any bias against friends and enemies. The 15 of us may agree but I doubt if the other 29,985 would necessarily agree with us. Therefore we have a question where this is a major movement in a direction of which there is no parallel because when somebody goes to a Rent Tribunal is because he wants his rent reduced and if somebody goes to an Unfair Dismissals Tribunal it is because he has been given the sack but for somebody to go to an appeal against the assessment made on him by the Commissioner, presumably the first thing he will ask himself is, "Are the people who are going to decide whether to lower my assessment or to increase it, my friends or my enemies?". However justified or unjustified it may be, that will be a question that they will ask and it is not that we are saying that we want the appointment of boards to be made by the Governor instead of by Ministers, in fact we introduced a change precisely because since 1972, when I arrived at this House, it had always been argued that the Governor, in domestic matters, meant the Government and that therefore in fact the Governor was doing no more than rubber-stamping the political decision of the Government in defined domestic matters. When that was questioned at one stage, for the avoidance of doubt we thought it was necessary to reflect in practice what had always been there in theory and we will support that measure but he has chosen what has been described previously by people close to him as a highly sensitive area which ought not to be touched at all. I think for the sake of recording the truth in this House let me make clear that I categorically reject that at any one time in the eight years I have asked for individual tax files of

any individuals to see whether I could raise his tax or lower it.

HON CHIEF MINISTER:

Without for one moment suggesting that I agree with what the hon Member has just said, in fact, I do not agree that the amendments that he introduced did not give him the ability to call for that. Whether he actually called for it or not of course is a matter that I cannot possibly know, but that the amendments to the law that he introduced would have enabled it, is incontrovertible. Mr Speaker, what is clear to the hon Member, because he knows, is that this is an area that the Government touches, this is an area that he knows needs to be touched for reasons that I have confided with him and therefore I repeat, Mr Speaker, my regret that there has been no accommodation of that communication in the approach that the hon Members have taken to this piece of legislation and I can simply just once again reflect the Government's disappointment that the hon Members have not recognised the need for this particular legislation to be enacted. Mr Speaker, I do not agree that 29,000 Gibraltarians will now feel more exposed because their right of appeal is to a number of other Gibraltarians given that at the moment the man with all the power over them is a Gibraltarian, who is the Commissioner of Income Tax. Mr Speaker, I do not proceed on the basis that the only honest people in Gibraltar are civil servants. The hon Opposition Member may take the view that only civil servants can be trusted to do the right thing. I can think of many people who cannot be trusted to do the right thing who in the past have been trusted to do the right thing but the persons that the Government would appoint will certainly be people that the whole of Gibraltar can have confidence in who will do the right thing. I think that there is an element of duplicity between the position that the hon Members are taking on the composition of the Appeals Tribunal and the position that they claim to take in terms of their constitutional advancement. Let us say for one moment that there was not, let us say that we were sitting in Ruritania, an independent country, who does the hon Member think should then appoint the Appeals Tribunal? Is he saying that such is the mistrust of one Gibraltarian of another that we are not viable as a community even to the extent of making our own provision for our own tax collection system and our own appeals procedure in relation to tax? Mr Speaker, the hon Member may say what he pleases to score whatever political points he likes but certainly the Government do not accept the criticisms of the hon Member in relation to the composition of the Appeals Tribunal. This is a system that works everywhere else in

Europe and I do not accept that Gibraltar needs to be different to that. Mr Speaker.....

HON J J BOSSANO:

Mr Speaker, we are against the introduction of the Appeal Tribunal. We think that the machinery that exists now for appeal gives sufficient protection to both the Tax Office and the taxpayer and if it needs amending to improve it then it should be amended. The move to take it away and put it in the hands of a number of unknown persons with the total freedom for any Government, whoever we want there, is a major departure and has nothing to do with any other consideration about anything else. Of course, I have no doubt that if it has been warmly welcomed by people in the Finance Centre they must see themselves paying less tax not more tax as a result of this. I cannot imagine that if the Appeal Tribunal has gone down so well it is because they are actually anxious to increase their tax payments. As far as I am concerned it has nothing to do with Ruritania, if we were in Ruritania we probably would not be sitting here, given the reactions that one hears the Chief Minister offering us. If we were in Ruritania we would already all be up with our backs against the wall facing a firing squad. It is a good thing we are not in Ruritania. It is not because I happen to be Gibraltarian-born as opposed to anything else, it is that it would be difficult in a town in the United Kingdom of 30,000 people if one were to find persons with the responsibility of assessing the tax on somebody and to find that person with no connections at all with possible conflict of interests, because of the smallness of the place not because they happen to be Gibraltarians, it would still be the same in a town of 30,000 people in the United Kingdom with no Gibraltarian presence. The whole idea of the independence of the civil service, which they have defended so much in the past is not that people are less sinners or more sinners if they happen to be civil servants, but that they are prohibited, by civil service rules, from going into competition. It would be very odd if one had a situation where in the Tax Office somebody was able to ask for everybody's account in a line of business not to make an assessment but to work out the profit margins so that he could set up his own business in competition with them, that is the reason why the Tax Office is supposed to be less of a risk of the information being used for somebody else, for something else. Of course, people do not think that tax paying is a popular occupation whoever does it, but that is not the issue.

HON CHIEF MINISTER:

Mr Speaker, the Finance Centre Council does not agree with this legislation because they think that they now have to pay less tax, they agree with it because the Government, as I have done to the Leader of the Opposition, have explained to them in detail the reasons for this legislation and they have accepted it. The Opposition Members now propose to reject it and the reason is not that they pay less tax it is, because it is clear from their reaction, that they appear to be more concerned and they are more sensitive to the interests of Gibraltar than the hon Member is and of that I have now been left in absolutely no doubt whatsoever. If the hon Member believes that the existing system provides a sufficient machinery to aggrieved taxpayers then let him simply settle for the fact that we disagree. The existing system does not provide the taxpayer with an adequate machinery unless the taxpayer wishes to engage the Government in full-blown litigation in the Courts of Law with all the costs that that entails. So the Government rejects the view of the hon Opposition Member that the existing legislation provides sufficient machinery for the hon Opposition Members. The hon Opposition Member may think that it is difficult to avoid conflicts of interest in this community. He has expressed that view. I disagree with it, presumably if his concern about the inability to do justice in a community of 30,000 people could not be safeguarded because we are too small to find people without a conflict of interest, I am surprised for example that in the eight years that he was in Government he did not repeal, he did not amend the Laws of Gibraltar to do away with the jury system, for example, where you have got to find nine or eleven or twelve Gibraltarians to adjudicate on people that they know, whose families they know, who may be neighbours..... These are things which are implicit and inherent in the fact that Gibraltar is a small community. The hon Opposition Member may be willing to advocate for unviability in Gibraltar of certain things which are viable elsewhere because we are too small here. It is not a philosophy to which I subscribe and it is not a philosophy which is consistent with all his arguments in the past on constitutional matters and therefore it is with confidence that the hon Member's arguments are mistaken in this respect, that we simply disagree profoundly on matters of policy in this area but I have to say, finally before I sit, that it is also a matter of profound regret that the hon Member has ignored what I said to him in relation to this matter privately.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE INCOME TAX (AMENDMENT) (NO 2) ORDINANCE, 1997

HON CHIEF MINISTER:

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 CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Ordinance amends the Income Tax Ordinance to implement Directive 77/799/EEC, the Mutual Assistance Directive in relation to the exchange of tax sensitive information between the competent authorities of Member States. This is a long-standing Directive which has been in negotiation for some years. The length of the negotiations reflect drafting problems in the Directive whereby Gibraltar was, by inadvertence of the Foreign and Commonwealth Office, omitted from the list of competent authorities. Despite this act of inadvertence the advice we have received is that the Directive has to be implemented regardless and we have therefore spent extensive time and effort in

reaching a means of implementing the Directive which maintains our constitutional position and prevents others from circumventing that position. The legislation before the House does not stand on its own. Concurrent with the passing of this legislation there will be letters of comfort from the Commissioners of the Inland Revenue and the Foreign and Commonwealth Office which guarantee our position in respect to the operation of the Directive. The free exchange of information between tax jurisdictions is only prevented by the secrecy provisions which each jurisdiction has. In the case of our own Ordinance, Section 4 prevents the Commissioner from broadcasting the information he receives. The key element of the mutual exchange of information is therefore that modification of the secrecy provisions to allow information to be transmitted to other parties. In the case of the Mutual Assistance Directive the medium of exchange is the so-called "competent authority". Each Member State has one and the aim is that the secrecy provision of the various States are modified to allow the transmission of information by the competent authority of one Member State to the competent authorities of other States provided that a series of conditions are met. In negotiations with the Inland Revenue we have secured that the Government of Gibraltar will be able to appoint the Commissioner of Income Tax as the sole and exclusive competent authority for Gibraltar and that the Inland Revenue will authorise him on that basis. The Inland Revenue will send a copy of the authorisation to the other Member States and they will be informed that he will be the only point for Gibraltar tax information. Mr Speaker, the problem, originally arose because the annex to this particular Directive, which is a 1977 Directive, when listing the competent authorities, in other words, the tax administrators in Member States with which other Member State tax administrations have to communicate for exchange of information, the United Kingdom omitted to make provision for Gibraltar in the sense that they did not say, UK - Commissioner of Inland Revenue; Gibraltar - the Commissioner of Income Tax. It simply said UK - the Commissioner of Inland Revenue. Mr Speaker, we have also secured from the Inland Revenue a statement in the strongest terms that the agreement and actions which have led to the implementation of the Directive confer no jurisdiction in whatever form, past, present or future on the Inland Revenue in relation to Gibraltar tax matters. Where any consultations take place under the Directive which relates to Gibraltar the Commissioner of Income Tax will be present and will be able to veto any proposal with specific application to Gibraltar. In terms of proposals with wider application we have the undertaking of the Inland Revenue that they will make their best endeavours to reach a common position with the Commissioner of Income Tax. The legislation as

implemented enables the exchange of information with other Member States. For this purpose the United Kingdom is not another Member State and no information can or will be exchanged with the Inland Revenue. Mr Speaker, the system of exchange is mutual and the legislation contains protection to ensure that there is mutuality and that the information is not misused. Each State, in an exchange, must observe similar standards of confidentiality in respect of the information and the information can only be used for tax or tax-related prosecution purposes. Information will only be exchanged where the receiving State is not barred by legal or practical reasons from reciprocating. For example, if the other participating State did not recognise the jurisdiction of Gibraltar it is difficult to see how exchange can take place. The nature of information exchanged falls into three categories:

- a. information held on specific files which would be useful to other jurisdictions. This is spontaneously exchanged;
- b. categories of information agreed between Member States. This would usually involve the agreement of the category and, where necessary, the obtaining of information to exchange. An example would be information on bank deposits held by foreign nationals;
- c. replies to requests from other Member States, this is the third category. The other State can ask the Commissioner of Income Tax for specific information on a named taxpayer and the Commissioner of Income Tax is obliged to make the appropriate enquiries and exercise the appropriate information powers. Where the Commissioner of Income tax is able to obtain the information requested he then sends it on to the other State.

The nature of the information which is subject to exchange under the second and third mechanism is, to a great extent, dependent on the information that the Commissioner of Income Tax is able to obtain. On the one hand, any information power which the Commissioner of Income Tax can exercise in respect of a Gibraltar taxpayer must be applied to the taxpayer of other Member States in similar circumstances. On the other hand, where the Ordinance does not give the Commissioner of Income Tax the power to obtain a category of information from or about a Gibraltar taxpayer in specific circumstances then there is no need to create that power to satisfy other Member States' requests and the Commissioner of Income Tax is not able to use those powers to satisfy a request from abroad. The

implementation of the Mutual Assistance Directive is the painful part of inter-state co-operation in tax matters within the European Community. At some stage we may wish to consider seeking the advantages of co-operation by way of arrangements on the lines of the old ECD tax provisions with other States. We have a commitment from the Foreign and Commonwealth Office to help us in this area. In other words, Mr Speaker, usually the argument against reciprocal tax treaties is the information giving clause. Well, if there is already a legal mechanism that requires the information there is no reason to deprive yourself of the considerable advantages of having tax treaties for the generation of business. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we are not supporting this Bill and that may explain why we did not feel the need to support anything else which disappointed the Chief Minister so much. Certainly, we do not accept that many of the elements in that other Bill are needed or relevant to this one. Since we are not convinced of that argument that argument has not been taken into consideration by us. We are looking now at a situation where we have got a Directive of 20 years ago. The United Kingdom has had ample opportunity in those 20 years to do something about providing in the definition of "competent authority" what it means in Gibraltar. The Directive was amended in 1981 to include in addition to the Commissioner of Inland Revenue the Commissioners of Customs and Excise for the purpose solely of value added tax. The view that was taken in London about the possibility of including a specific reference here was that it would create a problem with Spain opposing such a change. Well, it seems to me that if Spain wants to oppose a change in respect of Community law saying the Commissioner of Income Tax in Gibraltar is the competent authority, then they should not have the right to ask for information. I think it is an entirely defensible position to say that in the last 20 years we have not implemented this Directive because, in fact, we are not included in the definition of the "competent authority". We have never accepted the definition for the United Kingdom which says that it is, "the Commissioner of Inland Revenue or their authorised representative" can in fact be stretched to mean that the Commissioner of Income Tax in Gibraltar is the authorised representative of the Commissioner of Inland Revenue. We always took the view that one can only be the representative of the Commissioner of Inland Revenue to obtain as their representative, for them,

either information or tax which they are entitled to obtain directly and since income in Gibraltar is not taxable in the United Kingdom the United Kingdom Commissioner of Inland Revenue, who is the competent authority, cannot either directly or through their authorised representative pursue the powers in the Directive to seek information on other people. In fact, we have been told that there is an exchange of letters, as a result of which other people will be told, that the point of contact in Gibraltar is, the Commissioner of Income Tax and, of course, the law makes clear that since another Member State does not include the United Kingdom the information cannot be provided to the United Kingdom and therefore cannot be provided for a third country via the United Kingdom because it would have to be put in the hands of the United Kingdom first unless one sends it in a sealed envelope saying, "Don't open until it has got to Madrid" or whatever. I am aware that this particular issue was coming to a head because the references, the vague references that the Chief Minister has been making was the fact that at the public meeting organised by the Self Determination Group he mentioned to me in the corridors that there were now infraction proceedings very near starting on this and that we needed to do something to implement this Directive and that the Government was seeing how it could limit, in a damage limitation exercise, limit the effect that it could have. It seems to me that the limit is very simple. If other people want to have the right and impose on us the obligation to provide them with information then they should do the right thing and include us in the list. If they do not want to include us in the list then they do not have the right to ask for information. The law says that the Commissioner will act as the competent authority within the meaning of the Directive. He may be asking as the competent authority but the Directive does not say that he is one. Of course, the practical effects of this law in terms of the refusal of information if other people are not willing to provide this information are unlikely to be tested in practice because I cannot imagine the Commissioner of Income Tax actually writing to other jurisdictions asking them to provide information on Gibraltar residents who may be making returns in other Member States in order to avoid paying tax in Gibraltar. The whole underlying premise of attracting people to Gibraltar is on the basis that they will be better off in terms of the fiscal impact on their incomes. If Gibraltarians are going elsewhere to pay less tax, then the whole business of us having reservations about providing information would be irrelevant because the information we would be providing would be that people were being taxed a higher level here than in another Member State. Of course, it is questionable whether in fact another Member State is protected legally by the

Directive which says, "that they have to provide that information to a competent authority and only to a competent authority", and the list of competent authorities says, "the Commissioner of Inland Revenue or their authorised representatives". So, the only way that the provisions in Section 4B(1)(6) can be made so that the Commissioner does not have to refuse to provide the information is where other people are saying, "I am not giving it to the Commissioner of Income Tax in Gibraltar because he is the competent authority, I am giving it to the authorised representative of the Commissioner of Inland Revenue so, strictly speaking, I am giving it to the Inland Revenue but there has been an exchange of letters and the Inland Revenue has informed me that instead of sending it to them I send it to their authorised representative who will keep it for his own views and not transmit it to his principal". That mechanical exercise of trying to reconcile the conflict that there is seems to me to be what is being put in place here. Why should we take other people off the hook? I do not understand this. In fact it seems to me that it would be, from our point of view, the best possible scenario if we had a situation where the United Kingdom went back, as we asked them repeatedly to do, to say there has been an oversight in this and if this has to be applied in Gibraltar it has got to be explicit and the Spaniards then opposed it. Then all their moaning about the fact that people are hiding their money in Gibraltar because there are secrecy laws here and impenetrable companies and they cannot get information on people who are avoiding taxes in Spain by using Gibraltar would be exposed because if they really wanted to do it then they would have to be made to bite the bullet and accept that we are there. I believe that what we are likely to find is that without having had the recognition to which we have been entitled for 20 years we will have assumed an obligation and that if people pursue the route that has been opened to them they will do it simply because it suits them and therefore Spain will say, "I am asking the information not from Gibraltar but from the authorised representative of the United Kingdom, but the United Kingdom has told me to send it straight to the authorised representative who will process my request without the UK being involved and that means that we are not recognising that Gibraltar is an independent jurisdiction but Gibraltar is a territory in the European Union in its own right". I would have thought that the UK could and I think they should have pursued the matter and then if we have to live with the necessity of providing that information and look at ways of minimising the impact as other people do, as Luxembourg does, and as other people do, then we would have been in a position to prepare ourselves for that eventuality. We do not accept that there is only one way to do it and that therefore if

we do not do it the way the Government thinks it can be done it must mean that we are in favour of the tax affairs and the accounts of people from other Member States being made available to other Member States so that they cease to do business here and they go elsewhere. We do not accept that one thing follows from the other. It may suit the Government to argue that but we do not accept that that is true or inevitable or logical.

Looking at the Bill before us, therefore, we think that an opportunity has been given up to gain one more element in the battle that we are facing constantly of recognition which as this Directive clearly shows is the result of the failure of the United Kingdom Government at the time when it had no problems with Spain, between 1977 and 1986, to put this right and it is not the only piece of legislation. We have similar provisions in company legislation where we keep on bringing in Directives applying them to companies in Gibraltar and in some of the Directives where there are lists similar to this it defines what a company is in each Member State and it says in the United Kingdom it is an organisation incorporated under the 1985 Companies Act and there is no reference to the Ordinances that we passed in this House as Community law. We are in a situation where almost all the business of the House is now Community law. Of the six Bills that we have in this House today, five are concerned with transposition of Directives and yet when it suits others, the territory is not part of the European Union. I think it is time that we said "enough is enough".

HON CHIEF MINISTER:

Mr Speaker, I can only tell this House that I am astonished at what I have just heard from the hon Leader of the Opposition. I honestly believe that his desire to be seen to be macho, his desire to be seen to be politically virile and his desire simply to see crisis in the relationship between Gibraltar and the United Kingdom is such that either he is suffering from great amnesia or he is redefining the boundaries of hypocrisy and duplicity to the extent that he is misleading this House when he says the things that he has said today. Mr Speaker, anybody would think from hearing the Leader of the Opposition that this way of transposing this Directive and the proposals for dealing with the United Kingdom is something that has been born after the 16th May last year. The hon Member has said that they do not support this and therefore does not feel the need to support the previous one because the solution for this is that the United Kingdom should have included us, they should go back to the Commission and get them to include

us in the Directive and that he is damned if he is going to agree to anything that facilitates or accommodates that position. Mr Speaker, I am astonished, although no longer surprised, let me say, at the attitude adopted by the Leader of the Opposition in relation to this matter. Mr Speaker, on the 29th June 1993, at a time when the hon Member was just celebrating, or shortly after he had just finished celebrating his 73 per cent majority at the 1992 Election, the then Law Draftsman wrote to the Deputy Governor stating the following:

"However, I understand that the United Kingdom is proposing to notify the Commission that the Commissioner of Income Tax in Gibraltar is the competent authority under the Directive for the seeking and providing of information and that competent authorities in other Member States should make application directly to the Commissioner of Income Tax who himself is entitled to rely on the Directive for the purposes of obtaining information from the competent authorities of other Member States. I assume that the Commission will then notify other competent authorities of this. It would be helpful if I could have confirmation that this is the action that the UK proposes to take and have copies of correspondence between the United Kingdom and the Commission.

At the meeting of the 23rd June the Chief Minister said that on the basis of the action outlined above by the United Kingdom he would be prepared to see the Directive brought into effect in Gibraltar and that in particular in respect of the outstanding request by the Spanish authorities in respect of Intercargill Limited and Cavellran Holdings Limited, Spain should be advised that if they were to seek the information from the Commissioner of Income Tax their enquiries would be dealt with in accordance with the terms of Directive 77/799. I must, however, make it clear that we still have reservations about the effectiveness of the proposed course of action and cannot accept that this is an approach which can be adopted as a precedent. I am writing separately to Michael Tatham about a form of words with respect of competent authorities which I think would be far more likely to be successful and capable of operation. Whilst Gibraltar is prepared to cooperate in the course of action proposed by the United Kingdom and to operate the Directive subject, of course, to confirmation by the Commission that the Commissioner of Income Tax in Gibraltar is accepted as a competent authority under the terms of the Directive, we are concerned about the lack of reference to Gibraltar on the face of the document, particularly as the same problem occurs in the parent subsidiary Directive."

All that this Bill does is transpose into the laws of Gibraltar, in exactly the same way as the hon Opposition Member had agreed to do, the requirements of the Directive, except that we went further that he found it necessary to go and we have sought written assurances and obtained in completely clear and unambiguous terms from the Foreign Office at a political level that they would inform the Commission, that they would inform other Member States that they had to deal directly with Gibraltar, that this was not a precedent that could be used again if Gibraltar was excluded from an Annex the way that happened in 1977 and separately we have obtained a letter, clear, lengthy and unambiguous letter from the Commissioners of Inland Revenue that protects Gibraltar's constitutional position by making it clear that they have no right or role in relation to income tax matters in Gibraltar, that this is just a way of getting out of this difficult situation, but that it is not a precedent and they have no business in connection with the tax affairs of Gibraltar. For the hon Member to give the speech that he has just given in these circumstances when all that the Government have done is put into place what he had agreed to put into place but simply gone further than he had thought it necessary to go and obtain all the assurances necessary to make sure that we were not allowing the dam to be breached in respect of other matters, is frankly an act of monstrous hypocrisy, as is, Mr Speaker.....

HON J J BOSSANO:

Is there anything in the Standing Orders that requires people to moderate their language in this House any longer or is that removed now?

MR SPEAKER:

That has never been removed and "monstrous" can mean either.....

HON J J BOSSANO:

Hypocrisy can only mean one thing, monstrous is the adjective and I think he is more of a hypocrite than I am, it is a matter of judgement.

HON CHIEF MINISTER:

Well, Mr Speaker, if I should ever give the hon Opposition Member the same amount of cause as he gives me to think that I am a hypocrite I will gladly confess to the crime but so far he is on a league of his own in these matters. Mr Speaker, the hon Opposition Member goes on and on about the principle of not transposing

Directives which exclude Gibraltar from the list because to do so is to give up the battle on recognition. Mr Speaker, the Government have not given up on any battle of recognition. The Government have made sure that in complying with Gibraltar's legal obligations, in the circumstances which have arisen, we gave no ground on the recognition of our EU status but, of course, I do not know what compelling reason the hon Member had for transposing the parent subsidiary Directive which equally did not make provision for Gibraltar in the Annex. There were no infraction proceedings there, so I do not see, that he is well placed to now lecture the Government about how it should not transpose Directives in which Gibraltar has been, and we agree, wrongly excluded from Annexes when he has done it numerous times in circumstances of much less legalistic difficulty for Gibraltar than the one that we now face given that we have waited until the very last minute to do this in the light of infraction proceedings. The advantages to Gibraltar of the parent subsidiary Directive were not so great that they justified abandoning this massive principle to which he now subscribes of not letting the UK off the hook. In other words, that we should do constitutional battle with the UK on every Directive in which they have not conducted their affairs in relation to Gibraltar as he and I would have liked, and would like them to do so. Mr Speaker, that has not been his practice and it is not our practice and he is not well placed to lecture now the Government to adopt principles which he himself was not willing to adopt nor is he well placed to lecture the Government and to oppose the Government in this particular piece of legislation in circumstances that he was going to agree to, that he had agreed to and that he was going to apply. I therefore, Mr Speaker, reject the arguments put forward by the Leader of the Opposition in relation to this matter and of course the Government will carry the Bill by its own majority.

Question put. The House voted.

For the Ayes: The Hon K Azzopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE FACTORIES ORDINANCE (AMENDMENT) ORDINANCE, 1997

HON J J NETTO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos be read a first time.

Question put. Agreed to.

SECOND READING

HON J J NETTO:

I have the honour to move that the Bill be now read a second time. May I, first of all, draw attention to and apologise for the mistaken references in the Explanatory Memorandum to the Public Health Ordinance. It is in fact the Factories Ordinance which is being amended to achieve the purpose of the Bill, namely to transpose into Gibraltar law Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos. The implementation is being affected by introducing new sections 105 to 112 and a new Schedule 1B. Basically, the aims of the Directive are achieved by imposing limits on discharges into the natural environment. The Bill defines the industrial processes which involve the use of asbestos and it makes it necessary for a ministerial authorisation to be obtained for carrying out such processes. As a result the Minister will also have a duty to ensure that discharges of effluents containing asbestos are adequately monitored and that measurements of emissions into the air are taken at regular intervals. The Bill also creates offences for beaches of its provisions and sets the appropriate level of fines. Mr Speaker, I have already given notice of some minor

amendments which I shall be introducing in Committee and which are linked to the mistakes connected with the Public Health Ordinance. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J L BALDACHINO:

Mr Speaker, as the title of the Bill says we are just transposing Directive 87/217/EEC and therefore I understand that under the Directive what we are doing actually in some points is that the controlling authority is now the Minister and, I am not saying this as a major criticism, and in some cases it becomes the Member State. I would like the hon Member the Minister for Employment and Training to clarify certain points. Under 106(4) of the Bill, does it mean that he could have the powers to authorise anything less than what is stated in the Bill? Because under the Directive there is only one way which the Directive permits changes and that is to be more stringent rather than be of a lesser nature. Can the hon Member clarify that under Section 106(4) he would have the powers to dilute whatever provision or whatever authorisation is required? Maybe he can clarify that under 106 why is it that as the Directive reads only part has been put there and the other part has been put under 107(1), is there any legal interpretation why it should be separate rather than what the Directive has? If there is nothing, it is just that it is a question for interpretation, I can quite understand that. I just want confirmation to see if there was any reason for doing that. The other thing is, Mr Speaker, are the Government in a position so that the hon Member can discharge his duties according to the Bill having introduced the measures that are required? Is the Government prepared or if there is any requirement for any equipment that is required to carry this out? The other thing is, how many of our industries are we talking about? How many companies, how many industries are there that require..... are there any? Or are there none? The other thing is Mr Speaker, on the transportation side, if the discharge is less than 500 kilos Mr Speaker..... In any case Mr Speaker can the hon Member clarify the points I have just made out which are relevant. We are actually transposing into our laws word for word which is in the Directive anyway but I would like clarification on the points I have raised.

HON J C PEREZ:

Mr Speaker, I think it would be good for the hon Member if he could, to confirm, which is a view held by the

Opposition, that as far as the production of asbestos products that these do not apply to any function presently available in Gibraltar and that we are really talking about the use of asbestos by some industries and as my hon Colleague said could we identify which of those industries use asbestos and could the hon Member confirm, because it is not clear in the Ordinance, whether the sampling and the monitoring of the air is related only to the manufacturing or to the use of asbestos as well, that is to say, is the monitoring of the air sampling about the manufacture of asbestos products only that does not exist or is that supposed to refer to making use and working with asbestos, in say, shiprepairing industry? Could the hon Member clarify that, please?

HON J J NETTO:

Mr Speaker, in dealing with the hon Member, Mr Baldachino, in relation to his first question, Section 106(4) it does give the discretion to the Minister in relation to the powers that he has whether to dilute somehow in the circumstances prevailing on application. In relation to his second question, Section 106(3), in relation to the placing of different articles within the Bill, basically, what has been followed is the draftsman's logic in relation to the Bill. The third question relates to the equipment to verify and monitoring the question of asbestos discharges. This equipment, I am informed, is readily available by the Factory Inspectors so they are available. In dealing with the other hon Member Mr Perez, we are not talking about production of asbestos, although it is part of the particular legislation that in the eventuality in the future of having particular plans then the law would already be in existence but at the moment we are not talking about production and manufacturing of any of the asbestos material so we are only talking about the demolition of buildings, structures etc. Perhaps in relation to some of the questions by the hon Opposition Members is that one has to take this Bill which overlaps somehow with the ones which have already been transposed which is the Control of Asbestos At Work Regulations which is far more detailed in as much as to plants of work, works with asbestos, information, instruction and training, prevention and reduction to disposal of asbestos, all these particular details which have already been transposed so that a reading of that should obviously answer most of those particular questions.

Question put. Agreed to.

The Bill was read a second time.

HON J J NETTO:

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

Question put. Agreed to.

The House recessed at 12.45 pm.

The House resumed at 3.00 pm.

THE PETROLEUM ORDINANCE (AMENDMENT) ORDINANCE, 1997

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to amend the Petroleum Ordinance in order to transpose into the law of Gibraltar Council Directive 68/414/EEC as amended by Council Directive 72/425/EEC on the maintenance of stocks of crude oil and petroleum products, Council Directive 75/339/EEC obliging Member States to maintain minimum stocks of fossil fuel at thermal power stations and Council Directive 94/63/EC on the control of volatile organic compound emissions, and to amend the Petroleum Ordinance in order to provide for power to create a licensing and regulatory regime for the importation, trade in or keeping of petroleum, for petroleum related activities and for matters connected thereto be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill has a dual purpose. In the first place it amends the Petroleum Ordinance in order to transpose into Gibraltar law various EU Directives. These Directives, are Council Directive 68/414 as amended by Council Directive 72/425 on the maintenance of stock of crude oil and petroleum products; secondly; Council Directive 75/339 obliging Member States to maintain minimum stocks of fossil fuel at thermal power stations and, lastly Council Directive 94/63 on the control of volatile organic compound emissions. The second purpose of the Bill is to provide for the creation of a licensing and regulatory regime for the importation, trade in and keeping of petroleum and for petroleum related activities in Gibraltar. Mr Speaker, it is the new section 12 of the Bill that contains the core of the transposing legislation. It has two elements: firstly, it empowers the Minister to lay down, by notice in the

Gazette what the total stock of white oils should be in Gibraltar and, secondly, it also empowers the Minister by reference to the percentage market share held during the previous year by each petroleum importer to impose an obligation on each of them to maintain that percentage of Gibraltar's strategic stocks. It must be stressed that a reasonable process of consultation between the Minister and the petroleum companies will be an essential feature of this regime. New section 13 transposes the Directive which empowers the Government to require that power stations with a capacity of over one hundred megawatts or more should maintain strategic stocks of fuel. Mr Speaker, as Members may be aware there is in fact no such generating station in Gibraltar, the combined capacity of all the generating stations in Gibraltar is in fact well below a hundred megawatts in any event. I should also mention that section 2(6) of the Bill amends section 7 of the Petroleum Ordinance by introducing a new paragraph (L). Its main aim is to allow the Government to harmonise the trade licensing arrangements governing the petroleum industry with the provisions of the Trade Licensing Ordinance. It should be stressed that both will be distinct and independent so that the industry will not fall under the Trade Licensing Ordinance. These Rules are instead lifted and incorporated into the Petroleum Ordinance, the Regulations are currently being drafted and will be gazetted later this summer. There has been an element of confusion in the past as to the precise applicability of the Trade Licensing Ordinance when it comes to petroleum related products and the new regulations should harmonise the requirements and leave clear that it is under the Petroleum Ordinance that the necessary licensing is effected. Finally, section 7A empowers the Chief Justice to make rules of court with respect to appeals from decisions arrived at by the Licensing Authority. Mr Speaker, I will be moving a few minor amendments at the Committee Stage, details of which hon Members should have received already. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we are supporting this Bill. The provisions that the Minister has just mentioned in relation to generating capacity of less than a hundred megawatts is something that I would like to bring to his attention in that what the Directive says is, that it does not apply to power stations fired by industrial gases, industrial waste and other fuel requirements derived from waste nor to private industrial generators with a total capacity of less than one hundred megawatts." It seems to me that

when they are talking about private industrial generators in the context of the UK or other Member States, what they are probably talking about are producers of electricity with specific customers, not people that are linked up to the grid and certainly not the publicly-owned generating station which cannot be a private industrial generator. For example, in the UK and in Spain where the whole of the public supply is private, it seems that private industrial generator, the fact that it is qualified, must mean something so it may well be that simply saying every generating station of a hundred megawatts is exempted may not be meeting what the actual Directive says. As regards the stocks that need to be kept for generating stations, in other cases it is to enable the continuation of electricity supplies for a period of at least 30 days. In fact, the provisions in the Ordinance do not specify that it is for generating capacity to be maintained for 30 days. It seems to leave it at the absolute discretion of the licensing authority, or the Minister as the case may be, to actually decide what the stocks should be. In terms of other petroleum products, I would have thought that one problem must be that in requiring stocks to be kept, there is the problem of space in Gibraltar. I recall that when we were looking at this there was this difficulty of how could we have a common stockholding capacity in which everybody was able to participate and people did not feel that they were vulnerable because they would be facing the supply from stock by somebody who at the same time was supplying their own retail outlet and in competition with them. I am bringing that to the notice of the Minister because that was something we had great difficulty in coming up with an answer which kept everybody happy. It is difficult to envisage a situation where each supplier of fuel would be licensed as an importer and then each one would have to have independent or their own supply line stocks without requiring space and investment in infrastructure which could make it a very expensive business for anybody to maintain competitive prices particularly on the bunkering side where the margins are so narrow and the competition is therefore likely to be that small additional cost can suddenly drive a lot of customers away. I imagine also that in looking at previous supplies, given that for example last year there was such a substantial increase in bunkering it is not something that can be predicated necessarily to always move in the same direction so presumably there would have to be an averaging over a period of time to ensure we are not requiring people to keep stocks which turn out to be well above what makes sense in the context of what is the average demand for the fuel from one source or another. Apart from those points which we are making to be helpful, we agree with the principles of the Bill.

HON A ISOLA:

Mr Speaker, may I just make a couple of very brief points. Obviously when the rules are published it will give a better indication or give a clearer picture, is it the intention to have a licensing authority, by way of clarification, or is it in fact the Minister who will be issuing the licence? The second question would be, what will happen to those that presently have licences under the Trade Licensing Ordinance at the time when the new provisions are brought in? Thirdly, will the rules and regulations produce the criteria which the Licensing Authority require to be satisfied on in a similar way to what the Trade Licensing Ordinance contains to a degree in respect of these petroleum licences?

HON P C MONTEGRIFFO:

Mr Speaker, I am grateful for the hon Members' comments. Dealing firstly with the Leader of the Opposition's remarks, I think he is probably right with regard to the position in respect of power stations. The strict wording of the Directive does indeed make mention of private, the operation of private power stations in the context of the hundred megawatt criterion so he may well be right in that, we will see in practice when the regulations are actually published whether one can exempt the MOD and Government power stations completely or whether we will actually have to grant a licence. Mr Speaker the actual details of the days that stocks should be required for would be contained in the regulations. All that we have been keen to do today is to get this enabling piece of legislation in place. As I will mention in a moment, there is actually a fairly urgent need to progress with the commercial and strategic aspects of the wider petroleum issue and therefore we are keen to get this into place today and the details will be in the regulations which we hope will not be very much delayed. There will have to be a need to make specific mention of the type of days stock requirements that will be necessary to comply with the Directive, which of course changes. The original Directive in respect of maintenance of stocks, the general Directive on maintenance of stocks, in fact required a 65 days internal consumption threshold that was subsequently lifted to 90 days really as a result of the difficulties in the early 1970's with the supply of petroleum products. The hon Leader of the Opposition makes mention of the difficulties of space and how this issue is going to be dealt with. We think that the rules will be able to be crafted in a way that will allow Gibraltar's existing capacity to match the requirements on stock which will meet the Directive. The position is particularly difficult because it is not just any storage

that we are talking about. We are not talking about King's Lines, for example, or the East Side tanks, we are probably only talking about William's Way because it is white oils, the Directive talks about white oils, that have this storage capacity requirement and it is only that facility that is designed for white oils. The hon Member makes mention of bunkers. Bunkers are excluded from the Directive. The Directive does not cover bunkers and therefore nothing in the regulations will be designed to deal with the minimum requirements for bunkering. The whole rationale of the Directive is to protect strategic stocks for white oils that are primarily motor vehicle, aviation fuel and certain types of gas oils for generating stations.

Dealing with the hon Mr Isola's comments, we have not concluded at this stage, Mr Speaker, the details of how the licensing will be undertaken and I would not want to anticipate this. The rules will set out detailed provisions how applications are to be made, to whom and the whole methodology. I would rather leave that matter rather vague until final decisions are taken there. I think that the Opposition Members will understand that the Bill today is more than just about the transposition of the Directives. It is also about seeking to introduce a regime which will give Gibraltar the ability to maintain strategic stocks by ensuring that importers have to work within an environment that requires stock maintenance and ensures the viability of that facility. That requires investment and requires legislation to ensure the viability of that investment. Thank you, Mr Speaker.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

Mr Speaker, I beg to give notice that the Committee Stage and third reading of the Bill be taken later today.

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

1. The Estate Duties (Repeal and Consequential Provisions) Bill, 1997

2. The Medical and Health Bill, 1997
3. The Income Tax (Amendment) Bill, 1997
4. The Income Tax (Amendment) (No 2) Bill, 1997
5. The Factories Ordinance (Amendment) Bill, 1997
6. The Petroleum Ordinance (Amendment) Bill, 1997

THE ESTATE DUTIES (REPEAL AND CONSEQUENTIAL PROVISIONS) BILL, 1997

Clauses 1 to 5 were agreed to and stood part of the Bill.

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

THE MEDICAL AND HEALTH BILL, 1997

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

Clause 2

HON K AZOPARDI:

Mr Chairman, I gave notice that I would be moving certain amendments at this stage of the Bill. I think they have been circulated to hon Members. In section (2) I would like to move two amendments. In the definition "Certificate of Registration" on page 150 the deletion of "18(2)" and the substitution of that by "37(2)". The reason is that that evidence section used to be (18) in the 1973 Ordinance and by a slip the number has not been changed. The second amendment to that particular section is in the definition of "IELTS test", on page 153, the addition of the word "al" after "internation" and "English" before "language" so it would read "international English language".

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

Clauses 3 to 8 were agreed to and stood part of the Bill.

Clause 9

HON MISS M I MONTEGRIFFO:

Mr Chairman, I would like to make two points. I do not know whether it is the appropriate time now but I would like to remind the House that the Opposition will be voting against the words, "in the Authority" where it refers to being in employment by the Authority. Every

time that the words come up "is in employment by the Authority."

MR CHAIRMAN:

That is very difficult, unless when it arises you suggest an amendment. Otherwise how can we do it.

HON MISS M I MONTEGRIFFO:

Wherever it appears, we are voting against, Mr Chairman.

HON CHIEF MINISTER:

Mr Chairman we used to find ourselves in similar predicaments when we were in Opposition and we used to resolve this by making it clear that we had this opposition but that we were not going to take it every time it arose. I think if the hon Lady simply records the fact that she disapproves of that it is actually not necessary, as far as we are concerned, for her to actually so say every time it appears. We understand that she objects to it throughout the Bill.

HON MISS M I MONTEGRIFFO:

Also, Mr Chairman, I believe we are under Clause 9.

MR CHAIRMAN:

The Minister is going to make an amendment and then you can make another amendment to Clause 9.

HON K AZOPARDI:

Mr Chairman, I have several amendments here. In Section 9(4), page 159, under (e) the insertion of "a national of an EEA State and is" after the words "he is". It would read "he is a national of an EEA State and is a person who has undertaken such....."

The reason for that is that those particular articles mention 37(2) and 39(2) also relate to nationals of an EEA state as does the particular provision in 9(4)(d) but those words were left out in the drafting. Shall I do all the amendments or shall we vote as we go along?

MR CHAIRMAN:

Do all on 9 and then we vote on that.

HON K AZOPARDI:

In 9(5), on page 160, the deletion of "(4)" in the subsection in the second line and the insertion thereof of "(1)(b)". (1)(b) is the registering-creating section rather than (4). (4) is the explanation to (1)(b). In 9(6)(a) after the words "Medical and Health Ordinance" the insertion of "1973" to make it clear which Ordinance we are talking about and in 9(7)(b) the deletion of the reference to "15(1)(i)" and the substitution thereof of "15(1)(f)(i)". That will be tied in with a subsequent amendment I will be making to make it clear, make section 15 read clearer than it is at the moment.

HON MISS M I MONTEGRIFFO:

Mr Chairman, we do not have an amendment, but as I said in my contribution we believe that as the old law stood dentists, pharmacists and doctors had the same criteria for registration and the Minister agreed that there is a difference now in the new law. I know that he has also said, Mr Chairman, that in the case of the doctors, where it says, "and has such professional experience as the Board considers appropriate" the Minister has said that he is satisfied that the Board will be taking advice as regards the GMC standards. However, if that is the case and he does mean that, therefore we see no reason why he should not be treating dentists and pharmacists the same as doctors and therefore we would urge the Government to reconsider that sub-section 6(c) in page 160 and regularise the position as with the dentists and pharmacists.

HON K AZOPARDI:

My only comment there is that yes I do accept that there is a difference in this law but in practice there is not envisaged to be a difference when the Board operates the amendment but the problem in accepting what the hon Members says is that 8(1)(b) makes reference to being in possession of a Commonwealth or foreign diploma or such professional experience as would entitle him to be so registered in the register described in 1(a) which are the registers existing under any law for the time being in force in the United Kingdom. If the law is changed in the United Kingdom we do not have to change the Gibraltar Ordinance because we are making a specific reference to a particular provision of the Medical Act in 6(b), in other words section 19 of that and because it is not the same as 8(1)(a) and 8(1)(b), if the UK changed section 19 of the Medical Act then we would have to come and change this Ordinance if they changed the provision under which people which register if they were Commonwealth citizens in the UK. (c) is meant to be the saving overlap to

maintain the position that the Board could take the same qualifications that would entitle the person to be registered under a different section in the United Kingdom without changing the law in Gibraltar. That is the only difficulty I see in accepting the hon Member's point and therefore I would seek to keep it as it has been drafted. The previous drafting in the 1973 Ordinance referred to existing lists under the law of the United Kingdom as the case may be through the passage of time. It does not do so in relation to medical practitioners and I would like to avoid having to come back to the House if necessary but the hon Member certainly does have my assurance that the Board, when discussing the matter with me sees that in practice it will continue to operate as it has done in close discussions with the GMC and it will seek the advice of the GMC as to appropriateness of qualifications and will continue to apply the registration system in that way.

HON J J BOSSANO:

Mr Chairman, obviously the assurance that has been given by the Minister would meet the point that I myself are not clear why it is that the wording in the case of dentists and pharmacists which say, "in possession of a Commonwealth or foreign diploma which would entitle him to be so registered in the UK." I still do not see that why say that what we accept here is what would be acceptable in the UK which is what the present law does and what is going to continue to be possible for dentists and pharmacists because if we look at the way the provisions are written now it says in 9(c), "medical practitioner with an overseas qualification as prescribed in sub-section (6), but not being a qualification referred to in paragraph (a) or (b)". In sub-section (6) what is prescribed is that either the person should already be registered here under 7(1) or the person should be entitled to be registered in 83 but (c) cannot be said to be prescribing anything since what it does is in fact to convert the concept of somebody being prescribed to something which is considered appropriate.

HON K AZOPARDI:

Mr Chairman, yes I do take that point but I stress that the original draft, when I did receive it, in (b) read "registered under section 19 of the Medical Act" and (c) read as it does now and so there would be a difference in that one would require registration in the UK for registration in Gibraltar and the other one would require, if you like, possession of Commonwealth qualifications which would entitle him to be registered under section 19. There was a difference originally. The draft has moved somewhat and that is why I say there

is an overlap in practice. I have no difficulty accepting an amendment if the hon Members are suggesting it but I do have that concern that I described before, that if the legislative situation changes in the UK then we will require a change in the law in Gibraltar whereas if we keep it as it is now we will not require a change in the law because (c) by encroachment on (b) even if (b) is removed even if the section is removed in the UK and shifted to another Act, because of (c) we will still be able to continue that practice whereas if we did not have it we would have to come back to amend the law, that is my only point. I do accept what the hon Members have said in relation to the rationale of the section.

HON J J BOSSANO:

Presumably if section 19 of the Medical Act 1983 were removed in the UK and at present it says, "registered or entitled to be registered under that section" if the section and the Act were not specified and it said, "which the Board considers appropriate for registration in the UK" without saying under which Act or under which title, I do not think how that would require an amendment because that is essentially what we are doing for the dentists and the pharmacists because there we say that in accepting a foreign or a Commonwealth diploma in dentistry or pharmacy and in accepting professional experience the criteria to be applied in deciding whether to accept it or not is that if that person was going to the United Kingdom and making an application the United Kingdom would accept it. If the intention is that we should not accept here something different from what they accept in the United Kingdom then that is what is the case at present, that is what is going to continue to be the case and it seems to me that if we are just saying we will accept what they accept in the UK irrespective of what changes take place in the United Kingdom in the future it will still be what they accept in the UK.

HON K AZOPARDI:

Yes, I accept all that description of what the Board will accept is precisely what the Board will accept. That is why I have said if the hon Member wants to suggest an amendment that will cure the issue that he sees it would require I think a description of entitlement to registration under section 19 of the Medical Act or any other law in force in the United Kingdom at such future time. I think that would cure something like that, if the hon Member wants to suggest that.

HON J J BOSSANO:

I do not see why we need to say anything about any changes because the way it is drafted in the case of dentists and pharmacists seems to me to be sufficient without referring to what the law is at present in the UK or to what the law may be in the future. For example, if that clause read, "as the Board considers appropriate and which would entitle the person to be so registered in the UK", then the Board in looking at whether it is appropriate or not cannot disregard whether it would be enough to entitle the person to be registered in the UK. If we do not have any reference to the UK it seems to me that irrespective of how in practice the Board may choose to act or not act, theoretically we are saying in our law that we can at a point in the future decide that somebody from the Commonwealth, with a Commonwealth diploma rather, it does not have to be Commonwealth nationality, with a Commonwealth diploma or a foreign diploma may be considered inappropriate because there is in fact no standard prescribed even though in (9) we are essentially being told, "if you want to know what the standard is, go to (6)" and if we go to (6) it says, the standard is whatever might be considered appropriate". So I would suggest an amendment which we can move adding the same words as in the case of the dentists, that is, in addition to it being appropriate it should be a qualification and an experience which would entitle the person in the UK. That would change the position we have got and I cannot see why if section 19 of the Medical Act of 1983 were to be altered any amendment would be needed because the Board would then look at the qualification, look at what is happening in the UK and if the UK would renew proposals or the new law accepts such individuals the Board here obviously can go ahead and we can keep that the Board still has in fact the autonomy of deciding whether it is appropriate notwithstanding the fact that they have got the UK. So instead of substituting "appropriate" we can keep both things, the eligibility to be registered in the UK and the judgement of the Board.

HON CHIEF MINISTER:

Mr Chairman, I would just like to be clear that I understand what the hon Member is suggesting. Is he suggesting that we should use a formula of words which is not UK specific? That we should merge the treatment given to UK-qualified medical practitioners into the same language as other Commonwealth or foreign or EEA state? Is he in effect suggesting a merger between (b) and (c)?

HON J J BOSSANO:

What I am saying is, if we look at section 8(1)(b) in the case of dentists and pharmacists the person that applies must satisfy the Board that he is in possession of such Commonwealth or foreign diploma and this is for people who do not have the EEA qualifications or who are registered in the UK, the third category. Those dentists and those pharmacists would be permitted to be entered into the Register provided that the diploma that they have and the professional experience that they have would be ones that would enable them to be accepted in the Register of the United Kingdom. At the moment what is being repealed says that for all three professions, for dentists, pharmacists and medical practitioners. Logically, when we look at the change that is being made we see that the same requirement of the standard being a standard that is acceptable in the UK is being retained for dentists and pharmacists. When we then look at what is prescribed in 9(1)(c) which then refers us to subsection (6) the need to have experience and the qualifications that would be acceptable in the UK register is no longer there and instead we have the judgement of the Board as to what it considers appropriate. Simply looking at the letter of the law, it led us to the conclusion that whereas dentists and pharmacists who have not got EEA qualifications and who are not in the UK but who arrive here with a qualification from a foreign non-EEA state or from a Commonwealth state, those categories, the dentists and pharmacists can apply and whether they are accepted or not depends on what would be the answer they would get in the UK. In the case of the doctor the law appears to say the Board may decide to have a higher standard or a lower standard in each individual case because there is nothing to stop them doing it. It is what they consider appropriate. That seems to run counter to the whole drift of the policy that we heard in the general principles of the Bill of raising standards. We cannot see why 6(b) in any way requires 6(c) and we cannot see why in 6(c) we should not be able to keep the provision that we have kept for dentists and pharmacists which is to say in looking at the Commonwealth authority diploma in medicine and at the professional experience when the Board has to decide if it is appropriate they need to establish that it would be considered appropriate in the UK for registration in the UK. It seems that we simply produce in addition to the words that are already there what is in 8(1)(b) which says, "as would entitle him to be so registered in the UK", that then does it because in fact what we are doing is retaining what is already there. At the moment the clause on registration for dentists, pharmacists and medical practitioners is just one clause and what we are introducing for dentists and

pharmacists is identical to what there is at present in the existing Ordinance.

HON CHIEF MINISTER:

Mr Chairman, is the hon Leader of the Opposition proposing a specific amendment? Is he working on it? I think the point, if I now understand him correctly, the main thing that he is saying is that 9(6)(c) read in conjunction with 9(1)(c) gives more latitude, in other words, there are people who would be employable if they are doctors but not dentists. That there is a discretion to employ doctors that fall into 6(c) and there is no similar category in respect of dentists and pharmacists, and therefore that there is latitude to employ people as doctors who would not be qualified to be employed as dentists or pharmacists in terms of the source of their qualifications. Provided that my hon Colleague the Minister for Health can confirm that this is not a requirement of the Directive, this is something that has been put in domestically in the Bill then of course we have no objection to considering the proposed amendment when we have seen it.

HON J J BOSSANO:

I think in fact, Mr Chairman, the point is met if we actually insert in 6(c) in the penultimate line in between the word "experience" and the word "as" the wording that exists in the case of dentists and pharmacists. It would then read, "such professional experience" as the other one does, "as would entitle him to be registered in the UK and as the Board considers appropriate." I am not removing the discretion of the Board which is not there for the dentists, I am just saying that as well as having the discretion there should be the parameter in the law that we are still looking at people on the basis that if they come up with a piece of paper which in fact would not even be looked at in the UK, the Board cannot take them into account.

HON CHIEF MINISTER:

Yes, Mr Chairman, I think we can accept that amendment.

HON J J BOSSANO:

Mr Chairman, I beg to move that section 9(6)(c) be amended by inserting between the words "experience" and "as" in the penultimate line the words "as would entitle him to be so registered in the UK and". The section would then read, "such professional experience as would entitle him to be so registered in the UK and as the Board considers appropriate".

Clause 9, as amended, was agreed to and stood part of the Bill.

Clause 10

HON K AZOPARDI:

Mr Chairman three amendments here as well. In 10(1)(c) the deletion of "the Government" and insertion of "a Government or Authority" and in 10(8)(a) the insertion of "the" before "Government hospital" and the insertion of "a" and the insertion of "or Authority" after "Government" so the same effect there "Government or Authority".

HON J J BOSSANO:

Mr Chairman, the point is that we have indicated that we are opposed to the policy of employment by the Authority but it does not mean that we are against the existence of the Authority so in voting against we need to be sure that we are voting against something which has in fact an employment effect and not any other effect.

HON K AZOPARDI:

Sections 10(1)(c) and 10(8)(a). The rationale here is we are talking about the Hospital rather than employment, I think that is helpful to the Opposition Members. I should add that it is relevant to a particular section of the Gibraltar Medical Health Authority Ordinance which vests the property of the Government in 1987 in the Authority, so I think it is consistent with that.

Clause 10, as amended, was agreed to and stood part of the Bill.

Clause 11

HON K AZOPARDI:

Mr Chairman, I move in section 11(2) the deletion of "responsible" in the second line and the substitution of "competent". It is in fact "competent authorities" which is the required wording and that is the rationale for that amendment.

Clause 11, as amended, was agreed to and stood part of the Bill.

Clause 12 was agreed to and stood part of the Bill.

Clause 13

HON K AZOPARDI:

Mr Chairman, in clause 13(4) the insertion of "Part 1A of", before "the" and after "in" on the second line to make it clear where we would register, in which part we would register the visiting medical practitioners.

Clause 13, as amended, was agreed to and stood part of the Bill.

Clause 14

HON K AZOPARDI:

Mr Chairman, in section 14(1)(a)(ii) in the third line the deletion of the words, "in the interests of his country of origin", which is I think on reflection a superfluous expression, even though it is taken from the GMC guidelines on that subject and in 14(2)(c)(ii) before "respect" the insertion of "in".

HON J J BOSSANO:

The provision is based on employment by the Authority which is not yet happening. Clause 14(1)(a)(i) should say employment by the Government or the Authority so that in fact it is applicable why it is still the Government and it might be applicable later if we have been able to persuade them that the employment should continue to be like that.

HON K AZOPARDI:

Can I say that it does not affect anyone employed at the moment because there is no one on the limited register. There are no junior doctors that are expected to be employed by the Authority in future, or Registrars, this is just a provision just in case we want to do that in future and it affects no one because there is no limited register. So I do not really see the need for doing that.

HON J J BOSSANO:

What I am suggesting is that if they were to be in a position to proceed and a decision had not yet been taken on whether the Authority would start employing people they would have no choice. What I am suggesting is that we have a choice by adding the words "employed by the Government or the Authority." I propose that the first line in 14(1)(a)(i) be amended by the insertion of the

words "the Government or" in between the words "by" and the word "the".

Section 14, as amended, was agreed to and stood part of the Bill.

Clause 15

HON K AZOPARDI:

Mr Chairman, in 15(1) after "(e)" after the words "and subject to" in the middle of page 168 the insertion of "(f)" in the margin and before the words contained in the paragraph numerated with (i). To make that sub-paragraph read clearer so that there is a distinction made between the paragraphs in the roman numerals and the preceding sub-paragraph. In 15(2)(i) the deletion of the words "or by repute" after "personally", that is 15(2)(f)(i).

Clause 15, as amended, was agreed to and stood part of the Bill.

HON J J BOSSANO:

Can I just ask, 2(h), we have got here that it confirms in writing that he will leave Gibraltar at the end of the period of employment in Gibraltar. Can we in fact require a person to leave Gibraltar if he is an EEA national? Even if he has completed his period of employment?

HON K AZOPARDI:

Presumably if they are an EEA national they will register under full registration. This limited register is intended for non-EEA nationals. It is not envisaged that this will be the focus for EEA nationals. Indeed in the United Kingdom, when people are registered on the limited register there is a possibility of them then acquiring such qualifications that allow them to transfer to the full register in which case of course that would not be the case but certainly it is not envisaged that this will be the register where we will register EEA nationals. This is perhaps for the SHO that may be on the limited register in Ireland as indeed there are at the moment who may wish to come to Gibraltar who is say a Pakistani national or something like that, it is not intended to be for EEA nationals that will be channelled towards full registration because they will have their full training ordinarily.

Clause 15, as amended, was agreed to and stood part of the Bill.

Clauses 16 to 21 were agreed to and stood part of the Bill.

Clause 22

HON K AZOPARDI:

Mr Chairman, in 22(b) there is a mis-spelling of "categories" there, the deletion and substitution by the correct spelling.

Clause 22, as amended, was agreed to and stood part of the Bill.

Clauses 23 to 43 were agreed to and stood part of the Bill.

Clause 44

HON K AZOPARDI:

Mr Chairman, section 44(4) does not read correctly and I would suggest the deletion of the words "or caution, censure, suspend or removal of the name of" after "order" and the insertion of the words "the removal of the name of, caution, censure or suspend".

Clause 44, as amended, was agreed to and stood part of the Bill.

Clauses 45 to 59 were agreed to and stood part of the Bill.

Clause 60

HON K AZOPARDI:

Mr Chairman, in the definition of "health prescription" which is at page 193, the insertion of the words "or dentist or as the case may be" after "medical practitioner". I am advised by the Health Authority Management that dental practitioners are also entitled to issue prescriptions. Mr Chairman in the definition of "medical purpose" the proper spelling of "anaesthesia" in (c) the deletion and the proper spelling there.

Clause 60, as amended, was agreed to and stood part of the Bill.

Clause 61

HON K AZOPARDI:

Mr Chairman, I move in 61(1) the deletion of the words "Chief Executive" and the insertion of "Public Health Director". The rationale behind this is that it is effectively the specialist in Community Medicine now who as a medical practitioner, assesses these matters and I think historically this was given as a duty to the General Manager because formerly the Director of Medical Services, who used to do that, was a medical practitioner so was capable of assessing those medical cases. This amendment is intended to reflect that it will be a medical person who will have to do that assessment.

Clause 61, as amended, was agreed to and stood part of the Bill.

Clauses 62 and 63 were agreed to and stood part of the Bill.

Clause 64

HON K AZOPARDI:

Again there, Mr Chairman, the same amendment, the deletion of the words "Chief Executive" and the insertion of "Public Health Director".

Clause 64, as amended, was agreed to and stood part of the Bill.

Clause 65 was agreed to and stood part of the Bill.

Clause 66

HON K AZOPARDI:

Clause 66(1) Mr Chairman, the insertion of "issued" after "licences" in the first line and "and Section 64" after "61" in the second line.

Clause 66, as amended, was agreed to and stood part of the Bill.

Clauses 67 to 69 were agreed to and stood part of the Bill.

Clause 70

HON J J BOSSANO:

Mr Chairman, the register that has to be kept of prescriptions, could the Minister explain what is the health prescription in (4) which does not have to be

included in the register? In Section 70 there is a requirement that a register of prescriptions should be kept by the pharmacists and then in sub-clause (4) it says "the provisions of sub-sections (2) and (3) relating to registration shall not apply to a health prescription". What is a "health prescription"?

HON K AZOPARDI:

A "health prescription" is one defined in page 193 as "a prescription issued by medical practitioners, dentists, or as the case may be, under the Medical Group Practice Scheme". That is what a health prescription is, so it does not apply to that. This is in theory a reflection of a section in 1973 Ordinance, it is not a new section.

HON J J BOSSANO:

Mr Chairman, since we are repealing the Ordinance and putting in something new, what is there from 1973 may reflect the fact that we started out without the GPMS. Is it not a good idea that they should have to keep a register of GPMS prescriptions?

HON K AZOPARDI:

No, no, Mr Chairman, the hon Leader of the Opposition has misunderstood me. The 1973 Ordinance already defines "health prescription" in the same way that we have said and so there is nothing new either in the health prescription or in this section. So I do not see how we can add something because of the Scheme when there was already a reference to the Scheme in the definition of "health description".

HON J J BOSSANO:

Fine, but since we are repealing the old Ordinance and putting in a new one, apart from the fact that it was there in 1973 and remember that it was around that time that the GPMS started and at the time that it started it certainly was not as widespread as it is today, and if they are required to maintain a register of prescriptions and if the definition of health prescription is all the prescriptions issued under the Medical Group Practice Scheme, it means that the register is just for private practitioners, either there is some logic to that.....

HON CHIEF MINISTER:

What the hon Member is saying is that as drafted, which is carried forward from a law which was first drafted when there was not a Group Practice Medical Scheme, that

what we are now creating is a register of prescriptions, in other words, chemists have to keep in numerical order every medical prescription that they make up except the one issued by the chemist in response to a health centre prescription.

HON K AZOPARDI:

Is the hon Leader of the Opposition suggesting an amendment, by the deletion of sub-section (4)? The Government will agree to that amendment.

HON J J BOSSANO:

I will therefore move, Mr Chairman, the deletion of sub-clause (4) in clause 70(1).

Clause 70, as amended, was agreed to and stood part of the Bill.

Clauses 71 to 75 were agreed to and stood part of the Bill.

Clause 76

HON K AZOPARDI:

In section 76(1)(b)(ii) there is a spelling mistake which reads "pharmaceutics" instead of "pharmacist".

Clause 76, as amended, was agreed to and stood part of the Bill.

Clauses 77 to 82 were agreed to and stood part of the Bill.

Clause 83

HON K AZOPARDI:

Mr Chairman, in 83 the insertion of "61 or" before "64" in the first line.

Clause 83, as amended, was agreed to and stood part of the Bill.

Clauses 84 to 91 were agreed to and stood part of the Bill.

Schedule 1

HON K AZOPARDI:

Mr Chairman, in rule 2 Schedule 1 the deletion of all the words in brackets and the brackets there in the first line" (other than the ex-officio members)".

Schedule 1, as amended, was agreed to and stood part of the Bill.

Schedules 2, 3 and 4 were agreed to and stood part of the Bill.

Schedule 5

HON K AZOPARDI:

Mr Chairman, page 233 Schedule 5, the deletion of the words "An appropriate European" at the beginning of that paragraph and the insertion of "A". So it would read "A diploma granted by an EEA state". Schedule 5, as amended, was agreed to and stood part of the Bill.

Schedules 6 to 12 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, 1997

Clauses 1 to 18 stood part of the Bill.

Clause 19

HON CHIEF MINISTER:

Mr Chairman, I have given notice of an amendment to clause 19 which would be section 82 of the principal Ordinance. Although in the amendment the whole of the section is reproduced, the principle reason for the amendment is that it says in (2), that, "The first instalment shall be due and payable on the later of 31st March or 30 days after the issue of the assessment" and in (3) it says, "The second instalment shall be due and payable on the 30th June or 30 days after assessment." So if the assessment takes place after the 30th June, as well it might, then both instalments would fall due on the same day and the amendment simply has the effect of converting the reference to 30 days in (3) to 60. The first instalment shall be due and payable not later than the 31st March in the year of assessment or within 30 days after the issue of the assessment, whichever is the later. The second instalment would be due on the 30th June or within 60 days after the date of the issue of assessment so that there should simply be two days,

otherwise they would both be due 30 days after the assessment, that is the purpose of the amendment.

The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

Clause 19, as amended, stood part of the Bill.

Clauses 20 to 25

The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

Clauses 20 to 25 stood part of the Bill.

Schedule 1

HON CHIEF MINISTER:

Mr Chairman, there is just one amendment that I would like to propose of which I have not given notice because I have just spotted it and that is on page 281, item 4 paragraph 2, there is a reference to the Secretary of the Government of Gibraltar and that of course should be the Chief Secretary.

I propose an amendment which is the insertion of the word "Chief" before the word "Secretary" and of course that is the person that used to be called the Administrative Secretary, he fancied a new title!

The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

Schedule 1, as amended, stood part of the Bill.

The Long Title

The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola

The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

The Long Title stood part of the Bill.

THE INCOME TAX (AMENDMENT) (NO 2) BILL, 1997

Clause 1

The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

Clause 1 stood part of the Bill.

Clause 2

HON J J BOSSANO:

Clause 2 is where we have the provision that the Commissioner of Income Tax shall act as competent authority within the meaning of the Directive in relation to the requirements of that Directive as respects Gibraltar. Let me say in view of the fact that in his contribution on the general principles, the Chief Minister seemed to think that we were in favour of this on the 23rd January 1993 and that we have changed our minds today, for the record, say that the position that I explained today was, and I have had an opportunity to check some notes at lunchtime, put in February 1994 face to face to Government Ministers and that therefore, irrespective of what there may be in correspondence and I would need to see the correspondence before and after the

23rd June to put that in context, there was no question of what our position was in seeking that the Commissioner should be the competent authority and not simply behave as if he were on the basis that the proviso in the UK legislation which allows the United Kingdom Commissioner of Inland Revenue to have a representative. We did not think that that route was adequate and that position was a very clear one and it continues to be our view today and therefore that is the principal reason why we are not willing to support the implementation of the Directive as stated here because we think the arguments that have been put in the past appear to have been lost over rather than put right.

MR CHAIRMAN:

At this stage you are not suggesting any amendment?

HON J J BOSSANO:

We are voting against and I am pointing out that in this particular clause we have the Commissioner of Income Tax shall act as a competent authority by definition if acting as we understand it because in fact he is not going to be recognised as the competent authority.

MR CHAIRMAN:

It is purely mechanical, you voted in favour on the general principles.

HON J J BOSSANO:

No, we voted against.

MR CHAIRMAN:

You have got no amendments, in any case?

HON CHIEF MINISTER:

Mr Chairman, the Commissioner of Income Tax, and this is the basis of the agreement between the Gibraltar and the UK Governments recorded in correspondence and we have received assurances that the position of the Commissioner of Income Tax is in every respect as if he had been separately listed in the Directive. What we have not insisted on because it cannot be delivered apparently is..... and frankly what the records show the hon Members were at least in that part of the correspondence that I have seen, minded to accept, is what we have done which is to put the Commissioner in every respect in the position that he would have been in the sense of exercising his powers and functions as if he had been

listed although he has not been listed. Of course, it goes without saying that it is a device, the Commissioner is not listed in the Directive, he is not listed in the Annex and it would be foolish to pretend that he is but that is not unique to this case. There are many cases in which the Gibraltar competent authority has not been made provision for in the Regulations and as far as the Government are concerned this now becomes a distinction without a difference except when you are discussing the question, should the UK have forgotten back in 1977 to include us? Mr Chairman, we take the view that the hon Opposition Member appears to have taken in June 1993, of course I cannot speak to whatever changes of mind he may have had after June of 1993, but the position that we have taken is the one that correspondence shows he had in June 1993 and was that this was simply not worth the fight because apparently it could not be remedied. The hon Member must reserve his own view as to whether he thinks that it could be remedied or not, the fact of the matter is that the United Kingdom has not, since 1977, been willing to go back to the Commission and invite them to circulate all Member States with the request that the Directive be amended. Let me say, Mr Chairman, that the Directive does not just say, "the Commissioners of the Inland Revenue", the Directive as drafted actually gives the UK the ability to have more than one competent authority for Member State-UK. That is in effect what we have used but the UK are not willing to go back and have this Directive amended and you start from that premise, the question is whether you have a massive battle in infraction proceedings or whether you just proceed on the basis of saving as much as possible of the Gibraltar position which, as I say, the file clearly shows is the approach which recommended itself to the Opposition Member at least in June 1993, if not subsequently, as to the subsequently I cannot speak.

HON J J BOSSANO:

Can I just ask, in 4(b) the reference to "capital" in the disclosure of information, given the fact that we do not have any taxes of capital in Gibraltar why is it that there is a provision there in giving information on capital to the competent authorities of other Member States?

HON CHIEF MINISTER:

Mr Chairman, for the simple reason that the philosophy and the whole objective of the Directive is not that you only provide assistance when there is a corresponding fiscal measure. This is not reciprocity of measure. The Directive does not say that you will only provide assistance at the request of a foreign Government if you

have the same form of taxation in your country. What the Directive says is in respect of any tax matter which arises under the laws of a Member State the receiving country, the host country of the request, has to make available the investigating powers that they have in respect of their domestic legislation because, of course, Mr Chairman the Commissioner of Income Tax may well have information in his hands in relation to income but which may nevertheless be useful to some other country in relation to capital taxes and therefore there is no duality, I suppose is the technical phrase, there is no requirement for duality of incidence of taxation.

The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

Clause 2, as amended, stood part of the Bill.

The Long Title

The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo

The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

The Long Title stood part of the Bill.

THE FACTORIES ORDINANCE (AMENDMENT) BILL, 1997

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

Clause 2

HON J L BALDACHINO:

Mr Chairman, we will be voting against section 106(4) for the very simple reason that as the hon Minister explained, when I asked for clarification, that he has the powers to actually downgrade the provisions in the law and also the provisions in the Directive. I do not know by having that clause there if actually they are going against the EEC Directives, which the EEC Directive only makes allowance in article 9 for more stringent conditions and not for any competent authorities to actually dilute what is already in the Directive. Therefore, we will be voting against 106(4).

HON CHIEF MINISTER:

Mr Chairman, the hon Member should not assume that the power is going to be exercised in breach of the Directive, he should be relaxed. The language is ambiguous at worst.

HON J L BALDACHINO:

I asked him, Mr Chairman, and the hon Member said that it could lower the category of what is in the law, if that is not the case.....

HON CHIEF MINISTER:

As drafted it certainly means that.

HON J L BALDACHINO:

Therefore, if we have a Bill that has been drafted and presented in this House it means that the Minister can actually do precisely that.

HON CHIEF MINISTER:

Does the hon Member object to the Minister having this power?

HON J L BALDACHINO:

Yes, only if we are transposing the law and it is precisely in the section where the Minister said actually that there was any activities in Gibraltar which is in the demolition of buildings, because in all the others apparently there are not..... it is just that we are transposing the law but actually the activities exist precisely in that section.

MR CHAIRMAN:

The point you are making is that you are voting against because of that, that is the point?

HON J L BALDACHINO:

That is precisely the point.

Schedule 1B

HON J J NETTO:

I circulated certain papers in which I said that in page 304 in the bottom line of the second paragraph where it makes reference to "93H" I said that I would like that to be deleted and in its place "section 112". This is obviously because of the confusion in relation to the Public Health Ordinance. Also on page 306 under section 11 the deletion in the second line of the numbers "93H" again by "112" the deletion of "93A" and the insertion of "105". The deletion of "93H" and the insertion of "112" again to take away the Public Health Ordinance and make reference to the Factories Ordinance.

MR CHAIRMAN:

That is a cosmetic arrangement.

Schedule 1B, as amended, stood part of the Bill.

The Long Title stood part of the Bill.

THE PETROLEUM ORDINANCE (AMENDMENT) BILL, 1997

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

Clause 2

HON P C MONTEGRIFFO:

Mr Chairman, there are three minor amendments. Clause 2, firstly in sub-clause 2(2)(a) hon Members will note that in the penultimate line of the first page of the Bill the word "appointed" has the "d" missing, so I move to add the word "appointed" in substitution of the current misspelt one. In sub-clause 2(5) of the Bill there is a reference on the first line and on the third line to sub-clause (3) that should be sub-clause (2) and in sub-clause (2)(10) which is to be found on pages 314 and 315, in page 315 in sub-clause 3(c) there is a reference to sub-section 3, that should be a reference to sub-section (2), in the last line of page 315.

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Estate Duties (Repeal and Consequential Provisions) Bill 1997; the Medical and Health Bill, 1997, the Income Tax (Amendment) Bill, 1997; the Income Tax (Amendment) (No. 2) Bill, 1997; the Factories Ordinance (Amendment) Bill, 1997 and the Petroleum Ordinance (Amendment) Bill, 1997 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 Estate Duties (Repeal and Consequential Provisions) Bill, 1997; the Medical and Health Bill, 1997; the Factories Ordinance (Amendment) Bill, 1997; and the Petroleum Ordinance (Amendment) Bill, 1997 were agreed to and passed.
- (2) The Income Tax (Amendment) Bill, 1997; and the Income Tax (Amendment) (No 2) Bill, 1997.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon E G Montado

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J J Holliday

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

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

Question put on the adjournment. Agreed to.

The adjournment of the House was taken at 4.50 pm on Tuesday 22nd July, 1997.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

3RD OCTOBER, 1997

**(adj to 6 October and
20 October)**

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eighth Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly Chamber on Friday the 3rd October, 1997, at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training and Buildings and Works
The Hon K Azopardi - Minister for the Environment and Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer,

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 26th June 1997, having been circulated to all hon Members were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Minister for Tourism and Transport laid on the table the following documents:

- (1) The Air Traffic Survey 1996.
- (2) The Hotel Occupancy Survey 1996.
- (3) The Tourist Survey Report 1996.

Ordered to lie.

The Hon the Minister for Employment and Training and Buildings and Works laid on the table the following document:

The Employment Survey Report - October 1995 and April 1996.

Ordered to lie.

The Hon the Minister for the Environment and Health laid on the table the following document:

The audited accounts of the Gibraltar Health Authority for the year ended 31st March 1996.

Ordered to lie.

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

- (1) The Annual Accounts of the Government of Gibraltar for the year ended 31st March 1996 together with the report of the Principal Auditor thereon.
- (2) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 15 and 16 of 1996/97).
- (3) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 4 of 1996/97).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.02 pm.

The House resumed at 3.05 pm.

Answers to Questions continued.

The House recessed at 5.00 pm.

The House resumed at 5.20 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 6th October, 1997 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 7.45 pm on Friday 3rd October, 1997.

MONDAY 6TH OCTOBER 1997

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE DEEP SEA MINING ORDINANCE

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to provide for the licensing of deep sea mining be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. The main purpose of this Bill is to extend to Gibraltar the United Nations Convention of the Law of the Sea. The United Kingdom itself acceded to this Convention last July. The question of deep sea mining is being addressed by our own legislation and hence the Bill in the House today. This Ordinance, Mr Speaker, will be followed by two Orders; one conferring privileges and immunities on the international seabed authority, and the other setting up the Tribunal for the Law of the Sea for the purpose of enforcing the provisions of the Convention. The Convention regulates in a comprehensive way numerous maritime issues. These include rights of navigation; both civil and naval; the protection of water and the marine environment; rights over living and non-living resources and marine scientific research. It sets out an international consensus on the limits of the various maritime zones made up of the twelve-mile territorial sea, the two hundred mile economic zone and the outer edge of the continental margin. The Convention also sets out in Part II a regime for the mining of the deep sea bed beyond the limits of national jurisdiction. Essentially, Part II lays down the principle that the deep sea bed is a common heritage of mankind and it sets up a licensing regime for deep sea bed mining. Mr Speaker, under the provisions of this Bill deep sea mining is made an offence if it is carried out without the prior possession of a licence from the Minister. In this context, provision is made for the recognition of licences granted by authorities in reciprocating countries. Provision is also made for the payment to the Government of a deep sea mining levy of three and three quarter per cent and for the making of payments to designated organisations. Finally, Mr Speaker, provision is made for the protection of the marine environment and the Minister is given power to appoint inspectors with the powers set out in the Schedule. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we are assuming that in fact this is being done so that the Convention to which the United Kingdom has signed up in July can be extended to Gibraltar as, presumably it is being extended to other Dependent

Territories and not because we are talking about a potentially lucrative economic activity where we are going to have mining companies based in Gibraltar, although obviously it is not impossible. One thing that we would like to know is whether the actual Convention itself is available in Gibraltar to be looked at so that we can see what the context against which it is being done, obviously after the Bill has been passed in the House. It is not just something in terms of being better informed, as to what is the relevance of this, since it refers to a Convention which we have not seen. We would like to know if it is available in Gibraltar, if it is available to the Government, whether it can be made available to us so that we can look at it. The other thing is, I am assuming of course that this is a defined domestic matter and has been accepted by the United Kingdom as being a defined domestic matter. If that is indeed the case, then it would appear that there are parallels between our right in Gibraltar to have the elected Government granting licences outside the jurisdiction which should be capable of a reader clause in other areas where the question of Gibraltar's legitimacy in giving licences which other people do not wish to recognise. I would have thought this provides a useful parallel which can be capitalised upon to defend that right that we believe the Government have to be treated as being equal to any other state within the Union and although this is not a Community thing, since it requires that the licences be recognised if issued by a reciprocating country it would mean, of course, that we would only need presumably to limit ourselves to recognising the licences of those other states that recognise Gibraltar licences irrespective of whether they are EU Members or not. We will be voting in favour of this Bill.

HON P C MONTEGRIFFO:

Mr Speaker, it is indeed, the implementation of this legislation is very much Convention driven. It is not on the back of any commercial venture which is being suggested to the Government. My understanding indeed is that the UK itself had only implemented this in July, is under pressure to have the Convention passed in Gibraltar because the package, so to speak, envisaged in the Convention with regard to the UK required the implementation of the Convention in Gibraltar, so it is already following suit in making sure that we discharge an obligation which the UK undertook would be completed when it itself negotiated the Convention. Copies of the Convention are available and I can certainly make those available to the Opposition Members. With regard to the question of defined domestic matter, well clearly we have got legislation in the House that has been passed by this

House and it is the Minister charged with Trade and Industry that is given power to issue the licences and indeed to collect the fees and therefore it is interesting indeed that the Gibraltar Government have been given almost an extra territorial legislative capacity over the phrase "extra territoriality" in the context of the sea. This is somewhat perhaps inappropriate but certainly the fact that we are going beyond the strictest sovereign waters in this legislation is quite an interesting development. I thank the Opposition Members for their support.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS ORDINANCE

HON DR B A LINARES:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 89/48/EEC on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration, or which are of degree level or equivalent and to transpose into the law of Gibraltar Council Directive 92/51/EEC on a second general system, for the regulation of professional education and training to supplement Council Directive 89/48/EEC as amended by Commission Directives 94/38EC and 95/43EC and the Decision of the EEA Joint Committee No. 7/94 of 21st March 1994 amending Annex VII to the EEA Agreement in relation to Council Directive 92/51/EEC to be read a first time.

Question put. Agreed to.

SECOND READING

HON DR B A LINARES:

I have the honour to move that the Bill be now read a second time. This Bill transposes into Gibraltar law EEC Directives 89/48, 92/51 and EC Directives 94/38 and 95/43 and Decision No. 7/94 of the EEA Joint Committee.

Mr Speaker, but this Bill goes beyond mere compliance with European Directives. It essentially serves to provide an instrument within Gibraltar legislation to regulate professions which at present remain outside statutory control. Until recently the only professions regulated by law in Gibraltar were those of barrister, solicitor, Commissioner for Oaths, Notary Public and Company Auditor. These are listed in the Bill under Schedule 5. In July this year through the Medical Health Ordinance we also transposed European Directives, some of them going back as far as 1975 regulating medical and nursing professions and these are listed in Part 1 of Schedule 1. Part II of Schedule 3 provides for the tabulation of professional courses designated under the provisions of Section 28(1) whereby the Minister is empowered to designate regulated professions. The situation in Gibraltar is that recognisable professional qualifications coincide with those similarly recognised and regulated in UK but should the need arise in the future to regulate purely domestic qualifications, with the passage of this Bill the necessary statutory mechanism will now be in place.

Mr Speaker, the Bill identifies two levels of professions and professional qualifications responding to the same distinction made in European Directives. Directive 89/48 is on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration which are of degree level or equivalent. Directive 92/51 is on a second general system for the regulation of non-degree professional and training courses. Parts 1 to 5 of our Bill responds to the latter second general system and Part 6 to the former, namely the general system regulating degrees and equivalents. It still, Mr Speaker, fulfils two main purposes. In the first place it creates a structure which will allow persons who are recognised in Gibraltar as having passed a course of study or training leading to a trade or profession and as I explained earlier this is limited, at this stage, to recognisable UK qualifications to be so recognised elsewhere in the Union and the European Economic Area, that is, Iceland, Norway and Liechtenstein. Conversely, this Bill also provides for the recognition in Gibraltar as possessing a trade or profession of those persons who are recognised as such in another Member State. In Part 3 the right of migrants in Gibraltar are set out imposing duties on a designated authority not to refuse applications by migrants if they hold the required qualification. Of course, the recognition of a professional title does not necessarily guarantee either employment for a migrant or even private practice if that practice is regulated locally by requiring an adaptation period or an aptitude test as provided in Part 4 of the

Bill. Naturally, in Part 5 provision is also made for the right of appeal by migrants against the decisions of a designated authority. Similar provisions are contained in Part 6 in relation, as I have explained before, to qualifications covered by the general system, namely, degrees or equivalents. Finally, Members of the House should note that the matters covered by this Bill are the subject of infraction proceedings against the UK as Member State by the Commission.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

I can understand the desire to provide for the transposition of these Directives into our national law in order to avoid infraction proceedings. In the past the argument that was put was that these Directives were intended to ensure that there was no obstacle put in the path of Community nationals which seem to exercise the right of establishment by national qualification requirements which did not recognise the comparable qualifications of another Member State. Therefore, if a particular profession in Gibraltar is not regulated the view was held that we did not need to remove a barrier because the barrier did not exist and that the purpose of this Directive was in fact to attack barriers to movement where people suspected that the professional qualifications requirements were as much intended to protect the domestic worker as they were intended to do anything else. The fact that most of the qualifications that will allow people to exercise their right of employment, assuming they have the right of establishment and assuming they have the right of employment, if one looks at the lists provided in Schedule 3 and we look at the professions that are regulated by law in Schedule 5 we can see that there is an awful lot of things which currently are not regulated and some which are regulated. The ones that are regulated are mainly the ones I think that were included in the last Ordinance dealing with the medical and the dental profession and so forth, but there is, for example, in Austria one of the professions seems to be a masseur, here we do not require anybody to come out with qualifications, nor do we require our own people if there are any to have them so it is quite obvious that we are, theoretically, recognising qualifications so that people may exercise professions in Gibraltar which in fact at present they would exercise without those qualifications anyway. I think the nature of the argument that was being put to the Commission, which obviously the Commission has not accepted and has

insisted that whether it is relevant or irrelevant they want to see it black upon white and that is what we are doing and of course since this is not going to significantly change anything, there is no point in inviting infraction proceedings over a theoretical argument which has no practical effect. I think the one thing that in the Ordinance which has nothing to do with the Community dimension is the proviso in section 28 for new designations to be introduced in the future. The fact that that can be done by Order and that therefore the whole Ordinance can be made to apply to an occupation to which it has not applied before is something that we are a bit unhappy about. It seems to us that our experience of this kind of situation in the past has been that when you introduce qualifications you have tended perhaps to affect local people who may have been doing the job for a very long time and then find themselves having been giving a perfectly satisfactory service having acquired perhaps a knowledge by experience that they have not themselves had the opportunity to obtain those qualifications and that the regulation of their profession has I think happened at one stage with the ability of locally-trained accountants to do auditing where it was argued that they could audit some kind of companies and not other kinds of companies and they found themselves at one stage cut out of quite a big chunk of the market when that was not the intention. It was in order to produce a definition of auditors that would meet the requirements of Community Directives on Company Law. The safeguard of those interests is not protected by the very simple definition in section 28 that by notice in the Gazette somebody can suddenly find themselves in a regulated profession whereas the day before he was not in a regulated profession. That would require more than simply adding the particular profession to a list of existing ones because presumably the Government, in circumstances such as that would want to provide protection for those already engaged in that activity and I think we would want confirmation that in the event of that happening that would be the policy of the Government so that we have got a record in the House if and when that happens that that would be the way it would be approached. Other than that, I think I would simply want to draw attention to the fact that in the interpretation part of the Ordinance we see on page 334 that "relevant state" means where the context requires Gibraltar and I think it is the first time that we are putting in our statute book that Gibraltar is a state and, of course, we support that concept.

HON CHIEF MINISTER:

Well, of course, Mr speaker, that is not what it says.... but I note that the hon Member is still in a pioneering mood.

Mr Speaker, in respect of his first main point, the position is exactly as the Leader of the Opposition has said. There was this attempt on the part of the United Kingdom, not just in relation to this legislation, but in relation to a whole raft of others, even interestingly as it affected the UK, not just Gibraltar, which went something like this, "As in the common law system you can do whatever the law does not specifically prohibit. There is no need to transpose a Directive which purports to regulate that which the law does not already regulate because it follows that if it is not regulated you can do it." That argument, as the hon Member has said, has not prospered, in other words, the Commission have rejected the UK's view that simply because the UK law is silent in prohibiting something, that therefore that avoids the legal obligation to transpose the Community's Directive. That is not just limited to this area but it extends to all the other areas in which the UK have attempted to deploy that argument which arises from the difference between the common law and the sort of continental codified system of law. The second point that the hon Member made, I think I would not want so much as to give a formal assurance to that effect but in the absence of a very good reason, which certainly would have to be explained, the Government policy would certainly be not by listing any profession to exclude from the possibility of continuing to practice that profession in Gibraltar anybody that has, prior to that date, been practising it. So if we could just loosely call those transitional provisions for existing performers or practitioners of any listed profession, the answer is that certainly it would be Government policy to save their position in any future listing.

HON DR B A LINARES:

Mr Speaker, as regards that last point. In seeking assurances that in the exercise of the powers granted to the Minister under Section 28, the fears that we might regulate professions which have already been practised and introduced new constraints not only I shall give assurances as the Chief Minister has done in terms of policy but also within the mechanism set by the law. Under Section 34 there are three areas of regulation which are viable, aptitude tests, adaptation periods and also professional experience, is also legally established as an area of qualification, if you like to put it that way.

HON J J BOSSANO:

If the hon Member will give way? When we looked at that we understood that to be something that the designating authority could apply to a migrant coming to practice, that is how we read that section, that is why we did not think that was enough to cover the rest. That is our understanding, that this is what the Gibraltar authority that regulates the profession may say to the migrant that wants to come in. But what we are talking about is creating a new designating authority for a previously unregulated profession where the people already practising it would not be people coming from outside.

HON CHIEF MINISTER:

Yes, I think the hon Member is right in saying that that particular section relates to migrant workers but it goes without saying that the domestic practitioners, ones own practitioners, cannot be in a worse position than migrants, so if the law contains a mechanism that allows one to take into account experience in the case of the migrant it cannot be argued that one is not allowed to take into account the same criteria in respect of ones own practitioners when extending the transitional provisions. The hon Member is right that that section deals on its terms with the migrant worker.

HON J J BOSSANO:

As we understand it, this is something that the designating authority can do not to reduce the requirement but when it is not satisfied. If somebody comes along and wishes to exercise a profession and the designating authority is unhappy about the suitability of the qualifications then they can ask for an adaptation period or something else. Frankly we did not see this as giving the migrant worker more rights than the local person. We saw this as giving the authority, the attribute of in looking at the qualifications and in looking at the circumstances of the Gibraltar market saying, "Well, look, you need to go through some test or some period of training or adaptation to suit what you have learned to the profession which you want to enter in Gibraltar". Frankly, it did not seem to us to be a mechanism capable of achieving the point that we raised but we are satisfied, in any case, that the point is something that the Government would want to be in tune with, if and when, section 28 is triggered.

Question put. Agreed to.

The Bill was read a second time.

HON DR B A LINARES:

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

Question put. Agreed to.

THE TRAFFIC ORDINANCE (AMENDMENT) ORDINANCE 1997

HON J J HOLLIDAY:

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 J HOLLIDAY:

I have the honour to move that the Bill be read a second time. Mr Speaker, the purpose of this very short Bill is simple. It is merely to replace all reference to Test Certificates in the Ordinance by Road Worthiness Certificates. This is being done in order to bring us in line with the term commonly used in EEC Directives. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, just to ask the Minister whether this is something that has been requested, or is deemed necessary, or it is just that we feel that in order to avoid confusion we need to change the interpretation? That is all, there is no objection from Opposition Members.

HON CHIEF MINISTER:

It is a legislative proposal that is departmentally driven, that is to say, it has come up from the officials in the Vehicle Test Centre rather than from any policy. I cannot, unfortunately, give you chapter and verse about why they thought it appropriate but if the hon Member is interested in that reasoning we can provide it.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

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

Question put. Agreed to.

THE SUPREME COURT (AMENDMENT) ORDINANCE 1997

HON ATTORNEY-GENERAL:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 77/249/EEC to facilitate the effective exercise by lawyers of freedom to provide services and further to bring the position of Irish barristers and solicitors who in future wish to practise in Gibraltar, into line with Community provisions be read a first time.

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is another in a series of legislative measures to facilitate the effective exercise by various professions in the European Economic Area of their freedom to provide services in Gibraltar. Hon Members will recall that there was a Bill earlier in the year transposing a Directive in respect of architects and will remember that before the summer recess there was another dealing similarly with doctors, dentists, pharmacists and midwives. On this occasion the Directive being transposed enables lawyers qualified in states of the European Economic Union to provide services in Gibraltar. It does not extend to United Kingdom lawyers because as hon Members will know there are already special bilateral arrangements whereby a UK lawyer can be called in Gibraltar for the purpose of the case which they are doing here. The list of EEA lawyers is set out in Part I of the Schedule and it is right to say that the right to provide services is limited to the extent that the lawyer is not entitled to undertake conveyancing or probate. It is important perhaps to say that this is not a recognition of qualifications measure, it simply allows a Community lawyer to practise in Gibraltar wearing the same hat that that Community lawyer would have worn in their own country. An example of this is that a French lawyer providing services in Gibraltar would practise as a French advocat. If the lawyer wishes to go into Court and to exercise right to audience, they are entitled to do that but on that occasion they must be accompanied by

a member of the Gibraltar Bar. There are certain disciplinary controls set out in the Bill and those are exercised by the Chief Justice.

Mr Speaker, the Bill also regulates the position of Irish lawyers because at present Irish lawyers have occupied exactly the same position as United Kingdom lawyers within Gibraltar, that they could be called to the Bar simply to carry out a case. In future the position will be that Irish lawyers will have exactly the same rights as other EEA lawyers but no more. If they wish to be called in Gibraltar to the Bar to practise here what they would have to do is to satisfy whatever conversion course was needed in the UK and then be called to the Gibraltar Bar. In the interest of fairness, though, it has been decided that Irish lawyers who were already here before this provision comes in will not be caught by it, so no existing Irish lawyers shall be caught by it. On the basis of reciprocity the right of audience in all Member States given to persons designated as barristers or solicitors in the United Kingdom and all Gibraltar lawyers are designated barristers and solicitors in the United Kingdom and therefore will have that right.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

**THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE
(AMENDMENT) ORDINANCE 1997**

HON ATTORNEY-GENERAL:

I have the honour to move that a Bill for an Ordinance to amend the Interpretation and General Clauses Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a very short piece of legislation and the purpose of it is simply to amend by widening section 24 of the Interpretation and General Clauses Ordinance. The present section 24 that provides where the Governor has the power to make subsidiary legislation with certain safeguards that he should have the power to exercise that retrospectively. The current Bill simply makes a logical extension of that power to the situation where the Government and Ministers have a power to make subsidiary legislation, that they, again, should be able to do it retrospectively. I commend the Bill to the House.

Mr speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we support this amendment because all that it is doing is allowing the subsidiary legislation that is signed by a Minister because the Ordinance says the Minister has the power or by a Minister because the Ordinance says the Government has the power to do what it would have been possible to do if it said "Governor" instead which is what it regularly used to say before. I think what perhaps is required, and this does not provide, is a distinction as to when in our laws the Governor means the Governor and the Governor means the Government because in the past, in this House, it was taken for granted that the enabling provision in our legislation allowing the Governor to make subsidiary legislation was the power that the Governor exercised on behalf of the Government and that therefore there was no question as to what it meant. It was only when some doubts started being raised about what it meant that it was found necessary to say the Government for the avoidance of any doubt and, more recently, it has become Minister in a number of Ordinances. I think, therefore, I am making the point because it gives me an opportunity to do so but I think the Attorney-General or the Government should consider, in looking at those Ordinances where there is the Governor, that there ought to be a way of knowing whether the Governor means the Government or the Governor means the Governor when it comes to the responsibility for introducing subsidiary legislation. Obviously, our view is that it was always intended, from 1969 onwards, in all the laws that were brought in then, that in all areas which are defined domestic matters obviously the subsidiary legislation is also defined domestic matter and the Governor is acting

really as the executive head of the elected Government and not on his own initiative. That is why, as far as we are concerned, since that was what the Governor was supposed to mean originally, then by spelling out that it is the Governor or the Government or any Minister charged under the Constitution, we want to make clear that that does not mean, for us, that if it is the Governor it is the Governor in the right of the United Kingdom Government because there is an awful lot of older legislation where when the word "Governor" was brought in, it was not brought in with that intention. At least not in the years that I have been here since 1972.

HON CHIEF MINISTER:

I can assure the hon Gentleman that we continue to take for granted all the things that he used to take for granted in this respect. As far as we are concerned the word "Governor" in respect of defined domestic matters means the Governor acting on the advice of the Government and that in areas of defined domestic matters there is subsidiary regulations that are signed by the Governor or by the Deputy Governor on his behalf, are those which are put up to him by the Government and that no one has challenged, I do not know if the hon Member appears to be implying that the matter was challenged in his time. I can tell you that it has not been challenged in my time and therefore I see no need to provide in legislation for what, as far as I am concerned, is a statement of the obvious and that is that if the principal legislation is a defined domestic matter, all the more the subsidiary legislation must be a defined domestic matter as well and I see no merit in crystallising the issue which, as I say, does not exist, at least it has never been raised with me by seeking to say in legislation what is a simple matter of constitutional interpretation. I can assure the hon Gentleman that on the first occasion that there is a challenge of that view I will come running to the House to report it.

Question put. Agreed to.

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

**THE CIVIL JURISDICTION AND JUDGEMENTS ORDINANCE 1993
(AMENDMENT) ORDINANCE 1997**

HON ATTORNEY-GENERAL:

I have the honour to move that a Bill for an Ordinance to amend the Civil Jurisdiction and Judgements Ordinance, 1993, be read a first time.

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. Again, this is a matter of Community obligation and this Bill is an amending provision and should be read in conjunction with the Civil Jurisdictions and Judgements Ordinance of 1993. Hon Members will recollect that that Ordinance was enacted but never commenced and the reason why it was not commenced was because the United Kingdom had not extended the Brussels and the Lugano Conventions, upon which it is based, to Gibraltar. The aim of the legislation is that the 1993 Ordinance will come in simultaneously with this amendment and the 1993 Ordinance basically deals with recognition and enforcement of foreign civil judgements. The Brussels Convention is an intra-Community provision and it gives the European Court of Justice the right to interpret the Convention. The Lugano Convention is a mirror image of that but as opposed to being intra-Community it is an arrangement between EEC and EFTA countries. The 1993 Ordinance also regulates the enforcement of civil judgements between Gibraltar and the United Kingdom. It will mean that the Judgements (Reciprocal Enforcement) Ordinance will have to be amended in Gibraltar in so far as it applies to the United Kingdom. The 1997 Bill now before hon Members seeks to amend a small part of the 1993 Ordinance and this amendment quite simply is to put into effect the judgement of the European Court in the case of Kleinwort Benson Ltd and the Glasgow City Council and, effectively, what the judgement says is that there is no role for the European Court in interpreting the Brussels Convention as between England and Scotland. There are national courts who can do that and between England and Scotland there is a common appellate court in the House of Lords. Mr Speaker, Gibraltar, effectively, mirrors that position, that there is no role for the European Court in interpreting the Convention as between Gibraltar and the United Kingdom. Hon Members are right to say this, there is no question of the separate legal jurisdiction of Gibraltar in any way being affected or diminished by the rationale in Kleinwort Benson. The rationale is, quite simply, that Gibraltar and the United Kingdom are not separate contracting parties but they are separate legal

jurisdictions and the position is exactly the same as it was between England and Scotland that one has separate legal jurisdictions but there is one contracting state. The situation is exactly the same in relation to Gibraltar, that one has separate jurisdictions, one contracting state and one final appellate Court of Law. There are minor amendments, hon Members will see, to Schedules and those minor amendments are simply to bring the Schedules up to date with the current position as both to the Lugano and the Brussels Convention. The likely commencement date of this legislation, were it to go through, is February 1998 because under the terms of the Conventions the United Kingdom has to give three months notice to other Convention parties. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, the hon Attorney-General has told us that if this goes ahead it will be 1998 before it commences because of the notification that has to be given to other States party to the Convention that it has been extended to Gibraltar. Does he have any knowledge of why it is that this has not happened already given that the original Ordinance which was intended to extend the Conventions to Gibraltar was passed by the House in 1993? I can understand that if post-1993 there has been a case which requires a change in what was previously legislated so that the results of that case are reflected, then I can understand the need for that amendment, but can he explain why the Convention was not extended to Gibraltar earlier? Or is there a connection between the two things?

HON CHIEF MINISTER:

Mr Speaker, as the hon Member correctly says this legislation was originally brought to the House by his Government and legislated in this House in 1993. I cannot explain the delay between that date and the 16th May 1996 as to why during those three years the previous Government did not press the UK Government to do the necessary to make this legislation a live issue, in other words, do in effect what it has agreed to do now. What I can tell the hon Members is that since we have been in office we have taken the view, which is the view that some of us in Government had as legal practitioners, that this legislation is of considerable commercial value to Gibraltar and we have taken it upon ourselves to press the UK Government, regularly since we have been in office, as to why it had not done the necessary to enable

this legislation to be commenced and under pressure of that insistence the Lord Chancellor's Office have finally agreed to do it. I cannot explain whether there has been any reason why the Lord Chancellor's Office have dragged their feet or whether there is any reluctance on their part for this to have been extended to Gibraltar or not. The position as we found it when we arrived in office was that we were aware that it was on the statute book; that I personally and professionally had had several conversations with the previous Laws Draftsperson about when this was going to commence and that when we came into office we took, because we were, I suppose, knowledgeable, personally and professionally about the importance of commencing this legislation to Gibraltar, we thought, we have taken a particular interest in pushing London and we are very satisfied and very happy that albeit after four or five years, that they have finally done the necessary and the commercial value of this to Gibraltar now is the same as I suppose it was when the hon Members decided to bring the original legislation to the House and that is that it makes the jurisdiction of Gibraltar much more competitive, not just in certain admiralty matters but in other commercial litigation generally and the reason why it has now happened, as opposed to three years ago, I think is just because we have taken a particular political interest in rushing along whatever reluctance there might have been in the Lord Chancellor's Office as to why that had not happened before the 16th May last year, I cannot shed light. It might well be that the matter was raised but not with sufficient insistence to cause London to focus on it and actually do it.

HON ATTORNEY-GENERAL:

May I simply add to that that as far as I am aware there is no technical reason why it could not have come in.

Question put. Agreed to.

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

Question put. Agreed to.

THE GIBRALTAR SAVINGS BANK (AMENDMENT) ORDINANCE 1997

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Savings Bank 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. The Bill is a very short one which would enact a proposal set out in the Government's Estimates 1997/98 laid in and debated earlier this year in the House, to exclude various Government Funds for the purpose of calculating the statutory reserve to be held by the Gibraltar Savings Bank. Schedule 13 of the Gibraltar Savings Bank Ordinance sets out what may happen in any year that the revenue of the Savings Bank should be more than sufficient to defray the interest due to depositors and the expenses of the Bank. Any surplus can either be retained in the Bank or transferred to the Consolidated Fund provided that the assets exceed the liabilities by 10 per cent. The Bill inserts a new clause 13(2)(c) which restricts the 10 per cent rule to third party deposits and debentures, i.e. monies invested with the Bank by members of the public and non-governmental organisations and would exclude liabilities in respect of any Government wholly-owned company or corporation, any special fund or any other Government deposit. When the 10 per cent rule came into operation nearly a decade ago total liabilities of the Savings Bank were solely represented by third party deposits. Increasingly, through the 1990s Government Funds have been lodged with the Savings Bank and now all Government Funds, whether the Government itself, wholly-owned companies, statutory bodies or the remaining special funds are held by the Savings Bank. For the purpose of calculating the statutory reserve we do not feel it is necessary for the Government to include its own funds but this is of course prudent to continue to retain the 10 per cent reserve in respect of third parties monies. Mr Speaker, only on two occasions over the last decade the assets of the Bank exceeded the liabilities by 10 per cent. By the 31st March 1997 the assets of the Savings Bank exceeded the liabilities by some £20 million which is equivalent to about 16 per cent. In the Estimates, earlier this year, the Government set out the transfer to the Consolidated Fund of £7 million of that surplus which is the monies held over the current formula for calculating the 10 per cent. The transfer of a further £8 million was set out in the Estimates but is subject to

the change of law now before this House. The remaining £5 million will continue to be held in the Savings Bank as the 10 per cent statutory reserve in respect of third party deposits. I should add, Mr Speaker, that if the amendment to the GSB Ordinance is passed, once the monies are transferred to the Consolidated Fund, the use to which they can be put can only be determined by this House. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

We do not support this measure, Mr Speaker. Let me say that if the Bill is passed as the Financial Secretary says, we know already what is going to happen to the money because in the Estimates it shows that money going into the reserves and then being passed on to the Improvement and Development Fund. Opposition Members take the view that if the Government wish not to provide the additional cover for its own deposits then it ought to at least go back to the level of reserve that existed before which was 15 per cent, that is to say, the Savings Bank Ordinance was amended to reduce the level of reserves from 15 per cent to 10 per cent at the time when its liabilities were increased substantially but it was liabilities to its owner because of course deposits of the Government in the Bank are liabilities of the Bank which it owes its owner because it is a Government owned bank. I think when we are talking about reserves and we are talking about the 10 per cent or 15 per cent we should not forget that the reason why we have the requirement for a reserve is in fact because the Bank has got no share capital, it is a statutory body set up by law without share capital. The 10 per cent or the 15 per cent is the equivalent of what the share capital would be in a commercial bank and under Community law if this bank required to have a licence then it would be in all sorts of trouble quite apart from the fact that it would require to have free capital of its own which would be in excess of 10 per cent. There would be a question of having deposits from one customer which take up a very big share of its total deposit base which I think is what the Financial Services Commissioner has been saying to some people in the banking sector, that for the question of the prudence of the liability of the Bank..... Of course, we believe that the Savings Bank is in a special position just like the National Savings Bank in the United Kingdom was and that when the Directive originally was introduced in the European Union almost every Member State then and since made sure that their Savings Bank were excluded from the provisions and ours was not. We, at one stage, thought that in order to comply with

Community law we would need to make it into a commercial bank because it was not listed as the Savings Banks in other Member States are. When we compare what the Savings Bank in Gibraltar is in the context of other banking institutions, it seems to us that we must not forget that if it were a bank that was state-owned but set up as commercial entities are it would have what would be the equivalent of the reserve as free share capital which is there obviously as a guarantee for the depositors. We can understand the view that the owner of the bank does not need to have that safeguard and that guarantee because in any case the Ordinance makes quite clear that if the bank actually were to have a shortfall in its liabilities so that its own reserves were insufficient it becomes a charge directly on the Consolidated Fund. so you can argue that the Consolidated Fund is there as a secondary reserve. Nevertheless, we feel that the figure for private deposits ought to be the 15 per cent that there was there initially and not the 10 per cent that was brought in when the deposits were increased as a result of Government companies putting their money in the bank and the Government's own funds. In any case, the figure can be altered if there is a particular need for it in any particular year. It is there more as a guideline than as a rigid requirement since it is the figure laid down or such other figure as the Governor may decide and we consider the Government in this case is a defined domestic matter and it means the Government.

HON CHIEF MINISTER:

I suppose the hon Opposition Member will have understood the principal reason why the Government are taking this step. First of all, we believe that such reserves as the Government of Gibraltar have should be transparent, that is to say, they should be contained in a Consolidated Fund reserve and not "concealed" or hidden, in a sense, as the reserves of the Savings Bank which would eventually become apparent when the accounts of the Savings Bank are themselves published, a considerable period of time after the event to the period to which they relate. This is a part of our transparency in public finance measures whereby we say the House of Assembly is entitled to know at any given time what are the real reserves, what is the real financial disposition of the Government of Gibraltar and if the Government of Gibraltar in effect have reserves which are by one mechanical means or another available to it as the surplus of the Gibraltar Savings Bank then those should not be sitting as reserves of the Savings Bank but rather in another fund which we are calling the Consolidated Reserve and in effect what we are doing is getting all the reserve balances and putting them where they can all

be seen as one lump sum. The future of the Savings Bank is itself under consideration precisely to avoid the Savings Bank, for example, having to be a major contributor to a deposit, I call it the lifeboat fund, but the technical name for it is the Depositor Guarantee Scheme. Given the profile of the depositors that the Savings Bank has got I think it would be one of the biggest contributors, I think it would be the fourth or fifth biggest contributor to any Depositor Guarantees Scheme that is being devised by compulsion under EU Rules and therefore the Government are reviewing the whole status and positioning of the Savings Bank because certainly we are not willing to expose the taxpayer to liability, to substantial liability, as a principle player, through the Gibraltar Savings Bank, in the Depositor Guarantee Scheme for the benefit of commercial operations. Mr Speaker, I believe, although I stand to be corrected and I would not wish to be held to this figure, but I feel that the capital ratios to which the hon Gentleman has indirectly alluded in the private sector banks is eight per cent and that, to the extent that the equivalent of the reserve of the Savings Bank is more or less the equivalent of capital ratio, that 10 per cent is in fact above what would be required of this bank were it a commercial bank. In any case the hon Member will not lose sight of the fact that given the very conservative and prudent investment policy of the Gibraltar Savings Bank it is extremely unlikely ever to need to have recourse to any part of its reserve, even the 10 per cent, and therefore I certainly see no need, let alone any good case, for restoring the reserve to 15 per cent, increasing it to 15 per cent from the 10 per cent even accepting the fact that we are now stripping out Government owned deposits from the question.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Could I just add a point of clarification I did not allude to in my opening remarks. I must reiterate that the Savings Bank since 1989 has never actually achieved the 10 per cent threshold and in fact the actual range has ranged from 4.26 per cent which is the lowest year in fact to the highest year which is the last financial year which is 16.14 per cent. In a way, this is a bit of a theoretical discussion because it has never actually attained that level.

HON J J BOSSANO:

It is not a theoretical discussion because in fact the percentages that the hon Financial and Development Secretary is calculating is on the total deposit base without stripping out the Government. So it is not theoretical because by stripping out the Government he

will then find that of the public it has never been as low as 10 per cent which is what the new Bill seeks to do.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In fact the lowest it will have been was in 1989 when it was 4.26 per cent and I think, when we strip out, it will not quite drop to that level.

HON J J BOSSANO:

The point that I am making Mr Speaker is that in looking at the 10 per cent it is no good saying, "Well, it has never been above 10 per cent". It has never been above 10 per cent of the total deposit including the Government but it has certainly been above 10 per cent on many, many, many years if the new definition of what the reserves are had been in place, that is to say, if the Financial and Development Secretary goes back each year and strips out all the publicly owned deposits and then relates the reserves of those years only to the deposits from individual members of the public, as opposed to those controlled by the Government, then he will find out that it was regularly well above 10 per cent.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

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. Agreed to.

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE 1997

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Question put. Agreed to.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. This is another short Bill which seeks to enact two policies of the Government. The first is to make provision for the grant of a 20 per cent discount to all ratepayers of non-domestic or commercial properties who are fully up to date with the payment of their rates. By "up to date" we mean that there are no outstanding quarterly payments of rates owing prior to the 1st July 1997 or if monies are outstanding the ratepayer has entered into an agreement for that payment and the agreement is being honoured and complied with. The rates discount forms part of a package of Government measures to support the development of the private sector economy by reducing the costs businesses face and thereby boosting the creation of jobs. The introduction of the discount will also contribute to reducing arrears of rates which currently stand at over £4 million, the bulk of which is owed by non-domestic ratepayers. Those ratepayers who are in arrears, which are not the subject of an arrears agreement should be aware that the Government reinforcing its efforts to recover all outstanding monies and Land Property Services will be filing complaints in the court for the recovery of monies owing. The second provision of the Bill, Mr Speaker, extends the payment of rates to dwelling houses located in the Upper Rock. This is an anomalous, historical matter that stems from the days when the entire Upper Rock was controlled by the Ministry of Defence and as I understand it there was no infrastructure provided by the former City Council. Large areas of the Upper Rock have now been transferred by the Ministry of Defence and there is no logical reason why hereditaments in the area should not be subject to payments of rates.

I am sure hon Members, Mr Speaker, will be interested in the projected financial impact to the Government revenues of this legislation. The Government's Estimates 1997/98 provided for £12.6 million to be collected in general rates. This estimate now looks to have been optimistic.

This is primarily because of the reduced contribution by the Ministry of Defence from £2.8 million in 1996/97 to £2.5 million in this financial year due to them transferring properties together with some revaluation of non-domestic properties and the effect of Development Aid coming on stream. The revised forecast revenue from general rates, before application of any discount is likely to be closer to £12 million. Land Property Services have estimated that the cost of the discount to non-domestic ratepayers over the next two quarters of the financial year could be as high as £0.5 million but set against this will be the increased settlement of arrears. Arrears per quarter were running at over £130,000 but have already reduced to £42,000 in the quarter that has just passed. There will also be increased revenues from agreements and pursuing the outstanding collection of arrears through the courts where necessary. The bottom line of all this is that we forecast that collecting rates revenue in this financial year should be around the £12 million mark that I referred to earlier. The cost of the discount for a whole year if every non-domestic ratepayer was up to date with their rates at today's prices and rateable values, would be in the region of £1.4 million out of a rates bill for non-domestic properties that currently stands at just over £7 million. Set against this, would be the recovery of a substantial amount of rates arrears which, as I referred to earlier, stood at over £4 million at the end of the last financial year. Based on the proportion of non-domestic ratepayers to domestic ratepayers, well over 80 per cent of these arrears are owed by non-domestic ratepayers. With respect to the Upper Rock it will take Land Property Services a few months to survey, measure and value those houses that are to be included in the valuation list. In conclusion, Mr Speaker, this Bill is designed to boost the economy and in a way that will substantially reduce the amount of rates arrears as well as maintaining Government revenues. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, I understand these measures are part of a package of Government measures introduced or announced last February. They were predominantly geared towards helping businesses that were struggling and helping those businesses that were able to meet their obligations to expand, creating further jobs in the private sector. To us it seems that this measure does not quite do that in the sense that this is a discount for down payment. The difficulties that there are then with businesses who are struggling and my understanding was some months ago that

this was, as I said earlier, one of the measures aimed to help the struggling business is that in effect two competing businesses, one of whom has no difficulty in making payments because his business is going well and another who is struggling to make the payments and indeed cannot make the payments on time, will now not be the five per cent penalty that there was for late payments as provided for in the Public Health Ordinance but in fact a variance of 25 per cent because the person that is not making the payments on time will not qualify for discount and on top of that will have the five per cent penalty imposed on him. The differential between the businessman who is making his payments on time because he is able to and one because he is not able to is significant. It is also interesting, Mr Speaker, to note that the large bulk of arrears are from non-domestic rates. It is difficult to see how the reduction will bring those arrears down. I assume the only way it will bring them down is by forcing businesses to settle their arrears or enter into agreements for the settlement of arrears which will then enable them to take advantage of the discount. Mr Speaker, we will be abstaining on the Bill as it stands and proposing an amendment.

HON CHIEF MINISTER:

Mr Speaker, I have to say that I disagree on almost everything that the hon Member has just said. It seems to me an extraordinary argument. The Government's policy in relation to this particular measure is driven by two different factors - one is to deliver help to business and the other is to deliver help to business in a way which additionally and almost as a by-product enhances the collection of arrears. I can tell the hon Members the Financial Secretary has already said that it is already having that second effect, in other words, businesses in order to gain access to the discount are either bringing their payment up-to-date or entering into repayment agreements. There is no doubt that this will substantially improve the cash flow aspect of rates collection from the commercial sector generally. Turning now to the first of the two reasons - Mr Speaker, the Government are as interested in protecting jobs in what he calls the unhealthy parts of the private sector as in the idea that we should not assist the unhealthy parts of trade because that gives them an unfair competition, in other words that gives them unfair competition with those that are paying is not acceptable. We start from the premise that all businesses, whether they are going well or they are going badly must pay their dues in rates and then across-the-board we say we believe that the private sector, which is where jobs not only have to be created but indeed the existing jobs protected, need to have some of its cost burden eliminated so that, those that are in

difficulty can survive the difficult period and those that are not in difficulty or not in as much difficulty, are better placed to grow. We give everybody the same facility. There is no element of discrimination. We are saying to people that pay their dues, "If you pay your dues you get the 20 per cent discount" and we say to everybody that has not paid their dues, "If you do not pay your dues you get a five per cent penalty", and that applies equally to those that pay and to those that do not pay. What the hon Member might have been suggesting is that we are in effect forcing to pay those that really could not afford to. We are not forcing them to pay, we are just not giving them the benefit of the discount if they do not but it is not as if we are putting a pistol to their head. I believe that there ought to be an enforcement mechanism for people who do not pay their rates but that enforcement mechanism is not this. We are not saying to people, "The procedure that you will face if you do not pay rates..... "This legislation does not say, "It is going to get tougher". In fact, it is going to get tougher, the Government are going to take a much more aggressive approach to people who own businesses that do not pay, not just their rates contributions but their PAYE and other contributions. In doing it, we will be sensitive to but we will not be exclusively driven by, which I think is where there has been an element of abuse in the past. We will not be exclusively driven by the need not to risk jobs in those areas. We will be sensitive to that but we are not going to allow businessmen to use that as an excuse for justifying their non-payment..... "If you make us pay we will have to go into liquidation and the economy will lose six jobs". I think that both objectives that surely the hon Member will share which is on the one hand maximise the public revenue so that everyone pays their dues whilst on the other hand not establishing marginal jobs in the economy is a balance that needs to be struck and it is not struck simply by allowing people to get away without paying their rates and without paying their social insurance and without paying their PAYE.

HON A ISOLA:

Mr Speaker, the point that I was making seems quite clearly the opposite of what the Chief Minister is saying. The point that I am making is that if businesses are struggling and one gives them the same opportunity as the business that is not struggling, in other words a healthy business, then the competition will get greater, the healthy business will get further ahead and the unhealthy business will have a bigger problem because it cannot meet the payment on time and therefore not take advantage of the 20 per cent discount. So the marginal jobs that are being referred to will actually be worse

off by bringing this measure into place. What we say is support the businesses that need the support and that is where the word "sensitive" which the Chief Minister referred to earlier has to be addressed. One has to be sensitive to the needs of the businesses in order to ensure that it is not abused, but clearly, to give the support across-the-board and to give a 20 per cent which will create a 25 per cent differential from a paying and a non-paying business is to make the position with the unhealthy businesses worse and not better.

HON CHIEF MINISTER:

I do not agree, the non-paying business presumably will continue not to pay and try to get away with it as they are doing at the moment and the fact that we give those that do pay a 20 per cent discount does not oblige anyone who presently decides not to pay not to do so. It is true that by not paying they do themselves out of the possibility of the discount but the fact that we give the good payers a discount does not compel or coerce anymore, than the law already does, those that do not pay from not paying. I think the hon Member's point is entirely illogical and he may think that we should not be giving assistance to businesses at all through the rates mechanism but unless that is what he is arguing, and of course it is perfectly legitimate to argue that it is his view that the Government should not be delivering help to businesses, to the private sector through the mechanism of rates but unless that is what he is arguing it is impossible for the Government to deliver a discount to some businesses and not the others. What is the Government supposed to do? Analyse and scrutinise the accounts of every business in Gibraltar to decide the extent, if any, to which they are meritorious of receiving the discount? That is simple discrimination on an entirely subjective criteria established by the Government. I doubt that it would be legal and even if it would be legal it would certainly be an enormous administrative burden to target. All those phrases about targeting and businesses who really need it, needs to be assessed on a case by case basis and either one has a system that delivers help on a case by case basis and I doubt whether it would be legal, or one delivers it to everybody on the basis that the Government have decided that it is in the general economic interest of Gibraltar to reduce the cost burden to businesses to free it from some of the present constraints of growth and in the case of marginal businesses to increase the prospects that they will survive whatever difficulty they are presently experiencing. I agree that many of these reductions will not facilitate growth. In the case of many businesses in some sectors, some of these measures, but not the import duty measure which has to be passed on, really are almost

an intensive care unit type of assistance to help the businesses to nurse the business through this period and enable them to emerge rather than that they should fail. So not everybody will benefit from these measures by growing. The businesses that are healthy will be better able to grow, the businesses that are unhealthy are not going to be allowed to grow by this mechanism but they will be better placed to survive their difficulties. I take note that the hon Gentleman would not, if he were in Government, have delivered this measure of assistance to the private sector.

HON J J BOSSANO:

Mr Speaker, we believe that in looking at the 1500 employers that there are in Gibraltar in the private sector, given this information that we have got in other areas, the evidence is that there are a few hundred who are having great difficulty in keeping their head above water and that those few hundred are found, whether we are looking at rates arrears, PAYE arrears, social insurance arrears, that tend to be the same companies with the same problems in the arrears in a number of different areas of payments to the Government and indeed probably in arrears to suppliers from other sectors in the private sector. We do not think it is such a monumental task to home in on these firms that reappear on the lists of arrears and see what is the best way to help them in overcoming the problems that they are facing. In fact, if instead of doing that the Government says, "Well, everybody that pays their rates on time will now get a 20 per cent discount", what follows is that the 92 per cent that pay on time will automatically pay 20 per cent less without an effort. The 8 per cent that are not paying on time will either fall into more arrears with PAYE and social and instead divert their payments to rates so that they can get the 20 per cent discount or in fact they have the ability to pay before and chose not to because that is really the only way they can get the 20 per cent because the legislation requires people to pay their full rates in one quarter and then get a 20 per cent credit in the next quarter. If they do that in the first quarter it means they have the ability to do it and why are they not doing it now?

HON CHIEF MINISTER:

The hon Member assumes that everyone that does not pay their rates does not pay their rates because they cannot afford it. I am not satisfied that that is true. I think that there are many people who do not pay their dues to the Government, firstly because Governments in Gibraltar have historically not been particularly aggressive and this is not just a comment on the hon

Member's Government, I think Governments historically in Gibraltar have not been particularly aggressive in pursuing defaulters and that is why we have introduced that element of incentive even for those that can afford to pay. The incentive of the 20 per cent discount will draw out the people who can afford to pay and simply delay whilst they are allowed to get away with it. The point that the hon Member makes about targeting the assistance, I think it would be entirely unacceptable and that the private sector in Gibraltar would not tolerate a situation where the Government was delivering in effect public subsidies to certain businesses just because they were struggling. In other words, what the hon Member is saying fine the two hundred defaulting businesses and find ways of targeting help to them. Mr speaker, that is creating precisely the unlevel playing field that the hon Member the shadow spokesman for Trade and Industry was speaking about before. How can you say to businesses that are successful "You pay tax at 20 per cent..." for example, and to the unsuccessful businesses say, "We have looked at your accounts and we have decided that you are unsuccessful you need only pay 10 per cent." That in effect is what we would be doing if we were to say to the successful businesses, "You pay rates at 100 per cent, but you Mr X Limited, we have looked at your accounts and I have seen that you are having difficulty and I, the Government, hereby reduce your rates to 80 per cent as opposed to your competitor that might be in the building next to you, he will have to carry on paying 100 per cent." That is a complete distortion of the level playing field which the private sector would simply not tolerate and I believe quite rightly so and I frankly doubt whether it would be lawful in the sense that it would be inequality in the application of taxation to people in the same category of taxes.

HON J J BOSSANO:

Mr Speaker, it is no more difficult or iniquitous or lack of level playing field to identify a sector of the economy that needs help than to do it for the hotel industry where people in other businesses are not going to be given the help that the hotel [Interruption] that is not the difference because I have not said there is one company out of 200 whether the other 199 are profitable and one is not profitable, I am saying that it is possible to identify the causes of the difficulties being faced by 300 or 400 employers in Gibraltar and when one identifies the causes then instead of putting £1.4 million as a reward to people who pay the rates on time, 92 per cent of whom are paying them without the reward, so one is using £1.4 million to do what? One is using £1.4 million to give a discount to people who are paying their rates currently without a discount, to people who

may be making [Interruption] the ones who are struggling presumably are the ones who are having great difficulty in meeting their bills, of those that are paying their bills on time, the Government's view seems to be that there are people who do not pay because they can get away with it, not because they are struggling. And that there are people who do pay even though they are struggling because they do not like to get away with it.

HON CHIEF MINISTER:

Absolutely right.

HON J J BOSSANO:

Obviously the Chief Minister knows better than I do who are the conscientious businessmen and who are not the conscientious businessmen from his contact with them before he was in Government. I am assuming that most businessmen will pay if they are able to pay because their business is prospering and when we looked at the problems of the private sector we did not agree that the whole of the private sector was in serious trouble. We do not see the banks floundering. Somebody must be paying the £12 million of tax on £39 million of profits in our economy which we have had confirmed in questions in this House in the assessments made for 1995/96. The assessments on declared profits, not on the people who have not yet been identified, the ones that have got assessments made on declared profits, we were given a figure of £13 million in the last House and it has now been brought down to £12 million. So it seems to me that if one has a differential which is based not on the individual businessmen but on a category of business or on a sector of industry then nobody can say, "You are doing it unfairly or you are not creating a level playing field". One may be having to do something to, if one likes, correct what some businessmen perceive as an unfair playing field. For example, the fact that one has got a large retail outlet that is able to buy in bulk and get bulk discounts means that the small shopkeeper has got a much higher purchasing cost and a much lower profit margin on a tighter turnover. In that context if we look at the business cost the rates of that small shop may be a much bigger percentage of their operating cost than the rates of a supermarket. That is not giving an advantage to people below a certain size, which many countries in Europe do, they have got special rates for small and medium-sized businesses which one loses after one gets over a certain size because it is considered that small businesses have got the largest wastage rate in terms of survival, lots of new businesses are started every year and lots of them die. What one wants to do is to give the ones that are starting the opportunity to survive and

get bigger and grow. Once they get bigger and grow they do not need that any more. Is not that perhaps consistent with the policy of saying, "In the Europa Business Centre we have a non-commercial rent in the new units that are being built with EU money". That is distorting the level playing field landlords could argue because the Government are entering the property market with subsidised accommodation. It is a perfectly legitimate thing for the Government to subsidise accommodation in order to give a helping hand to the people that are small and struggling and on their own and employing one or two people and there is an awful lot of that in Gibraltar. The percentage of employers in Gibraltar is that there are something like 20 per cent of the employers that are with over 50 employees who generally are the employers that are operating profitably because the moment an employer with over 50 employees is in trouble the first thing they do is sub-contracting and they fall to below 50 employees. The people that are in real trouble are the people that only employ two or three because, at the end of the day, the business does not have the critical mass to be able to operate very profitably, it operates on a narrow margin. It can contract, because you get to the stage where you can only do it with a minimum number of people and below that minimum number you have to shut up. We believe that the Government would have done better to devote this money to helping those that need the help most without using some of it to reward the people who do not need rewarding because they are already doing well in their own business, the business is expanding and they are paying their rates on time. In fact, if it is looked at from a point of view of a pure measure to increase the collection of arrears, from that point of view it is frankly spending quite a lot of money to collect not all that much in the context of the fact that 92 per cent already pay on time.

HON CHIEF MINISTER:

Mr Speaker, the hon Gentleman is not quite capturing the underlying philosophy of this policy. The Government believe that even those parts of the private sector that are presently able to meet their obligations as a taxpayer to the Government are in need of help in order that they can grow and employ more people. Therefore, the criteria is not whether they are able to pay or not, but whether the Government have judged that the cost burden of the private sector should, as far as possible, be reduced, in order to facilitate growth which might otherwise not take place. There are some people, of course, who cannot pay and I think that is the category that the hon Mr Isola was describing but this policy is not designed to help the ones that cannot pay up, well if

you cannot pay, you cannot pay presumably 80 per cent either? This policy is not just cut designed to assist those that are having difficulty in paying. That is not the rationale of this policy but of course what the Leader of the Opposition says is true to this extent. If the Government could identify that category of company that needs a rate discount neither to enable him to pay it nor to enable him to grow, in other words there must be companies in Gibraltar that are paying their rates, because they can, and who can afford to grow even though they are paying their rates. If the Government could identify that theoretically, given that the Government do not want to give up revenue, theoretically it would be desirable to exclude them from benefiting from this assistance. The Government believe that there is a right and a wrong way to do things and the Government believe that it is wrong to exercise discrimination of that sort. The hon Member knows that whenever the Government give a concession unless it is a very targeted concession, and some of them can be, we do not believe that this one can be targeted in the way that the hon Members say, but the less targeted a concession is the more it is likely to benefit people for whom the concession was not intended. Therefore, when the Government reduce the level of taxation or when the Government reduce the cost of electricity, or the cost of water, or fails to increase the cost of electricity or the cost of water, it is benefiting also people who could jolly well afford to pay for their water and their electricity at a higher rate and it is giving tax concessions to people who jolly well do not need it because they have got enough spare cash to have paid that amount of tax. I accept that unless one is able and willing, willing and able in this case, to target rates assistance only to those companies who "need" it, need in inverted commas against the Government policy objectives, then it is bound to benefit companies who do not need it in accordance with those same criteria. That is why I said to the Opposition Member that either the Government could decide that rates was not an appropriate mechanism through which to deliver help to the private sector at all and we did not come to that view, but having come to the view that it was necessary to deliver rates assistance to the private sector through the rates mechanism, we also concluded but we have considered for example, it is interesting that he should have used the example of banks, we had considered excluding commercial premises in certain sectors from this benefit but, on consideration, we concluded that it just was not legalistically defensible to discriminate once we had accepted the matter. The hon Members may disagree as to whether it was possible or not to discriminate. We concluded that it was not appropriate to do so.

HON J J BOSSANO:

Mr Speaker, we are not saying that the help need necessarily have been given through the rates. We had, during Question Time, the issue of giving wage subsidies to employers in the private sector who take on people from the unemployment list and the response from the Government was, "We do not want to subsidise the private sector". I would have thought there was a stronger correlation between a wage subsidy which can only be triggered if somebody is employed and a reduction in rates which can finish up either in reducing a loss or in increasing the profit margin. It does not seem to me that there is anything here that the Government can subsequently use to say to themselves, "As a result of the 20 per cent reduction the businesses have expanded by X and employed so many people". It is just a question of a hope that this will produce such a result, but there cannot be any scientific correlation whether as in fact in the case of the wage subsidy it is unquestionable - no employee no wage subsidy. We are not saying it needs to have been done through the mechanism of the rates. At the end of the day if a business has got a range of operating costs which are unavoidable, if they get assistance to meet those costs, then that assistance can be given towards the payment of those costs from the Government and it need not be exclusively through a reduction for prompt payment on rates. As far as we are concerned, we see this not as a way of bringing about expansion of the private sector or increased employment in the private sector but as a way of rewarding prompt payment and since those who do not pay in time are a relatively small percentage of the total, it seems that the ones that are going to be prompt payments as a result of the discount are the ones that could afford which the Chief Minister says there are some of those, we will be able to identify them because they will be the ones that get the 20 per cent. The poor guys who genuinely wanted to pay but genuinely could not afford it will still not be able to pay, still not be able to afford it and therefore that sector is still not being helped and I think they need help.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto

The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

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 House recessed at 1.00 pm.

The House resumed at 3.03 pm.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolved itself into Committee to consider the following Bills clause by clause:-

The Deep Sea Mining (Licensing) Bill
The Recognition of Professional Qualifications Bill
The Traffic Ordinance (Amendment) Bill 1997
The Supreme Court (Amendment) Bill 1997
The Civil Jurisdiction and Judgments Ordinance 1993 (Amendment) Bill 1997
The Gibraltar Savings Bank (Amendment) Bill 1997
The Public Health (Amendment) Bill 1997

THE DEEP SEA MINING (LICENSING) BILL

Clauses 1 to 17, the Schedule and the Long Title were agreed to and stood part of the Bill.

THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS BILL

Clauses 1 to 44, Schedules 1 to 8 and the Long Title were agreed to and stood part of the Bill.

THE TRAFFIC ORDINANCE (AMENDMENT) BILL 1997

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

THE SUPREME COURT (AMENDMENT) BILL 1997

Clauses 1 to 5 and the Long Title were agreed to and stood part of the Bill.

THE CIVIL JURISDICTION AND JUDGMENTS ORDINANCE 1993 (AMENDMENT) BILL 1997

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

THE GIBRALTAR SAVINGS BANK (AMENDMENT) BILL 1997

Clauses 1 and 2 and the Long Title

The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clauses 1 and 2 and the Long Title stood part of the Bill.

THE PUBLIC HEALTH (AMENDMENT) BILL 1997

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

Clause 4

HON A ISOLA:

We have an amendment to make to clause 4 which relates to the deletion on lines 1 and 2 of the words, "in respect of non-domestic hereditaments". The reason for the proposed amendment is because we view the proposed effects of this Bill as a discount on prompt payment of rates and therefore if there is to be a discount on the prompt payment of rates for commercial premises, a similar discount should apply for domestic rents. In terms of the financial impact, as the Chief Minister has already said, the rates from domestic premises are very much greater than domestic premises and therefore the difference should not be too much and it would have both domestic and non-domestic rates having the same benefit of a discount for prompt payment.

HON CHIEF MINISTER:

It is a little bit far from the next general election for hon Members to start offering generosity to the electorate. The proposed amendment is completely out of keeping with the philosophy and objective of the Bill. We do not accept that it is simply a discount for prompt payment. It is an incentive, amongst other incentives and measures the Government have taken in other areas. What the Government have done in relation to rates cannot be seen in isolation, it has to be seen as part of a broad measure of packages aimed at supporting and encouraging the growth of the private sector. There is the rents reduction, there is the import duty restructure, there is an hotel assistance scheme, there is the shortly to be announced commencement of the Small Business Board and this is just one in that line of measures specifically targeted at existing business to grow. All Members of the House have, of late, agreed that the private sector is the future motor of the economy and for the hon Members to fail to recognise that this is part of a package of measures in that order of things is in my respectful view simply too churlish. The hon Member's proposed amendment is an opportunistic attempt to suggest something which he feels will be popular amongst a large part of the electorate. It has no merit beyond that purely populist appeal and for that reason the Government will not accept his amendment.

HON J J BOSSANO:

Speaking on the amendment, we abstained in the Second Reading of the Bill because as far as we were concerned we could not agree to the reduction in rates. Indeed, the figures that were given as to the pattern of the

rates, only confirmed our view that there is no correlation between helping the businesses to expand, that are capable of expanding, or helping the businesses to survive that need assistance to survive on this particular measure. It seems to us that a measure that requires prompt payment in order to merit a discount is above all else a measure that rewards the people that pay their rates on time and since we see no effect other than that, we do not see in fact that there is any more or less likelihood that businesses will expand their activity particularly since many businesses can expand activities without increasing their space. I do not know why the Chief Minister thinks that we now all agree that the private sector is the one that has to generate wealth. That has been obvious to everybody in Gibraltar since the MOD started pulling out. There is nothing else. In fact, our concern has been in the past to ensure that the resources that are dedicated in the public sector do not compete by putting demands on the labour market so that people in the private sector are able to recruit without being in a position of competing with the public sector. Until recently that has not been the case. It remains to be seen when we get Employment Surveys in the future where the Gibraltarians finish up working. In any case we really believe that the use of instruments like the support of the ETB for the employment of Gibraltarians is a more effective way of using funds and there are funds that are obviously going to be underspent from the answers we got to the questions earlier. In that context we think that this measure can only be seen and it is a perfectly valid thing, it is, in effect, the converse of what was previously done originally prior to 1988 by the AACR administration and then subsequently in 1989 by my administration in putting a penalty for late payment but nobody was suggesting that the penalty had anything other than to reward those who paid on time and provide a disincentive to those who did not. I think the effect of the 20 per cent will have that effect and no other effect. If it improves the cash flow of the business, which it is bound to do after the second quarter, then there is nothing to say that the businesses that find themselves with a better cash flow position will use them to expand the business or to reduce prices or to increase profits. No doubt they will take a decision on which of the three alternatives they take based on a commercial judgement of what is in the best interest of the particular enterprise which is not necessarily what is in the best interests of the economy as a whole or of the objectives of the Government. Therefore in the light of our own assessment of what the measure does we think that if the measure is going to reward the people who pay on time, it should reward the domestic ratepayers as well as the commercial ratepayers particularly when we have been told that most of the

arrears in fact are in the commercial sector. I support the amendment.

HON P C MONTEGRIFFO:

Mr Chairman, obviously the Government analysis is not shared by the Opposition. The only point I want to add is that in fact the concept of using rates or the concept of rates in the level of rates in promoting development and therefore having an impact on the viability of development and expanding business is not an entirely novel concept. The concept of Development Aid which is a concept that was introduced by previous Governments and which the Leader of the Opposition's Government supported includes in the structure of Development Aid, indeed a provision whereby both commercial and domestic lessees are given rates relief but the rationale behind that is not actually to give a present to the eventual lessees but because a reduction of rates, which is effectively what the rates relief amounts to, is seen as a valuable element in promoting and in making more viable a development. In the Government's judgement costs of business in Gibraltar are high, we know that. They are high in comparative terms to the immediate hinterland, they are high because we generate all our utilities, they are high because we suffer from lack of economy of scale in very many things that Gibraltar does, in some of those things we cannot do anything about, the problems that we have. Gibraltar will remain an expensive jurisdiction in terms of water and electricity and telecommunications. What the Government are trying to do with this package of measures is to ameliorate the high costs of these in Gibraltar to the extent to which it is possible and making a judgement on whether they will be replicated in a more competitive environment for business. It is a matter of judgement. It only goes some extent of the way. Other costs in Gibraltar remain high and the only way of making up the costs element that we have is for it to become more productive and to become better at what we do but the Government have recognised, since before the Election, that some of the costs of doing business in Gibraltar are high and an effort should be made to reduce them and this is but one part of that overall package.

HON A ISOLA:

Mr Chairman, all I will say is that obviously we regret the stand taken by Government. The payment of rates in commercial or domestic premises has always been treated the same except in its calculations, obviously a differential drawn in the calculation of domestic rate and commercial rates. Other than that, the penalty is the same, the treatment in Development Aid is exactly the

same and they are kept in tandem. This is the first time where payment of rates or non-payment of rates in terms of prompt payment will bring a differential between what the ratepayer pays and it is for that reason only that the amendment proposed has been brought forward to maintain the balance and not to discriminate between domestic or commercial premises.

HON CHIEF MINISTER:

Does he not recognise that commercial rates have in the past been lower than non-commercial rates. There has never been equality of rates between commercial and non-commercial, does he not recognise that?

HON A ISOLA:

Mr Chairman, my understanding of the rates is that the poundage is 60p in the pound of the net annual value. The calculation of the NAV differs obviously between commercial and residential accommodation, that is the difference but other than that the poundage is the same. All that we are saying is apply the same discount for prompt payment. We understand the arguments that have been put by Government as to this being one of the package of measures designed to reduce the cost to businesses but in this one very small part where the domestic household makes its contribution also we feel that the domestic household should also have the benefit of what is a very small discount bearing in mind the amount of rates collected on domestic premises.

Question put.

For the Ayes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

For the Noes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Absent from the Chamber: The Hon J Gabay

The amendment was defeated.

Clause 4 stood part of the Bill.

Clauses 5 to 7 and the Long Title were agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Deep Sea Mining (Licensing) Bill; the Recognition of Professional Qualifications Bill; the Traffic Ordinance (Amendment) Bill 1997; the Supreme Court (Amendment) Bill 1997; the Civil Jurisdiction and Judgments Ordinance 1993 (Amendment) Bill 1997; the Gibraltar Savings Bank (Amendment) Bill 1997; and the Public Health (Amendment) Bill 1997, have been considered in Committee and agreed to without amendments. I now move that they be read a third time and passed.

Question put.

(1) The Deep Sea Mining (Licensing) Bill; the Recognition of Professional Qualifications Bill; the Traffic Ordinance (Amendment) Bill 1997; the Supreme Court (Amendment) Bill 1997; and the Civil Jurisdiction and Judgments Ordinance 1993 (Amendment) Bill 1997 were agreed to and passed.

(2) The Gibraltar Savings Bank (Amendment) Bill 1997:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

The Bill was read a third time and passed.

(3) The Public Health (Amendment) Bill 1997:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

The Bill was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Monday 20th October 1997 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 3.27 pm on Monday 6th October 1997.

MONDAY 20TH OCTOBER 1997

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of various documents on the table.

Question put. Agreed to.

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

- (1) The Import Duty (Franchise) (Amendment) Regulations, 1997 - Legal Notice No. 98 of 1997.
- (2) The Import Duty (Integrated Tariff) (Amendment) Regulations, 1997 - Legal Notice No. 99 of 1997.
- (3) The Import Duty (Franchise) (Amendment) (No. 3) Regulations, 1997 - Legal Notice No. 105 of 1997.
- (4) The Import Duty (Integrated Tariff) (Amendment) (No.3) Regulations, 1997 - Legal Notice No. 106 of 1997.
- (5) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (No. 1 of 1997/98).
- (6) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 1 of 1997/98).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Readings of a Bill.

Question put. Agreed to.

THE TOBACCO ORDINANCE 1997

HON CHIEF MINISTER

I have the honour to move that a Bill for an Ordinance to regulate the licensing, sale, storage and transportation of tobacco in Gibraltar and for purposes connected therewith be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill seeks to achieve three policy objectives of the Government. Firstly, to remove the quota system which presently affects the supply of American tobacco on the market place whilst at

the same time continue to regulate the tobacco trade. This new Bill prevents tobacco reaching our shores in particular boats in a form and in a quantity which are usable for smuggling purposes. The Bill introduces measures which, whilst they are intended to be, and obviously the Government believes them to be effective in order to regulate the tobacco smuggling activities, nevertheless has the advantage over the quota system that it removes those restrictions that the quota system presently imposes on the bona fide domestic tourist trade. The quota system, whilst it was initially effective to prevent unlimited quantities of tobacco reaching the market place has not been entirely effective in preventing stocks of cigarettes from being accumulated and then creating supplies for the boats. Therefore the emphasis of this new legislation is a way of trying to control the volumes of tobacco that there are available on the market, in the domestic market, and transferring the emphasis to physical measures of control to prevent the tobacco getting into the wrong hands, in the wrong place and in the wrong form. The inevitable consequence of these measures, but to a lesser extent I would argue, than the quota system, is that legitimate bona fide tradesmen have to put up with a degree of regulation and control which may not be necessary in countries where there is not a smuggling problem. These measures follow a period of consultation with affected entities and other bodies, there has obviously been consultation with the Chamber of Commerce. Through the Chamber of Commerce there have been many representations from people in the trade, many of those have been taken on board and indeed have enabled the Government to perfect the Bill and the Government is grateful to them for that. The Police has been consulted, the Customs have been consulted, as the two bodies that would be charged with policing this legislation.

Mr Speaker, the principal measures contained in the Bill are, firstly, the creation of a system to regulate and license, separately, the wholesaling and the retailing of tobacco generally. In so far as a wholesale and a retail licensing regime is concerned, the Bill covers all tobacco products as opposed to many of the subsequent restrictive regime that is contained in the Bill and which do not extend generally to tobacco products. In so far as the regime to create the provisions that create a licensing of retailing and wholesaling is concerned, it creates a regime for the whole of the tobacco sector and to that extent, replaces the existing provisions in existing legislation. Wholesalers will need a wholesale licence, retailers will need a retail licence. Licences are issued under the discretion and by the Collector of Customs and they will not be transferable. The purpose of making them not transferable is that we have the

ability to ensure that licences do not fall into the hands on transfer of people that might not otherwise have been given one had they applied themselves. Retailers will not be allowed to sell more than 1,000 cigarettes to any particular customer at any particular time and importantly, from the point of achieving the ultimate objective of the Bill, which is only to ensure that what little tobacco smuggling activity in boats there is left is suppressed and that we should not incur in the danger of it resurging again. It will not be lawful for retailers or wholesalers to sell tobacco in boxes, that is to say in the brown cardboard boxes in which they arrive in Gibraltar from the manufacturer. Cigarettes will have to be sold by retailers only, either in individual packs of 20 and then somebody said, "Look some cigarettes are sold in packs of 25." I had not realised that but anyway it is there now in 25 or cartons of 200 or 250 because some cigarettes are sold in cartons of 250. The principal feature of the Bill in terms of controlling who can sell and to whom, is that retailers can only sell to retail customers and in retail quantities. They cannot sell in boxes. They can only sell 1,000 cigarettes to each individual at any given time and have to dispense those cigarettes either in loose packs or in loose cartons. Therefore, shops will no longer be able to be the source of boxes of cigarettes that can be thrown into the back of a car and rushed to a beach. Wholesalers can only sell to retailers. Wholesalers cannot sell to members of the public. They can only sell to wholesalers of a retail licence and, in addition to holders of a retail licence, they can sell to bona fide visiting yachtsmen, to merchant shipping, to visiting aeroplanes and people of that kind. There is no restriction on that legitimate business for wholesalers.

The new Ordinance also imposes the requirement, which in a sense is similar to the present requirement, that all importations and exportations of tobacco require an import or export licence to be obtained from the Collector of Customs but import licences for tobacco may only be given to holders of wholesale licences. The first tier of the regime established by the legislation is to licence and regulate the importation and then to licence and regulate who may sell to whom and in what circumstances through the establishment of a wholesale and retail licensing regime. One of the principal handicaps that the Police and Customs face, when it comes to preventing the remnant of fast boat smuggling of tobacco, and let us be clear, there are no fast launches based in and operating from Gibraltar smuggling tobacco or anything else but of course the problem is that there are launches, "pateras" and some other types of boats based in beaches in nearby Spain who come over and are then supplied from shore by people based in Gibraltar.

The Government are keen that that should be eliminated as well so that there is no possibility of come-back for Gibraltar in that area. Therefore, the big handicap that the law enforcement agencies in Gibraltar have in that respect is the storage of tobacco in smuggleable form and in smuggleable quantities, that is to say, in boxes, in premises near a beach or near a wharf. For example, it is said that there are many store rooms in Catalan Bay full of tobacco and in other parts of Gibraltar so that when these boats from Spain come to our shores, boxes get produced from just a couple of hundred yards, very often less than a couple of hundred yards away from the waterfront and there is not enough time for the law enforcement agencies. Literally, these boats can come from the beach next door, be off Catalan Bay beach in a matter of a minute, the tobacco can be brought down to the beach to those boats in a matter of another minute and they can be back in Spain in another minute. Three minutes is just not long enough for the Gibraltar Police or Customs to be able to react.

There is therefore the second tier in this Bill. It is that the storage of more than what is the defined commercial quantity of cigarettes, which is 2,000 cigarettes or more, may not be stored in any premises other than commercial premises covered by a retail or wholesale licence. It will be unlawful for people to store cigarettes in a commercial quantity in their homes or in any premises which is not covered by a wholesale or a retail licence. This will enable the Police and the Customs to take action against the owners and occupiers of premises which are used to hoard supplies for the purposes of supplying smugglers' boats. The other opportunity, and I ask hon Members to bear in mind that I said at the beginning that the difference in the philosophy of this legislation to the previous regime in place, is that the previous regime sought to deal with the problem by limiting the amount of tobacco on the market thus hoping that what stocks there were would be used for the domestic sector and that there would not be enough to trickle down into the smugglers' hands.

This is a different approach, this is trying to prevent the physical aspects of the smuggling and therefore there is a need to have measures which create offences and therefore give the Police and the Customs the opportunity to intervene at every possible stage of the physical smuggling process. One essential stage of the physical smuggling process is transportation. Tobacco needs to be transported from where it can lawfully be stored, from where it can effectively be physically smuggled and therefore by restricting the ability to transport tobacco in commercial quantities, except in those circumstances in which the bona fide tradesman would want to transport

tobacco, creates a useful further opportunity to affect this whole business. Therefore, the new Bill contains a regime that will require tobacco in commercial quantities, that is to say, more than 2,000, to be transported within Gibraltar only in vehicles that are specifically licensed for the purpose. Such licences will only be issued to vehicles operated by licensed retailers or to vehicles operated by licensed wholesalers or to vehicles operated by bona fide transport contractors. Therefore, it will no longer be possible for smugglers to use their own vehicles. It will be possible, but there will be an offence for which they can be arrested. It will no longer be possible for the smugglers to use their own private vehicles for these purposes. There are provisions in the Bill requiring wholesalers in particular to create detailed records of retailers that they supply so that the Collector of Customs can keep a record of the movement of tobacco within the local marketplace. The Bill creates for hefty and, in some cases, severe penalties. This is a piece of legislation, which although as a necessary side effect of its efficiency, of its efficacy, regulates legitimate bona fide trade, but that is not the objective. The objective is to deter the smuggler and therefore it is correct in the Government's view that the penalties should be stiff, that the penalties themselves should act as a deterrent and that the safety mechanism that the Government have chosen to put in place so that the hefty penalties should not be incurred by persons who inadvertently fall foul of these provisions or who fall foul of these provisions whilst they go about their bona fide business with no intention or desire to smuggle or to facilitate smuggling is that no prosecution under this Ordinance is possible without the consent of the Attorney-General in person so that the Police themselves would not be able to make a prosecution decision which could result in mandatory forfeiture or which could result in mandatory minimum fine of a heavy nature. There is there a mechanism, a residual sieve to make sure that this Bill in terms of how it is prosecuted catches only the sins that it is intended to catch. It is a complicated piece of legislation in terms of trying to block the loopholes, in blocking loopholes for smugglers one begins to run the risk of also catching people that one does not intend to catch and that is the mechanism that we have introduced into the Bill in an attempt to ensure that this Bill does not result in the prosecution of people unless they have committed, or unless they are suspected of having committed, this is a matter for the jury, but unless the prosecuting authority which is the Attorney-General in Gibraltar personally considers that the facts of the case indicate a connection with the objective of the Bill which is tobacco smuggling.

Mr Speaker, there are measures in the Bill which are unusual in Gibraltar, not so much unusual in England now, but I think it is probably the first, well not necessarily the first but I think there were similar measures in the Drug Trafficking Ordinances but there are provisions in this Bill, which have the effect of reversing the traditional burden of proof which is that the prosecution have to prove everything and the defence need prove nothing. There is, as some Opposition Members will know, a tendency in the United Kingdom in certain types of offences to reverse that burden when, firstly, there is a particular social problem or specific problem that needs to be addressed which justifies that sort of departure from the tradition and secondly when the departure is in circumstances where it is unlikely to affect innocent individuals and therefore most of the issues, and they are specifically listed, in which the evidential burden of proof is reversed and they are listed there, most of the items on the list are matters of record or form of fact. Does Joe Blogg have a licence or not? Is this American tobacco or is this cigarette or not? Has this particular stock of cigarettes paid duty or not? Were the people involved within the port areas defined in the law or not? It does not mean that the prosecution's assertion makes the matter proved. It simply means that if the prosecution say, "You were within the port area", the defence still has the opportunity to disprove it. It is not as if something becomes proved simply because the prosecution asserts it, but it is reversing that proof. Once a certificate is issued to the effect of one of these formal facts the onus is then on the defence to disprove it. There is also a section which protects law enforcement, mainly Customs, but also the Police, and this is a provision that we have cribbed from similar legislation, Customs legislation in the United Kingdom and that is, that provided a court is satisfied, and the judgement here is the courts, not the Customs Officer or not the Police, that provided a court is satisfied and is willing to certify that they are satisfied, that the Police or Customs Office that detains a boat, or a car used in smuggling tobacco they suspect is used in smuggling, that provided eventually, even though there may be an acquittal on the trial, provided the trial Judge is willing to certify that even though there has been an acquittal it was reasonable at the outset of the matter for the Police or Customs Officers to have suspected the commission of an offence under this Ordinance and provided the Judge so certifies, then both the Customs Officer or the Police Officer at a personal level, that the Crown, in its corporate sense, is exempted from actions for damages for wrongful detention. Where that not the case the efficacy of this piece of legislation would be severely prejudiced because Police and Customs

Officers would have too high a threshold of certainty before they could detain vehicles and goods prior to trial and therefore this is an important enforcement tool. Of course, it is a different question if there should be damage to goods whilst they are being detained, that is a different matter but damages flowing from the mere act of detention is the subject matter of an exemption, as I say, provided that the trial Judge is willing to certify that it was reasonable to have made the detention of the goods or the vehicle engaged in the first place.

The Bill, Mr Speaker, contains repealing provisions in respect of some of the aspects of the matter which is already provided for in other legislation and it provides for transitional provisions because there is a need for a licensing procedure, not just in relation to retail and wholesaling of sales but in respect of transportation and things of that kind and therefore the Bill speaks of three months. The only part of the Bill, the part of the offence created by the Bill which becomes a live offence as soon as the Bill is commenced, is the prohibition against storage of cigarettes in commercial quantities unless the premises are covered by a wholesale or a retail licence. All the others come into effect three months from the commencement date of the Bill and the repealing provisions will not be commenced until this Ordinance becomes live. The existing regime will continue in operation until the administrative arrangements are ready and in the next week or two we will be publishing subsidiary legislation, publishing the fees that will have to be paid, publishing the forms that will have to be used for applying for the various licences and indeed setting out the form of the licences themselves and the text and language of the licences themselves that will be issued. Mr Speaker, I think I have covered most of the provisions of the Bill. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, Opposition Members share the principal objective or the intention of the Bill but have some concerns, more at practical level, as to the possibilities that may arise. The Chief Minister has said himself, it is a complicated piece of legislation and there will be difficulties that may arise I assume in the transitional first three month period when he will see, as the applications come in, the difficulties that that may bring and subsequent to that in its actual implementation after the transitional period. The regime

that was, as the Chief Minister described previously with the quota system, we felt was effective because it limited at source the amounts that could be distributed. It may well be that in the future, regulations may be brought into effect within this very Ordinance itself which could bring back, if need be, a similar system of restriction on wholesalers as to what amounts they may be able to sell, the reason for that being that whereas in the previous system there was a limited amount of tobacco that could be sold and therefore no matter what the demands the very amount was restricted and held back, the present system releases that and brings the control down to the people that are actually handling, the wholesalers and the retailers. Therefore, the difficulty or rather the policing to an extent was simplified in the sense that if one restricts the source the element of policing that is required below that is lessened to that extent. The other area of concern is that this is the first time that legislation has been brought into effect in such terms to restrain trade of any particular item and the reasons for it are obvious. However, the difficulties that this could bring in the future and I said at the beginning of my intervention that it is something that cannot be monitored, it is a new piece of legislation and a complicated piece of legislation, that we do not fall. I am not suggesting that we do but to ensure that we do not fall at some stage where suggestions are made from those who would seek that there is a trade in another line which could be smuggled in one way or another out of Gibraltar and lead to calls that a similar piece of legislation such as the one that we are going to be passing today should be brought in for that. That is one danger that we see because it seems that whenever Gibraltar becomes competitive in any item, be it in financial services or in trade, people will seek to restrain that. The second problem that may arise is one of in the event of somebody actually managing to find a way of breaching these conditions and we would have to see how they work when the time comes, there is nothing we can predict, we hope they will work but in the event of somebody breaching these conditions, allegations could be made from those same quarters that are seeking to undermine our position that in fact if a car was to pass the frontier with an excessive or commercial quantity available or allowable under this legislation, allegations that we are not enforcing the legislation properly.

I am not going to get into specific details of the different parts of the legislation, but one item that does spring to mind is the question of forfeiture. It seems that by putting the burden of deciding whether the forfeiture should be mandatory or not, is very general, and perhaps places significant responsibility on his

shoulders and one which I would have thought might, and I am not suggesting for a second that it is ill-placed but might have been better placed on the court itself. Obviously there must be reasons as to why the Government have decided that it would be best to place it on an application to the Attorney-General and not on the Judge of the Supreme Court himself. We will, as I said at the outset, have to wait and see how the legislation works. It is complicated, we have not had anything like this before and it will spring up difficulties. The overriding concern that we have is this question of the limited or unlimited availability of the product clearly by restricting the people that can move the tobacco, be it in vehicles, in retail or in wholesale, and again restricting the ability of people to import other than wholesalers. There is an effort being made to control that obviously but our concern stems from the fact that our view was, in this very complicated area of control, that the quota system did achieve that and it has since that time been successful to that extent because if it had not been successful obviously Government would have moved much swifter, at a much earlier stage to bring in controls if it was not working. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I hear the observations and views of the Opposition Member. Certainly the Government are aware that there may be things to be learned in the application of this during the transitional period and indeed during the early lifetime of this legislation and of course the Government are going to keep a very close eye on the situation in order to introduce swiftly whatever changes may be required to close loopholes which are rendering the legislation ineffective. This is intended to be a tough regime against smugglers. We remain quite open to the possibility that it may be necessary to make it even tougher if experience shows that that is necessary in order to suppress the smuggling of tobacco from Gibraltar in boats but also if we find that there are elements of the Bill which are unnecessarily restrictive on the bona fide domestic tradesman and which are not strictly necessary to achieve the principal objective of the Bill. We will of course remain equally vigilant to ensure that should that occur we will relax the legislation in such areas as that might turn out to be the case. The hon Member says that the quota system was effective. The quota system may have been effective to reduce the size of the problem from the completely unacceptable, in terms of amounts, from uncontrolled smuggling to limited smuggling but as far as this Government are concerned not even reduced limited amounts of sea-born tobacco smuggling is acceptable and the quota system is simply too blunt an instrument. One cannot see how much tobacco

was smuggled last week and so next week I shall reduce the amounts that each wholesaler can introduce by three boxes. It is just not capable of that degree of fine tuning that enables any amount of tobacco to reach the beaches because, whatever quota system at whatever level you pitch a quota system, it always enables people to acquire a few boxes a day and at the end of the week, or two, to have accumulated 10 or 15 boxes and then do a smuggling operation with those 10 or 15 boxes. Therefore, it was essential, if we were to move on to the next phase, the fine tuning phase, of trying to eliminate it altogether, it was essential to have a system which goes straight to the crux of the matter which is the people who are actually doing the smuggling. The hon Member, in saying that it worked effectively is no doubt aware of the considerable unhappiness that there is in the industry, in the bona fide and legitimate industry. I can recognise that it has certainly worked effectively for the five privileged quota owners and I can see that the five privileged quota owners have certainly been able to exploit their privilege to enhance their commercial opportunities whilst others paid the commercial price for Gibraltar's need to regulate this business. I consider and indeed underline that the Government's intention in this Bill is not only to have a stricter control of the business but at the same time to free those participants in the industry who are not lucky enough to have been amongst the previous administration's list of the five quota holders but to free the other legitimate participants in this business from those unfair and artificial constraints. The price for the fact that Gibraltar has to have this sort of legislation at all is now shared by everybody as opposed to simply paid by some. The hon Member is right in saying that if it became necessary to superimpose a quota system on this structure of legislation then it would be possible to do so. Our judgement at the moment is that that is unlikely to prove to be necessary but if it did turn out to be necessary we would of course be entirely willing to do that. The hon Member I think made the point too quickly when he said that this transfers the policy burden on to the wholesaler and the retailer. It does not, I agree that it certainly makes them contribute to solving the problem by putting limits on them on who they can sell to, how much tobacco they can sell, in a genuine bona fide retail operation. If the hon Member is a smoker, when was the last time that he went into a tobacconist and bought more than five cartons of cigarettes? No bona fide consumer of cigarettes needs to buy more than five cartons, unless you want to store it up to save yourself going to the tobacconist too frequently. There is just no way that anyone that goes into a shop wanting to buy more than five cartons of cigarettes has any intention other than to somehow participate in a smuggling

operation and similarly any tobacconist that wants to be able to sell more than 1,000 cigarettes to one individual at one given time can only be interested in somehow making commercial advantage out of the buyers' intention to smuggle. Therefore, I think it is a perfectly legitimate level which we have pitched. If anything, too reasonably from a trader's point of view and it would be equally defensible to say that just as it is not necessary for a tobacco smoker to want to buy more than 1,000 cigarettes, it is arguable that that figure could have been 600, three cartons, but we have erred on the side of caution because ultimately there is a second tier of protection which is the fact that tobacco in loose cartons is quite difficult to smuggle. You can try to get across the border with a bag full of 10 loose cartons but for sea-born smuggling the real tier of protection is the fact that wholesalers and retailers cannot supply it in boxes and that is really what makes the delivery of tobacco in a non-smuggleable form at least on boats. I am just going to say, in relation to the previous point, that the burden does not fall just on wholesalers and retailers, it also controls storers and transporters of tobacco of the smuggling fraternity without affecting the legitimate necessity of tobacco traders from their transport requirements and their storage requirements.

The hon Member said, again I think too quickly, that this was the first time that legislation was being introduced to restrain what is in principle a legitimate trade. I do not think that is true, with the greatest of respect to him. The sale of tobacco and liquor has been the subject of legal control and restriction and regulation for many, many, many years. He may not be aware of it, but the previous administration not only regulated what was in principle a bona fide trade, of course, the hon Members when they were in Government and we, when we were in Opposition, used to disagree vehemently as to whether the smuggling of tobacco, whether it was duty free or duty paid, in fast boats at midnight from beaches by X men wearing balaclava helmets, whether that constituted a legitimate trade or not and I suspect that we still have those disagreements but the trade in tobacco has been regulated. For example, the fact that the hon Members, when they were in Government imposed a quota system and limited access to that quota to five traders, well look, that was severe, that does not apply to any commodity in Gibraltar. Does the hon Member know of any other article in Gibraltar which is subject to a quota system and which is subject to a quota system which has to be shared out by five privileged traders? It is not true when the hon Member says that this is the first attempt to impose this sort of restriction on a bona fide trade nor does the hon Member appear to be aware of the fact that most of the trade licences to trade in tobacco that were issued

during the last four or five years, well not perhaps as long as four or five, but certainly the last two or three years, had, as a condition of the trading licence, that it was limited to the sale of one carton per customer. That has not been done in this legislation and therefore it is simply not true for the hon Member to state that this is the first time that there is an attempt to legislate to impose restrictive practices regulation on the sale of a commodity which is legal. That statement simply does not bear even the most superficial scrutiny and analysis. The hon Member says that there is a danger that by regulating this trade that we risk being subject to political pressure from abroad to regulate other trades. When the hon Members imposed a quota system and limited retail licences to 200 cigarettes and limited access to the quota system. I did not stand up from the opposite side of the House and said for example, "Well, what are you going to tell the Spaniards if they ask you to impose the same controls on toilet paper sales?" The suggestion that Gibraltar is now exposed to some political risk of the sort that he has described to which it was not equally exposed by their recognition, I believe that their approach to dealing with tobacco smuggling was not sufficiently robust but there was, in the quota system, a recognition that this was something that had to be brought under control. For the hon Member to say that because I am now asking people not to store tobacco in beaches, that that somehow exposes us now to similar pressure in respect of perfume or watches, when he did not think that we were exposed to the same risk when they tried to control tobacco with quotas, I think he is just simply making a point presumably with a desire to try and introduce political considerations of the sort that worries Gibraltarians that does not exist. Gibraltar regulates many of its trading activities. It has regulated this one for many years and this is a change in the nature of the regulations. The point that the hon Member made, I would not have agreed with it anyway but if this was the first attempt to regulate tobacco then the hon Member, even though we might have disagreed could have made the point that if we regulate tobacco, what are we going to say when the Spaniards ask us to regulate chewing gum? This is not an opportunity for him to say that, because all we are doing here, is changing the detail of the controls and the regulations. We are not imposing regulations for the first time.

The hon Member asked, quite legitimately, because it was an area that certainly occupied our thoughts for a considerable period of time, this question of forfeiture. Should forfeiture result from the court's decision or from the administrations through the Attorney-General's decision. In the first place, let me say that forfeiture does not apply to merchant ships, visiting yachts and

aeroplanes. So there is no prospect of big valuable things that are not clearly intended to be used as articles of smuggling to be caught. Those are exempted. What is liable to forfeiture is smugglers' paraphernalia, including their vehicles, their stocks and their boats. That is subject to forfeiture. Why does the legislation put that on the Attorney-General? Mr Speaker, I think it is legitimate for the legislature to make decisions when there are particular objectives that society wishes to achieve. I think it is for the lawmakers to decide what the level of strictness of the sanction should be within parameters. It is then up to the Judge to decide where to pitch the penalty within those parameters. The hon Member knows that there is a tendency now, even in the United Kingdom, for the legislature when they are dissatisfied with the level of penalties imposed by courts especially, to move towards the concept of minimum sentences. Why is this? Because I suspect that legislatures around the world establish a range of sentences for courts and then become frustrated mainly because society blames, not the courts but the Government for the incidence of rule of law and law and order problems. Therefore, there is the frustration for Government when they see courts simply not using the sanctions that they have available to them as effective a manner as really they could do if they were going to become a useful instrument with all the other institutions in society in eliminating a particular evil that needs eliminating. In this case it is tobacco smuggling but other countries take a similar view of other things which are a particular problem to their societies. By the same token we were not willing to go in the other direction completely. The other possibility would have been, the other extreme from leaving it to the court, would have been to simply make it an automatic consequence following a conviction. So if you are convicted, you shall forfeit. That, I thought, was simply going too far in the other direction. The half-way house was that the Attorney-General, who is independent in his prosecuting authority capacity, he is independent both of the Judiciary and of the executive of the Government of the day and he is a person who has access to the evidence, he is familiar with the circumstances of a particular case and is able to form a judgement about whether a case is such which requires or which justifies forfeiture of a car, forfeiture of a stock of tobacco or forfeiture of a boat. I am happy to acknowledge to the hon Gentleman that both points of view are perfectly legitimate defensibly. The hon Member wishes to defend the proposition that power of forfeiture should only be exercised by a Judge. It is a matter of judgement, it is a matter of opinion, it is an area in which many countries in Europe are beginning to move and therefore the debate is at that sort of stage in which

both points of view can just as easily and just as well be defended. Obviously, it is an aspect that we will also keep under some sort of monitoring to make sure that it does not result in manifest injustices. The whole purpose of placing the decision in the hands of the Attorney-General is that whereas a conviction might be justified, a prosecution might be justified, it does not necessarily follow that the circumstances of every conviction justifies the penal sanction of, for example, forfeiting an expensive vehicle. The decision of the Government is that this is supposed to be a tough deterrent piece of legislation. The mandatory forfeiture provisions are intended to be an important part of that deterrent. We want to hit smugglers as hard as possible including forfeiting their expensive cars and their expensive boats and we make no apology for any tobacco smuggler that may have his paraphernalia forfeited in that sense but we do not want to expose to forfeiture of those articles people who fall foul perhaps because of some technical reason of the legislation and that is where the Attorney-General's discretion comes in.

Mr Speaker, the last point that the hon Member made was, and in a sense I have covered it already, whether this would be an excessive restriction on bona fide trade. Mr Speaker, we hope that it will not be so. It has been carefully thought out to leave as much freedom and restriction and lack of restriction to the bona fide trade whilst at the same time creating an environment in which (a) smugglers are hard put to operate and (b) if they do operate the Police and the Customs have a whole panoply of powers and offences that enables the Police to arrest and intervene much earlier on in the operation than they are able to intervene at the moment. At the moment, mainly the Police can only intervene on the beach, so to speak. I explained, at the beginning of our discussion on this Bill, how that was not enough because it only gave them a window of opportunity to intervene successfully for a few minutes really, whereas now, they can intervene to prevent people from storing tobacco in the first place, they can intervene at the time that people are transporting tobacco in the streets of Gibraltar and things of that kind. So it broadens enormously the window of opportunity for law enforcers to be able to intervene but the restrictions on importation and exportation are not new. Traders will require an import licence and the reality of it is, whereas now it is a matter of law, previously as a matter of administrative practice import licences were only granted to the five privileged, as I call them, the five lucky owners of quotas. In a sense, in terms of importation and exportation, far from imposing new restrictions, we are freeing up, as far as the bona fide trader is concerned, because now anybody that has a wholesale

licence, which will be a category of people much wider than the five privileged quota holders at the moment, will be able to import tobacco into Gibraltar whereas at the moment only the five quota holders are able to import tobacco into Gibraltar. Far from being an additional restriction it is actually a levelling of the playing field without in any sense weakening the effectiveness of the measures against tobacco smugglers.

Question put. The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

The Tobacco Bill 1997

The Interpretation and General Clauses Ordinance (Amendment) Bill 1997.

THE TOBACCO BILL 1997

Clause 1

HON J J BOSSANO:

On page 420 where we have, "That the Collector shall not issue a licence to any person who has at any time, been convicted of an offence contrary....." to a whole list of Ordinances. Surely this is something that has never been done before in the laws of Gibraltar. One comes to pass a law here saying, "If you have ever in your life, irrespective of how long ago, and irrespective of the nature of the offence, committed an offence for which you have been convicted and presumably for which you have been punished, you will never be allowed to sell cigarettes from a tobacconist's shelf". Is there a particular overwhelming reason for having to do something like this which seems to me to run contrary to at least the simple rule of natural justice that one cannot expect anybody who committed some offence for which he was punished, say, 20 years ago, to have had the ability to figure out that 20 years later in his life what he did in the past would prevent him from doing something as simple as having a kiosk to sell cigarettes? I could understand that that should be the case for anybody that does it from now on. We do not even know how wide-ranging this is. I have not gone through all these Ordinances to find out what all these offences amount to. It is the one thing that nobody has explained why it is there.

HON CHIEF MINISTER:

Mr Chairman, the reality of the matter is that it is a pity that Gibraltar needs this sort of legislation at all and my aspiration as a Gibraltarian that would like to see Gibraltar not engaged and that it should never have been engaged in activities of this sort is that this legislation should be repealed as soon as possible. Whilst there is a need for this legislation the need extends to preventing certain types of people from having such a degree of involvement with the business that would put them in a position to frustrate the objectives of the legislation. The fact of the matter is that the whole philosophy of this Bill is to exclude from the tobacco trade people that in the past have shown an enthusiasm and an inclination to participate in the physical aspects of the tobacco trade. For example, the hon Member says that he has not examined the list of Ordinances, convictions under which would make one disqualified from holding a licence. They are listed in sub-section (6). Mr Chairman, does the hon Member recognise that if one has been convicted of an offence under the Fast Launches Control Ordinance it is likely to be because that person

has in the recent past shown a willingness and an inclination to participate in the smuggling of tobacco in boats? Does the hon Gentleman think that the granting of a licence to wholesale tobacco or to retail tobacco to such a person is not a threat to the efficacy of a Bill the sole objective of which is to eliminate what little there is left and to make sure that it does not happen again? People that have been convicted under the Drugs (Misuse) Ordinance, under the Drug Trafficking Offences Ordinance, he knows what those Bills are about, he knows what those Ordinances are about. If the hon Gentleman had limited his comments to the Imports and Exports Ordinance, I think a case could be made about whether that throws the net too wide. I think that it is possible to fall foul of the Imports and Exports Ordinance in respect of some matter which has absolutely nothing to do with tobacco smuggling. There is a point there but I think the Government make no apology for the fact that just as we are being tough to exclude the possibility of smuggling operations taking place, we consider that a legitimate part of the measure to deploy in pursuit of successfully achieving that and therefore ensuring that the Ordinance is successful in its objective is to exclude from the industry people who are more likely than others to put it no more strongly than that, who are more likely than others to have a desire to defeat the intentions and objectives of the Bill. Of course, that might include people who have committed offences in the past, who have learnt their lesson and who have perhaps no intention of trying to defeat in the future the objective of the Ordinance. Unfortunately it is not possible to lay down legislative criteria using only future factors and I think it is perfectly legitimate for people to be judged on the basis of their recent performance. I would hope that it may be possible, the hon Member has introduced a phrase "spent conviction", that is in essence what he was describing, the concept of a spent conviction. Once one has been convicted of something and one has paid the fine should one be exposed to any other form of control? I do not think that this falls into that category. There are many licensable activities in which before one is entitled to have a licence somebody has got to be satisfied of one's suitability. Bureau de Change Licence, Liquor Licence, there are any number of activities in Gibraltar where not everybody is entitled to take part in that business because there is a recognition in the law that it is an activity through which people should be made to go through a filtering process before they are allowed to take part in them. This is just an extension to that list.

MR CHAIRMAN:

Are you going to propose an amendment?

HON J J BOSSANO:

No, I am not seeking to amend it, I am asking for an explanation because when we spoke on the general principles of the Bill everything that has been said about the general principles seem to me not to touch on the general principle reflected in this particular section and this is why I have asked for an explanation because I do not think the Chief Minister has addressed the point that I have raised. There is no point in seeking an amendment because the explanation I have been given obviously is that the Government have not overlooked this point but have defended the decision, frankly, setting off from a philosophical stand with which I certainly disagree entirely which is that there are two kinds of human beings. We are fully susceptible to do things that are wrong and do things that are right in our society. I do not think any of us has got the right to put ourselves in a privileged position of passing judgement on others. It is not for us to judge other people and the point that I am making is not that people that are going to be deliberately setting out to undermine the legislation should be given the chance to do it, which is almost how it was turned round. This is not a question of saying, "If you want to have a Banking Licence you must be a fit and proper person". This is not the parallel. This says, one is prohibited from doing something as simple as retailing tobacco, and this can be in a club, in a bar, in a kiosk, irrespective of age, this can be somebody who is not at a stage in life when he is occupied in that and who might, a very long time ago, have committed some offence ever in his life, at any time, against any of these Ordinances. Obviously some of these Ordinances, like the Drugs (Misuse) Ordinance and the Fast Launches (Control) Ordinance and the Drug Trafficking Offences Ordinance 1995 were Ordinances brought in to combat a particular form of illegal activity which we are all committed to seeing disappear in the whole of western Europe as part of the commitment that all legislatures have to remove this kind of crime. We have also heard many times in the past Government Members say, "When people are prevented from engaging in these activities, they must be given an opportunity to be reinserted into society and given a chance to start a new life." This makes it impossible. It prohibits it. It says, "You shall not do it". All I am asking is, it seems to me on the surface, without going back through each Ordinance and find out just how many things could constitute having been convicted of an offence, which could be from something as serious as an

attempt to engaged in drug trafficking and as unacceptable as that on the one hand, although I would submit that even somebody that has been convicted of drug trafficking and paid for it and gone to jail and come out, once they come out we have got to give them the benefit of the doubt that they have learnt their lesson and given them an opportunity to lead a normal life and watch them. And if they break the law then, fine, all that this does is, in my judgement, create an entire category of people and we do not know how big it is. By looking at the letter of the law, by looking at the text, it seems to be potentially, given the fact that there is neither a time limit nor as far as I can understand it an indication of the seriousness of the offence for which one has to be convicted, potentially a lot of people could be caught. I do not know whether such people who are now engaged in selling tobacco by retail would have to have their licence removed as a result of this. I am not sure. If it means that all the people that are already in the business when the law has not applied to them before, presumably if they were to re-apply for their licences their entire lifespan would now have to be examined. I am not sure how one goes about it, presumably somebody will have to go to the court and search everybody's history. That is the only point I am making. I am not trying to make a case for smugglers or a case for crime. All I am saying, as presumably I have a duty to do in this House, is point out something that worries me and I am afraid that the explanation that there are some bad guys who do not deserve ever to be given a chance to be good guys is not one that satisfies me.

HON CHIEF MINISTER:

Mr Chairman, there are plenty of past times to demonstrate that you have stopped being a bad guy and become a good guy other than the one area of business which constitutes an important threat to Gibraltar's interests. Nevertheless, the hon Member is not right when he says, "That such people cannot be engaged in selling the cigarettes". They cannot be the holders of licences themselves but there is nothing to prevent them from being employed by others. They are allowed to stand behind the bar in a club selling cigarettes, what they cannot be is themselves the licence holder. Nevertheless, Mr Chairman, if the hon Members feel that the fact that there is no time restriction on this is unduly onerous, then in relation to most of these Ordinances, I believe that it would not prejudice significantly or at all the efficacy of the objectives of this Bill if we were to impose a conviction spent period of, say, 10 years on the list of Ordinances. I would wish to reserve the right in the future if the hon Member

wishes to move an amendment so that the words "any time" should read "at any time during the last 10 years". I would accept that amendment subject to the following caveat, that in relation to the Drug Trafficking Offences Ordinance and in relation to the Criminal Justice Ordinance, 10 years does not help anybody under the fast launch activities because much of that legislation is barely 10 years old, in fact the original Fast Launches (Control) Ordinance is 1987. One is really only talking about people who were engaged in that, but I think, if the hon Member considers it to be an amendment which satisfies the concern that he is expressing which is outside the area of what I would consider to be the efficacy of this, I would concede to the hon Gentleman that if somebody has not been involved in any of these activities during the last 10 years then it may well be that to say to him that he cannot have a retail licence to sell cigarettes is excessively harsh. If the hon Member wishes to move that amendment the Government would support it.

HON J J BOSSANO:

Frankly we just wanted to make the point and the point has been made for the record and therefore we will see how this works in practice when people start applying for licences and who is affected. No doubt if there are problems with this we will get to hear of them.

Clauses 1 to 28, the Schedule and the Long Title

Question put. The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 to 28, the Schedule and the Long Title stood part of the Bill.

THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE
(AMENDMENT) BILL 1997

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

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Tobacco Bill 1997, and the Interpretation and General Clauses Ordinance (Amendment) Bill 1997, have been considered in Committee and agreed to without amendments and I now move that they be read a third time and passed.

Question put.

The Tobacco Bill 1997:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a third time and passed.

The Interpretation and General Clauses Ordinance (Amendment) Bill 1997, was agreed to and passed.

ADJOURNMENT

HON CHIEF MINISTER:

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

Question put. Agreed to.

The adjournment of the House was taken at 11.22 am on Monday 20th October, 1997.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

18TH DECEMBER, 1997

(adj to 19 January, 1998)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Ninth Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly Chamber on Thursday 18th December, 1997 at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 3rd October, 1997, having been circulated to all hon Members were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Minister for Trade and Industry laid on the table the following document:

Financial Services (Collective Investment Schemes) (Amendment) Regulations 1997 - Legal Notice No. 123 of 1997.

Ordered to lie.

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

(1) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos 2 and 3 of 1997/98).

(2) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 2 of 1997/98).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 12.20 pm.

The House resumed at 12.30 pm.

Answers to Questions continued.

The House recessed at 1.15 pm.

The House resumed at 3.00 pm.

Answers to Questions continued.

The House recessed at 5.10 pm.

The House resumed at 5.30 pm.

Answers to Questions continued.

The House recessed at 8.05 pm.

FRIDAY 19TH DECEMBER 1997

The House resumed at 10.00 am.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I beg to move the motion of which I have given notice which reads:

"This House resolves that the Social Security (Open Long-Term Benefits Scheme) (Amendment of Contributions) Order 1997 be approved."

Mr Speaker, in accordance with section 46 of the Social Security (Open Long-Term Benefits Scheme) Ordinance, any order made by the Minister for Social Affairs amending the rates of contributions has to be approved by resolution of the House of Assembly. The motion being moved seeks approval for an Order, that is the Social Security (Open Long-Term Benefits Scheme) (Amendment of Contributions) Order 1997, to increase the weekly rate of contributions payable to the Open Long-Term Benefits Fund as follows: By the employer from £10 a week to £11 a week, that is an increase of £1. By the employee from nil, as the contributions are presently distributed, to £1 making a total increase of £2.

These increases, Mr Speaker, are necessary in order to meet the increasing cost of paying local pensions. It should be noted that the Closed Scheme Fund from which all pre-1994 pensions are paid receives no direct income from contributions. Furthermore, the weekly contribution to the Open Long-Term Benefits Fund, previously the Preoccupational Pensions Levy Fund, have remained at the same rate, that is £10 since the 1st January 1994. In fact, £10 per week was the weekly rate payable to the Social Insurance Pension Fund from 1992 until the Fund was dissolved at the end of 1993. At the time both the employer and the employee each paid £5. It is estimated that the annual cost of paying combined local pensions from both the closed and the open schemes will be in the region of £9.5 million a year. The increased rates of contributions will produce an income of £6.5 million and the return on investment, if reinvested at a higher rate of interest, an additional £1.2 million. It is worthy of pointing out that at present the balance of the Pension Fund is invested with the Gibraltar Savings Bank at rates of interest, as hon Members must know, which are considerably below what could be obtained by that Fund elsewhere. In a sense that is another form of siphoning revenue away from the Pension Fund into other Government pockets through the Savings Bank Reserves. There would

still, Mr Speaker, even after this increase, be a shortfall of about £1.8 million between the expenditure of the Pension Fund in the payment of local pensions and the income of the Fund and it is intended that that shortfall will be met by transferring funds from the currently, and indeed historically, recent history over-funded short-term benefits fund, by making a transfer of capital of money from the Short Term Benefits Fund to the Open Long Term Benefits Fund. At the moment, the balance of the Short Term Benefits Fund exceeds £8 million. The expenditure of that Fund is something like £400,000 a year. Therefore, that will be used to make up the difference of £1.8 million.

Mr Speaker, hon Members may be interested to note, that even after the increase in contributions and even after placing the Fund in a form of investment or rather in investments being paid a commercial rate of interest as opposed to the interest rates currently being paid to the Fund by the Gibraltar Savings Bank, even after both those things, the shortfall remains at £1,839,403. The income of the Fund from contributions in 1997 was £5,865,047. As a result of the increase in contributions it will be £6,460,597 and it is envisaged that the investment income will be about £1.2 million. This will reduce the deficit on the Fund from the £2.43 million that it suffered in 1997, it will reduce it to £1.8 million as I have just said. Mr Speaker, I commend the motion to the House.

Question proposed.

HON J J BOSSANO:

There is one thing that the mover has failed to mention, Mr Speaker, which is the all-important issue as far as we are concerned and that is whether the total contribution is going to be altered or whether in fact the contribution as a result of the other motion is going to produce a compensating reduction so that the overall amount is the same. The Chief Minister mentioned the fact that in 1992 the contribution going to the frozen fund prior to the settlement of the Spanish pensions problem with the United Kingdom was £10, he must know that it was higher than £10 before 1992 and that therefore what has happened is that there was a policy of distributing the destination of the money to Funds which would not be susceptible to a position in which the United Kingdom would be able to argue that there was enough money there to be able to make a contribution to the Spanish pensions. Now that that problem is behind us it is quite obvious that the money can be distributed in another way and if what is going to happen now is that it is going to be distributed in another way, we will simply support the motion and that is it, but frankly what we

need to know is whether we are talking about a re-distribution or an increase in the total figure of the insurance stamps which then requires a different explanation from the one that has been given.

HON CHIEF MINISTER:

No, Mr Speaker, with respect, it does not require a different distribution. This House is not required to and has never been invited to consider the desirability of increasing the overall Social Insurance contribution. This motion is simply about varying the rates of contributions payable under the Open Long-Term Benefits Pensions Ordinance and therefore the hon Member is not being asked to express a view of whether the overall Social Insurance contributions should rise. Simply, he is being asked to express a view of whether the element payable in respect of pension contributions should or should not be increased. Therefore, I decline the hon Member's invitation to gratuitously debate with him whether there should be an overall increase in social insurance contributions generally.

Mr Speaker, the hon Member knows that there are many items in what people loosely describe as the "Social Insurance contribution" other than the Pension Fund. He must also know that whereas he used to increase those insurance contributions annually by 10 per cent and did not do so for the first time since he reached office, I cannot remember whether he did it immediately in 1988 or whether he started in 1989, but still, for six or seven years the first year in which he did not increase the contributions was January 1996 and that was presumably because he hoped to improve his electoral prospects. They have not therefore been increased in 1996, they have not been increased in 1997 and it is I think a matter of prudent and responsible administration of public finances that there should be a start made on putting the Pension Fund on a more solvent basis than it is today because, even if we diverted the whole of the contributions presently being paid to the Short-Term Benefit Fund, except the part that is needed to fund the annual running costs of that Short-Term Benefit Fund there is still a short to medium term problem and even if we used the whole of the £8 million accumulated capital which is in the Short Term Fund which is in a sense money that might otherwise have gone into the Pension Fund we are still talking about two or three years provision in respect of the shortfall. Therefore it is the Government's judgement, that if this Government in future years or in a future Gibraltar Government, is not to have a potential funding problem out of recurring revenue of this, it is important as indeed other Governments are doing around

Europe to put the funding of the provisions for old age pensions on a sounder footing than it has been hitherto.

Mr Speaker, the fact of the matter remains that although the hon Member speaks loosely about a redistribution of the destinations of money as if to suggest that all he had done is to divert money from the Pensions Fund elsewhere where it was still available to Pension Fund use, even accepting that explanation in relation to the money that was stored in the Short Term Benefits Fund the fact of the matter is that since 1989 the amount of revenue out of the Social Insurance contributions, out of the overall Social Insurance stamp, as it is colloquially called, that has reached the Pension Fund has fallen, and by this I mean Pension Fund including the levy fund, so this is netting the overall result, has fallen by £4.87. Even assuming the diversion of part of that, as he says, to protect it, its diversion to the Short Term Benefits Fund, the contributions to that Fund have only increased over an equivalent period by £2.19. There is, therefore, still, as the hon Member knows, a significant diversion of revenue away from Pension purposes or purposes which would easily be attributed to pensions. I recognise that there is this £8 million fund which can easily be diverted. That is recognised, but excluding that, and giving due credit and recognition to that there has still been a diversion of revenue away from pensions purposes making due allowance for the fact that the Fund was interrupted and contributions were, for a period, paid to the levy fund out of the Gibraltar Development Corporation. There has therefore been at a time when there is an increasing burden of pension payments as more and more people reach pensionable age, there has been a reduction during the term of office of the hon Opposition Member, there has been a reduction of the amounts of money actually being paid into pension funds of various descriptions out of those weekly Social Insurance contributions. Therefore, Mr Speaker, the Government are determined that the financial provision available for the payment of old age pensions will be put on a more secure footing than had been the policy during the last eight years and therefore that can only be done in the first instance by restoring the income stream to a level where at least it reduces the shortfall in annual expenditure and we will not stop there because we will also now, in the next year or so, and then later, find ways of making positive capital contributions to it so that the income shortfall is addressed by the allocation of additional capital resources to it.

HON J J BOSSANO:

It is quite obvious that the Chief Minister was determined to make a speech and he was going to make it irrespective to our reaction to this, that is evident. The point is very simple. As far as we are concerned our decision on how we should vote in this motion is partly conditioned by what the following motion means, which he says he refuses to explain. Is the next motion in his name on the Order Paper decreasing the contribution to the Short Term Benefits Fund to compensate for this increase so that the total contribution is going to stay the same or not? I do not see why he refuses to give an answer to that question. If he does not tell us then we do not know whether we are being asked to vote so that the total amount paid under the so-called Insurance Stamp goes up by £1 or whether it stays the same. As far as we are concerned, it is possible to not just put it up by £1 but by £2 or £3 simply by reducing what goes to other Funds. That is our view, but we do not know whether the Government are doing that or not because the Chief Minister says he will not give me the answer because I am not entitled to have an answer to that question. Then we can only abstain, because we do not know.

HON CHIEF MINISTER:

Mr Speaker, when we debate the second motion, the hon Member will realise that I am only moving the motion to correct an error that they made when they were in Government, not because I am doing anything that requires a second motion. We are only discussing this motion not because this House is entitled to debate whether there should be an increase in the overall Social Insurance contributions, the hon Member must know that he used to increase it annually, entirely at his whim and Gibraltar, let alone the House of Assembly, used to discover it when the new figures were published. The fact of the matter is that what this House is doing is resolving to approve an Order under the Social Security Open Long-Term Benefit Scheme Ordinance and therefore what hon Members are required to express a view about is not whether they think that an increase in Social Insurance contributions generally are justified or not but whether they think that the Pension Fund requires an additional £2 per week, per employee of additional revenue. That is the question under consideration under this motion and that is what Members should vote for, against or abstain, entirely as they consider appropriate.

Question put. The House divided.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The motion was passed.

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that: "This House resolves that the Social Security Insurance (Amendment of Contributions) Order 1997, be approved." Mr Speaker, Members have before them that Order which they will see has the effect of reducing the contributions paid by persons other than in the Gibraltar Regiment and that is not to say that we are increasing the amounts payable under the Social Security Insurance Ordinance by members of the Gibraltar Regiment. We are simply bringing this motion to provide the resolution of this House which should have been obtained to that increase when it was introduced by the Opposition Members. At the time they failed to bring a motion to this House to ratify it. Mr Speaker, in accordance with section 52 of the Social Security Insurance Ordinance, any order made by the Minister increasing the weekly rate of contributions has to be approved by resolution of the House of Assembly. The motion being moved seeks approval for an order, that is the Social Security Insurance (Amendment to Contributions) Order 1997, to amend the weekly rates of contributions payable to the Short Term Benefits Fund as follows: Persons who have attained the age of 18 years, in respect of the employer, reducing it from £1.44 per week to 17p per week. In respect of the employee, reducing it from £1.44 per week to 17p per week. In respect of persons who have attained the age of 15, but are under 18 years, employer: £1.37, it is reduced to 17p; employee: £1.36, reduced to 17p. Males and females who are members of the Gibraltar Regiment: employer:

44p, increased to 84p; employee: £8.32, increased to £10.02.

It should be noted, that members of the Gibraltar Regiment had in fact been paying the higher rates that are specified in this Order, that is to say the £10.02p for the employee and the 84p per week by the employer, since the 2nd January 1995. That is during the term of office of the Opposition Members. It has now come to light that for some unknown reason, presumably an administrative oversight by the Opposition Members, the Gibraltar Development Corporation Preoccupational Pensions Levy Regulations 1993, were not amended to reflect the 1995 increases to the Gibraltar Regiment employee/employer contributions. The main purpose of moving this motion, indeed the only purpose of moving this motion, is therefore to regularise the position of the Gibraltar Regiment as from a current date as no approval of the House is otherwise required under section 52 of the Ordinance to reduce the rates of contributions. The new action that we are taking is to reduce the contributions of over 18 year olds and under 18 year olds and that reduction in rates does not require a motion or the approval of this House. Therefore, to do what this Government are now doing would not need a motion at all. The motion is only brought to approve the Order in order to provide the cover in the form of the resolution of this House, which is required and should have been obtained in January 1995 to increases in Gibraltar Regiment contributions introduced at that time, in 1995. Mr Speaker, except for the members of the Gibraltar Regiment who do not contribute to the Group Practice Medical Scheme or the Employment Injuries Insurance Fund it seems appropriate to reduce the other weekly contributions to the Short Term Benefit Fund as it is considered that this Fund is substantially over-funded. The annual contributions income exceeds the cost of paying the Short Term Benefits which are, hon Members may wish to be reminded, Unemployment Benefit, Maternity Grants and Death Grants by over £1.8 million.

I commend the motion to the House.

Question proposed.

HON J J BOSSANO:

The Chief Minister has mounted a big song and dance about bringing this motion to the House. We are not forcing him to bring the motion to the House. He brings it because he wants to. He must have a reason for wanting to do it. If he wants to do it and we ask a straightforward question because we are not clear what

the implications of what we are being asked to vote on are and he simply refuses to give us an explanation, he might as well not bother to make a provision in the Ordinance that he requires the approval of the House and then change whatever he wants to change in the exercise of his judgement, as the Government of Gibraltar, by reducing the proportion that goes to the Short Term Benefit which he says he does not need the approval of the House for and increase the proportion that goes to the Pension Fund or indeed the proportion that goes to the Health Service as has happened in the past in the distribution of this money. As far as we are concerned we take it that what this is doing is in fact by reducing from £1.44 to 17p the contribution to the Short Term Benefit Fund making up for the £1 in the other resolution but there is still, of course, a gap of a few pence between the 44p and the 17p which we can only suppose is going to be put in another Fund which does not require, of course, the approval of the House. If it does not upset the Chief Minister too much and he cares to tell us, we would be interested to know. Of course, if he does not want to tell us then we will not know. Obviously, I am not aware why it is that a resolution was not brought in respect of the contribution to the Gibraltar Regiment if it was required. If that is indeed the case and if indeed it is the case that in 1995 which is before the changes that came in after the abolition of the Preoccupational Pension levies and the restitution of the Closed and the Open Insurance Fund, if it was still required under the old one then obviously it was not brought to the attention of the Government and that is why it was not done. That is all I can tell him. We will be abstaining on this one as well because we are not really clear what it is that is taking place.

HON CHIEF MINISTER:

Mr Speaker, what the Opposition Members are being asked to vote on in this motion is whether they think that the Government are right in providing the legal cover for something that they did in 1995 without legal cover. The hon Members are not being asked to vote on whether they believe that the rates that we are decreasing should be decreased or not because their consent is not required to that. What the hon Members are being asked to vote is whether they think that the increase in the Gibraltar Regiment rates which are not real increases but simply providing legal cover for the increases that they introduced on the 1st January 1995, providing it after the event, that that is something that they should support or something that they should not support or something that they should remain silent on by abstaining. Given that all that we are doing in this motion is tidying up a procedural deficit which they

incurred in administrative action that they took in January 1995 without coming anywhere near this House without seeking the support of the Opposition, without giving the Opposition answers to any questions, nor even the opportunity to put any questions for them to choose whether they would answer or not answer. It is understandable that from the Opposition benches the hon Member should have a greater commitment to the free flow and openness of information than he had when he was on this side of the House. Our commitment to the free flow of information is the same when we are on this side of the House as when we were on that side of the House. We are entirely complying with the fact. The hon Members would not have very long to wait until the orders that would give them the other provisions that would give him the information that he craves for are published in the Gazette. Indeed I think that they are being published some time early next week and therefore I am delighted to be able to inform the Opposition Member that the overall Social Insurance contribution is increasing by a net £3 in addition to the internal re-distribution which he has already in front of him, that is, the burden falls, £1 on employees and £2 on employers. It is still in respect of a two-year period, an increase which is lower than the one which he used to introduce as a matter of course on an annual basis.

Question put. The House divided.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The motion was passed.

BILLS

FIRST AND SECOND READINGS

THE EUROPEAN COMMUNITIES (AMENDMENT) ORDINANCE 1997

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the European Communities Ordinance so as to make provision consequential on the treaty on the European Union signed at Maastricht on 7th February 1992 be read a first time.

Question put. Agreed to.

SECOND READING:

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the amendment introduced by this Bill to the European Communities Ordinance is formal following the signing of the Treaty of the European Union at Maastricht on the 7th February 1992. The European Communities Ordinance 1972, makes provision in connection with the inclusion of Gibraltar within the European Communities. Its section 2, which is the interpretation section, provides in particular for a definition of the expression "Treaties". That definition presently makes reference, amongst others, to treaties dealing with:

1. The accession of the United Kingdom to the Community in 1972;
2. The accession of Greece in 1979;
3. The accession of Spain and Portugal in 1985; and
4. The accession of Austria, Finland and Sweden in 1994.

On the 7th February 1992 the Treaty establishing the European Union was signed and, in consequence, it becomes necessary to extend the definition of "Treaties" in Gibraltar's domestic legislation so as to encompass the Maastricht Treaty. In so doing, the Ordinance makes clear, as a matter of law, that any rights, liabilities, obligations and restrictions from time to time created or arising by or under the Maastricht Treaty and/or remedies and procedures from time to time provided by it are, without further enactment, to be given legal effect in Gibraltar and be recognised and available in law and be enforced and allowed to follow accordingly. By making

express reference to the Treaty of Maastricht in section 2 under the definition of "Treaties", Gibraltar is making formal provision for implementation of that Treaty. It is to be noted, however, that when the Maastricht Treaty was signed Member States agreed that the United Kingdom should not be bound by that part of the agreement dealing with the Social Chapter. That exclusion is reflected at Protocol No. 14 on social policy which forms part of the Treaty. That exception is reflected in clause 2(1)(k) of the Bill now before the House. Mr Speaker, the new United Kingdom Government recently informed the Community that it agreed to be bound by the Social Chapter but before it is, legal formalities will have to be completed in that respect.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, the Bill provides that titles 2, 3 and 4 of the Treaty should be applicable in Gibraltar as a result of being incorporated in the 1972 Ordinance which deals with our membership of the European Community but not title 5 or 6. We are opposed to this Bill. As far as we are concerned, it seems to us an opportunity in the general principles to raise all the issues which are still unresolved in respect of our membership of the European Union and all its contradictions. If we look at title 2, we find that there is a provision in title 2 which introduces a new paragraph 3 to Article 138 of the Treaty which says, "That the European Parliament shall draw up proposals for election by direct universal suffrage in accordance with the uniformed procedure in all the Member States." We have before us an issue where precisely to give effect to this, a Bill is now going through the Parliament of the United Kingdom to create a system of voting which is uniform with that in other Member States and which moves away from single member constituency regions and we are being left out of it, unless our sympathisers in the British Parliament do something about it. Yet we have got in the House of Assembly a Bill which gives effect in Gibraltar to the provisions which are being reflected in the United Kingdom and we are accepting that this applies to us. We have in the same title 2 a new chapter setting up the Committee of the Regions. The new article says, "A committee consisting of representatives of regional and local bodies hereinafter referred to as the committee of the regions is hereby established with advisory status." The United Kingdom has 24 representatives in that Committee. It chooses not to have given Gibraltar the

opportunity of being there and yet we are saying in our law that we accept that whatever advice on decisions the Committee of the Regions takes, apply to us and we are not represented in it. It seems to me that the principles that this Bill gives rise to are the very principles which are making people question whether we are in the European Union just for our obligations and not for our rights and whether we ought to be doing something about putting this matter to the test once and for all. It is all very well asking people in the United Kingdom to raise the issue in the House of Commons and in the Lords as has happened recently when there was a debate on the issues and as will happen with the passage of the Bill, and then to ignore it on our own doorstep, seems to me to be contradictory with the view which is unanimous in Gibraltar that it is wrong that we should be dis-enfranchised as we are. Universal suffrage means what?

This is also the Treaty that gives provision for nationals of a Member State who are resident in another Member State to vote in the State of residence and not in his State of origin, that which we have always felt strengthened the argument beyond question that we have this anomalous situation that as citizens of the European Union, the concept is introduced by this Treaty. We are citizens of the Union. As citizens of the Union we are entitled to stand for the European Parliament and we are entitled to vote for the European Parliament anywhere in the European Union except in Gibraltar. The Treaty that gives us the right to vote and stand somewhere else is this Treaty and we should not be proceeding by saying, "Yes, we accept that this right applies to us as individuals", whilst at the same time Gibraltar is excluded and no other Community national can exercise the right in Gibraltar and we ourselves cannot exercise it in our own country.

The protocols include a protocol on the European System of Central Banks. That system, which of course, is the precursor of the move towards economic and monetary union and the creation of the single currency about which the United Kingdom has not yet made up its mind, nevertheless describes the system that will operate and it raises issues which are important for Gibraltar. For example in terms of what is going to happen in the future as a result of this Treaty the protocol says, "That the governing council of the European Central Bank shall have the exclusive right to authorise the issue of bank notes within the Community and that the national central banks may issue such notes." Gibraltar has got today the right to issue its currency and by the letter of this Treaty it will lose that right which in fact will be retained by every other Member State. Other Member States will be

able to replace their national currency by the Euro under the authority of the governing council of the European Central Bank. In terms of the financial services industry there is in fact, in chapter 5 of the new protocol, a reference to the European Central Bank being consulted by the competent authorities of the Member State on matters relating to prudential supervision of credit institutions. Is Mr Millner going to be one of the competent authorities of the Member State that will be able to consult the European Central Bank on matters relating to the prudential supervision of credit institutions? Has anybody asked that question before we decide that we want to implement the provisions of this protocol in the laws of Gibraltar?

Our view is that the Government should defer the passage of this Bill and put it in the melting pot with the other matters on which we want a clear statement from the United Kingdom as to what are our rights and what are our obligations in the European Union and we think it is the appropriate time to do it because it is quite obvious that there are many other things happening, not least of which the very clear message from the Spanish Government in the recent meeting with the Foreign Secretary that as far as Spain is concerned they are keeping a very vigilant eye on anything that happens in the context of the European Union which gives recognition to Gibraltar institutions as being the equivalent of national institutions like this, the competent authority of a Member State. It is all very well saying, "We will comply and accept that all these decisions that are made as a result of this Treaty we will have to abide by." But we are not in fact in the provisions of the Treaty in terms of being able to influence any of those decisions because the definitions exclude us.

As regards the Social Chapter, the fact that the Conservative Government decided to opt out and the Labour Government has decided to opt in, we in Gibraltar, it seems to me, are entitled in this, as in other things that have to do with the European Union, to take a view of our own as to whether we want to be in or whether we want to be out of these things. The fact that the United Kingdom is responsible for our Foreign Affairs does not mean that by virtue of the fact that they are responsible for our Foreign Affairs, whatever they decide in the European Union on domestic affairs automatically applies to us. If that is what it means we might as well be integrated and be done with it, why bother to have a different decision-making process if we can only implement their decisions. So they decide at one stage that they do not want to be in on the Social Chapter and we cannot join the Social Chapter and they decide at another stage that they want to be in and we cannot stay

out. The Social Chapter has nothing to do with Foreign Affairs. We could not have a better example of how the way our Constitution interfaces with the development of the European Union is in fact making a nonsense of the division between defined domestic matters and foreign affairs because here we are talking about social security, about employment contracts, about conditions of employment, financial contributions to job creation and these are all things that have been domestic affairs in the Colony of Gibraltar going back to the 1954 Constitution, never mind the 1969 one. Why should we decide in Gibraltar today that we are not going to apply the protocol on the Social Chapter in our legislation? Why, because the United Kingdom under a previous Government decided not to, and because presumably whatever they did in the UK they left it out and they have not yet got round to putting it in? So we are going to leave it out here and then when they decide to put it in, we are all going to come back and put it in ourselves, presumably. That must be the implications of the exclusion. We do not believe that we should proceed on that basis and we believe that this is an opportune moment to send a message back to the United Kingdom that we really need to clear up what it is we are supposed to be doing in Gibraltar in relation to Community law and what they are supposed to be doing and if all that we are supposed to do is to rubber stamp here whatever they decide, then we also have to look at exactly what obligations and responsibility means. If the UK is responsible for us then it should be responsible for footing the bills as well as everything else. If we have got a measure of responsibility then we have to have a comparable measure of rights and we have to have guarantees about our ability to have the same opportunity to influence things before they are decided as other Member States. This is an example of how the system continues to operate on the basis that we will simply go along with what is decided by others unless and until Spain chooses to block something and then we are excluded.

This is the Treaty that strengthens the provisions on the freedom of movement between Member States. Here we have in the title, that is not being provided in the Bill, the provisions on the pillars of justice and home affairs, title 6, which have been amended by the Amsterdam Treaty. What is the explanation why that is not included in the Bill? Is it that the title on cooperation in the field of justice and home affairs is the one that says that the Member States of the Union are supposed to be cooperating but in particular for achieving the free movement of persons and that they must regard as areas of common interest the rules governing the crossing by persons of the external borders of the Member State and the exercise

of controls thereon. What are the implications of the fact that this particular title unlike titles 2 and 3 is not in fact included in the Bill in Gibraltar? Given that this is now altered by Amsterdam are we going to have part of this remaining under the pillar of inter-Government cooperation and part of it being incorporated in the new title 3A over which we have a difference of view with the Government? We believe that the new title 3A will bring into play a Spanish veto and that that will be seen independent of the question of the Schengen Protocol in Amsterdam and regrettably that is likely to happen in the not too distant future but here we have that what is being amended in Amsterdam is here except that it is not in the Bill. Rather than divide the House we would recommend that the Government defers the passage of the Bill to a later date and takes note of the arguments that we have put and comes back and tries to do it as explained.

HON CHIEF MINISTER:

Mr speaker, I cannot provide the hon Member with an explanation to the apparently sound point that he makes in relation to the reasons for the exclusion of title 5A and 6 but I will certainly research the matter or have the matter researched before the matter goes later today to Committee Stage and certainly if there is not an entirely inescapable reason for doing so, it will be included, there is no doubt about that. I will leave that point to one side, whilst I make enquiries as to the reasons for its exclusion.

Mr Speaker, the hon Member says that this is an opportune moment to get to the bottom of all the problems that Gibraltar has in relation to the European Community membership. Presumably, what he might more accurately have said is that this is another opportune moment because he had eight years worth of opportune moments before the 16th May 1996 and he was able to resolve none of these things. The Leader of the Opposition says that we should hold out for guarantees, that we have the same opportunity to influence decisions as other Member States. Mr Speaker, is the hon Gentleman serious? Is he reverting to his separate Member State policy? His words were, "Guarantees of the same opportunities to influence decisions made under the Treaty as any other Member State". Mr Speaker, if I am to have the same opportunity as the Federal Republic of Germany to influence decisions made under the Treaty of Maastricht, Mr Chancellor Kohl will have to shut up at European Council meeting summits and make a space for me at the table of the European Community summit because certainly I cannot think of any other practical way of having the same degree and ability to influence decisions as any other Member State. I

will pass on to the British Government the view of the Leader of the Opposition that the Chief Minister of Gibraltar in future, when there are summits of European Heads of Government under the European Council, that the Chief Minister should be the sixteenth person present. That is what the hon Member has said.

HON J C PEREZ:

This is what you say that the hon Member has said.

HON CHIEF MINISTER:

Well, what the hon Member actually said, for the purposes of those that may be listening to this debate outside this House, the hon Juan Carlos Perez, Opposition Spokesman for Government Services, says that I am twisting the Leader of the Opposition's words. The Leader of the Opposition's words exactly were, "That we should have guarantees of the same opportunity to influence decisions under The Treaty as any other Member State." Therefore, as Germany is another Member State and the Leader of the Opposition thinks that I should have the same opportunity to influence decisions as Germany and as these decisions are mostly taken at Council meetings then, what the Leader of the Opposition is saying is that I should be present at those meetings. The hon the Opposition Spokesman for Government Services, Mr Perez, may toss in, in order to distract public opinion, accusations of distorting. There are two possibilities, either he agrees with me that what the Leader of the Opposition has said is palpable nonsense and is just trying now to distract or he has not heard what his master has said or he does not care what his master has said and seeks to protect him by reference to the truth or by reference to non-truths, it may be no different to him which of the two strategies he follows.

Mr Speaker, we understand the Leader of the Opposition spoke about melting pots. We understand that the Leader of the Opposition is trying to create melting pots all over the place. The Leader of the Opposition may think that this is a moment in time in Gibraltar's history, presumably because he is in Opposition and not in Government where everything should be thrown up in the air, uncertainty should be injected whenever and wherever possible, everything designed to create the maximum possible atmosphere of instability, anxiety and crisis, presumably so that he then tells the electorate how terribly badly Gibraltar has fared under the present Government, when he in eight years in Government was unable to resolve any of the problems of lack of influence in the European Union that he now expects me to deliver and indeed was simply slapped on the wrist and

given a little envelope from time to time with instructions of what he had to do or else. It is a pity that he did not consider that to be an opportune moment to ask for the influence that he is now encouraging me to seek. When the Foreign Secretary of the day, Douglas Hurd, gave him a little envelope saying here are a list of Directives which you must implement or else, why did he not say, "Well, hang on, Foreign Secretary, this is an opportune moment to bring to a head all the matters in the melting pot about Gibraltar's status within the European Union, and, Foreign Secretary, do you not think that before I should be asked to implement these Directives or before I am ordered to implement these Directives, do you not think that I ought to have the same opportunity as Chancellor Kohl of Germany had given that I did not have the same degree of influence, is it fair that I should be asked to comply with it?"

Mr Speaker, on the question of voting rights, approval of this Bill does not mean that we are accepting our exclusion but certainly if we do not implement this Bill I do not see how we can then lobby for benefiting anything that it makes provision for. Not, incidentally, that the Maastricht Bill is the source of legislation in relation to European voting, the hon Member must know that, but if anything that is a minor point. What he is in effect saying is that Gibraltar's position has not been properly protected under the Maastricht Treaty, because presumably what he would have preferred was that the Maastricht Treaty should have given Gibraltar unambiguously the right to vote, that the Maastricht Treaty should have given Gibraltar the right to participate in the Committee of the Regions, that the Maastricht Treaty should have made it even more clear, not that it is unclear, that Gibraltar, etc, etc. Well, Mr Speaker, I have to remind Opposition Members that they were in office in Gibraltar when the Maastricht Treaty was agreed in 1992 and given that they have recently moved heaven and earth to try and persuade the electorate of Gibraltar to blame me for everything that Gibraltar has not been fully protected in respect of under the Amsterdam Treaty whilst I have been in office, presumably by that rule with which I do not agree but obviously they do, by that rule it is equally legitimate for me to now accuse the hon Members of dereliction of duty, of negligence and of recklessness, all the adjectives that they have used in respect of me under the Amsterdam Treaty for having failed to make sure that all these things which now provide him with reasons for not wanting to ratify the Maastricht Treaty were not more favourably to Gibraltar dealt with at the time that the Maastricht Treaty was negotiated which is when the hon Member was then the Chief Minister. It is just another example of the sheer hypocrisy and duplicity with which the hon

Members conduct their criticism of us by comparison to their own performance when they were in Government. It is, indeed, incredible, but what is incredible is not the fact that I told the Members I call a spade a spade when a spade is what the hon Member has got in his hand. The incredible thing is not that I point it out every time that he does it, the incredible thing is that he should go around in life forgetting all the things that he has done or not done during the last eight years and assuming that his political life now began on the 16th May 1996. His political life and the things for which he can be held accountable by comparison to us began in 1988.

Mr Speaker, if the hon Member feels that what he regards as issues in relation to voting, Committee of the Regions, Citizenship of the Union, Central Bank issues and all the other litany of irrelevant considerations to this Bill that he has left out, but if he thinks that those are issues which arise out of the Maastricht Treaty in respect of which he cannot support this Bill because Gibraltar's interests were not properly protected under the Maastricht Treaty then I can simply only express regret that he did not do a better job when the Maastricht Treaty was being negotiated, just as he has accused me of not doing a very good job in relation to Maastricht's successor which is Amsterdam. He cannot have his cake and eat it, he cannot have it both ways. I do not know whether the hon Gentleman is in a sense urging this House not to pass this Bill for the reasons that he has outlined. Is he saying that Gibraltar should in a sense exclude itself? Because he must know that the Maastricht Treaty is a Treaty amending the Treaty of the Union. Is he suggesting in effect that Gibraltar should exclude itself from the whole of the Maastricht Treaty because of these issues that he thinks are unsatisfactory? I am putting to one side the question of the apparent exclusion of titles 5 and 6 which is a separate issue. But on the assumption that that is satisfactorily resolved, he was suggesting that this should not be passed and this was in effect what he was saying, that this was the opportunity to say, "Well, we will not pass these things which create obligations until we know what our position is in respect to....." The hon Member must know that such a course of action is tantamount to excluding ourselves from the European Community if we do not give legal effect to the amendments to the Treaty establishing the Union. In the unlikely event that the hon Member should ever find himself again on this side of the House, he can take such drastic steps, if that is what he thinks would be a prudent and responsible way to manage the affairs of Gibraltar. I do not mind, if that is the hon Member's position, I have no difficulty or hesitation in telling him that this is another issue upon which we are

disagreed and that the Government do not consider that it is in the best interests of Gibraltar to conduct its affairs by reference to such attitudes. The hon Member asked how do we influence decisions under the Treaty? I think that is a legitimate question. I think Gibraltar is entitled to influence decisions but not in the way that the hon Member implies. This is in a sense what we were discussing yesterday about the process of consultation that exists between the United Kingdom, which is the Member State responsible for our External Affairs, and ourselves. That process of consultation may work or not work from time to time, from issue to issue, in a way which gives us that measure of input into the United Kingdom's position which we might be able to agree we are entitled to, but I do not doubt that Gibraltar's right and ability to influence decisions, the decision-making process within the European Community is limited to the influence that we can bring to bear on the United Kingdom decision-making process. Or is he suggesting that, for example, on those decisions that require unanimity that we should have the veto as well? Or in those decisions that are made in the European Community by reference to qualified majority voting, that Gibraltar should have a vote in the qualified majority and the qualified minority? Because it is either that or influence through the United Kingdom decision-making process, there is nothing in between having your own vote or influencing the vote of the United Kingdom, procedurally whatever we might like the position to be aside, procedurally, there is nothing in between those two, unless what the hon Member believes is that because that is the reality, because those are the only two options, if the United Kingdom does not have regard to what we would like to happen and makes its decisions contrary to the one that we would have liked to make, that in those circumstances because we have not had the right to influence the decision, that in a sense we can opt out. In a sense what he was saying is that because we have not had the opportunity to influence we should not be required to implement. That is absurd, Mr Speaker, because under the qualified majority system of voting, not even Member States that find themselves in a minority have the right to opt out. The suggestion that Gibraltar should have the right to opt out simply because the Community takes decisions, or in other words, membership a la carte, depending on whether we like the decision or not, is not something that is going to find favour with anybody. I do not need to put it in the melting pot to be confident that we are not going to get away with that. This must be what the hon Member meant when he said that we were entitled to our own view on whether we were in or out. No Member State, excepting Treaty negotiations, but on measures, no Member State has a veto on whether they are in or out.

Mr Speaker, the hon Member spoke about the Social Chapter in his contribution and he spoke of the fact that the United Kingdom had negotiated for itself an opt out from the Social Chapter. I realise that he was only using it as an example to make the point and that he might easily have chosen another example, but in respect of the example that he chose, the hon Member spoke as if the fact that the Conservative Government in the United Kingdom had both ideological policy reasons of its own chosen to opt out of the Social Chapter, somehow compelled Gibraltar to stay out but if the hon Member as a matter of domestic political ideology had wanted to implement the Social Chapter there was nothing to stop him as a matter of domestic legislation amending the Employment Ordinance of Gibraltar and all the other Ordinances of Gibraltar to give legislative effect to the Social Chapter. In other words, not introduce the Social Chapter as a matter of Community obligations, but to have legislated it as a matter of domestic legislation, entirely voluntary, because the Government of the day believed that that is what the employment and commercial law of Gibraltar should have been. He did not do it. He has had since 1992 to do it. He did not take the option to do it. People are entitled to deduce from that, given that he was free to do it, although not compelled to do it, he was not under any compulsion to do it, but he was free to do it voluntarily, given that he did not do so in four years people are entitled to deduce that he did not do it because he did not want to do it, because nothing was preventing him from doing it and therefore he cannot shield behind the United Kingdom exclusion opt-out for the fact that Gibraltar does not today have on its legislation the Social Chapter.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read second time.

CHIEF MINISTER:

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

Question put. Agreed to.

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) ORDINANCE 1996 (AMENDMENT) ORDINANCE 1997

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996, 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 object of this Bill is to give a further opportunity to those persons who are eligible to pay arrears of contributions under the Social Security Insurance Ordinance 1975, but did not elect to do so at the time, to make up for incomplete periods of insurance. As announced in the Government Press Release of the 20th October 1997, this election applies to all those persons who have an incomplete contribution record in respect of any periods of actual employment in Gibraltar at a time that they were exempted or prohibited by law from contributing to the Pension Scheme either because they were earning more than £500 earning ceiling or because they were self-employed. Government are aware that in 1975 a number of people who were precluded from making complete payments in respect of broken periods of arrears because there was no provision in the law to deal with broken periods of arrears, for example, somebody who was self-employed from 1955 to 1965 and then compulsorily insured in 1966, the following year, but self-employed from 1967 to 1974 because of the way it was drafted at the time, was unable to pay all the arrears prior to

1966. They could only pay in respect of one broken period, not in respect of all scattered periods of arrears. This Bill will regularise the position of those concerned by allowing for the payment in respect of periods of arrears which have been interrupted by compulsory insurance.

Furthermore, as previously announced, this option will also be given to the widows and widowers of any insured person who was eligible in 1975 but is now deceased and to those persons who may have opted at the time to pay the arrears by instalments but were unable to complete all the payments. Hon Members may be aware that previous opportunities of this sort to catch up with arrears in respect of these periods were not extended to the widows of deceased pensioners who if the pensioner had been alive would have been able to contribute but because he is dead the widow was not allowed and therefore continues to collect a lower widows' pension. This opportunity is given to widows when their deceased husbands would have been qualified to pay the arrears if he was still alive today. Since October 1997, the Department of Social Security has been dealing with numerous enquiries from current pensioners and contributors. As a result, a further 105 persons have been identified as eligible to pay arrears. This includes some with broken periods of arrears and others which were previously considered doubtful as there was not sufficient information on the actual insurance record to determine their eligibility. It is now estimated that the initial cost to the Pension Fund will be in the region of £440,000 per annum and not £360,000 per annum as previously stated at the last meeting of the House.

Mr Speaker, there is an amendment that I will move at the Committee Stage to add a new clause 7(b)(8). The effect of the amendment will be to eliminate any ambiguity that the legislation might have with respect to the right to claim backdated Social Security Pension payments. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON R MOR:

Mr Speaker, the Opposition will be supporting the Bill. We have made our position quite clear before now and will be voting in favour.

HON CHIEF MINISTER:

Mr Speaker, I will use my right of reply just to applaud the fact that the House is united on this salutary social advance in Gibraltar.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE TIMESHARE ORDINANCE 1997

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to provide for rights to cancel certain agreements about timeshare accommodation and to transpose into the law of Gibraltar Council Directive 94/47/EC, on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. The main purpose of this Bill is to afford protection to individuals and to safeguard their rights to cancel agreements about timeshare accommodation. This is being achieved by the transposition into Gibraltar law of Council Directive 94/47/EC on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis. Although timeshare is not currently a feature of tourist accommodation in Gibraltar, we have the requirements to transpose the Directive and to afford the necessary protection in case it should become widespread in the course of future touristic development. Furthermore, there are timeshare agreements outside Gibraltar which may be covered by certain aspects of this legislation because it does extend to arrangements which would be governed by Gibraltar law.

In drafting the Bill now before the House, consideration has also been given to the UK's Timeshare Act 1992, and Timeshare Regulations 1997. The key provisions of this Bill are contained in Sections 3, 4 and 5. Section 3 imposes an obligation on persons who in the course of business propose to another to enter into a timeshare agreement and to furnish the information specified in that section and also set up Schedule 1. Section 4 provides that a person shall not advertise timeshare rights during the course of a business unless the advertisement indicates where the information contained in section 3 may be obtained. Section 5 and Schedule 1 set out those obligatory terms that have to be contained in a timeshare agreement. Section 6 is particularly important. It provides for a timeshare agreement to be in writing and where the customer is resident in or a national of an EU state is has to be drawn up in the official language or in one of the official languages of that state or in the official language or one of the official languages of the state of which that person is a national. Therefore, if the customer is a resident of Gibraltar the agreement shall be drawn up in English, in addition to any other language. Non-compliance with this provision would constitute an offence. Section 7 imposes an obligation on the person advertising the business if the timeshare or foundation is situated outside Gibraltar but in an EU state other than the UK to provide the person advertising the business with a certified translation of the agreement in the official language or one of the official languages of that state. Again, non-compliance with this provision constitutes an offence. The rights of the customer to cancel an agreement are set out in sections 8 to 12 whilst sections 11 to 15 provide a right to cancel timeshare agreements by giving notice *and/or* automatic cancellation. Section 13 prohibits the persons conducting the business from requesting or accepting from the person advertising the business any advance payment before the period during which notice to cancel the agreement may be given. Non-compliance with this provision also constitutes an offence.

Finally, Mr Speaker, the remaining sections deal with other matters such as repayments of credits and interests, defence of due diligence and the liability of persons other than the principal offender. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, obviously the impact of this Bill in Gibraltar is limited in so far as there is a minute, if any, number of timeshare offers in Gibraltar but obviously there are companies registered in Gibraltar that may be partaking in timeshare business in respect of property situate outside Gibraltar. In so far as the Bill or as the primary aim of the Bill is to give protection to purchasers, there have been considerable problems in the past, particularly in the UK and also in Spain in respect of unscrupulous timeshare operators who have used devices which have not given those purchasers the opportunity, after being bundled into a room for many hours on end, of then retracting or pulling away from the offer and they have almost been coerced or forced to sign. We support the Bill because it does give added protection. Again, we do not think it will have much applicational effect locally but certainly to those operators using Gibraltar companies it is important that they operate from here with these provisions in place and to that end, Mr Speaker, we support the Bill.

HON P C MONTEGRIFFO:

Mr Speaker, I wish to highlight that although I agree that the impact is limited in the strict domestic sense, as I highlighted in my contribution, the Bill extends to any agreement governed by the laws of Gibraltar and indeed certainly now thinking with my previous professional experience it is not uncommon for Gibraltar to be used as a jurisdiction which regulates timeshare operations in other jurisdictions. That is indeed good business and places like the Isle of Man, for example, have also got involved in this and I think this legislation will further enhance it. It will give an element of protection that was missing.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

**THE WIRELESS TELEGRAPHY ORDINANCE (AMENDMENT) ORDINANCE
1997**

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. This is a short Bill but it is a Bill which is important in terms of growth and competitiveness for the telecommunications industry. It deals with the management of the radio spectrum and its provisions are crucial for ensuring the success of the new telecommunications companies setting up in Gibraltar. The Bill deals with a finite resource, namely the radio spectrum and it is on the radio spectrum on which communication and the information of evolution crucially depends. The measure will allow the Government to charge for the right to use certain waves by radio-based services. The Bill will dramatically modernise the management of the radio spectrum. A large range of businesses will now depend on the radio spectrum, from large telecommunication companies through to taxis and mini-companies who use these frequencies on their day-to-day operations. In future, we can expect the boundaries between radio, telephony and computing to become increasingly blurred allowing, for example, for portable computers to communicate more quickly and to convey greater quantity of information. Multi-media convergence is facing us as we approach the century. To meet these challenges we have agreed that a policy of spectrum pricing should be introduced and this is what the Bill does. The framework for management of the radio spectrum is based on the UK's 1949 legislation designed for a time when spectrum availability was not a problem. Up to now that has served well but does not provide the tools needed to manage the spectrum effectively. By implementing this document's policy the Bill will update the management spectrum capability. Spectrum pricing is seen as an efficient way of managing that radio spectrum. The Bill will enable the setting of fees to take account of a range of criteria connected with the efficient management of the spectrum rather than at present simply basing them on administrative costs.

The Bill contains certain enabling powers. The detailed implementation of these powers in relation to licence fees would be subject to regulations. We expect those regulations to be published shortly in the new year.

Those will provide the flexibility essential to respond to the face of change in the sector. This Bill is a first step in setting up a pricing structure to the new satellite operators coming to Gibraltar. Government's policy will, in the long term, also impact on the licensing of all operators using the radio spectrum in Gibraltar. The Bill provides that these, other than fees for licences for television reception, be set by regulation. It sets out particular matters to which the Wireless Officer must have regard in setting fees. These are the amount of spectrum available for a particular service, the likely demand for spectrum and the economic benefits, innovation and competition issues. Article 11 of the European Telecommunications Licensing directive which Gibraltar is in the process of transposing, deals with fees and charges for individual licences. The directive recognises that where scarce resources such as the radio spectrum are to be used, member states should be allowed to impose charges that go beyond cost recovery to reflect the need to ensure the optimum use of those resources. The proposals in the Bill are therefore fully in line with that directive. When the transposition of the Telecommunications Bill becomes law next year it is proposed to introduce regulations as well. The Bill also gives enhanced security of tenure to licence holders. It enables the Wireless Telegraphy Officer to include in licence terms conditions to restrict his power to revoke or vary a licence. At present a Wireless Telegraphy Ordinance licence may, in most cases, be revoked or varied at any time. That would normally be done only where the licensee has conspicuously failed to respect the terms of the licence but Government accept that different considerations are likely to apply where licensees may need to undertake a large investment. We accept that in those circumstances licensees will want firmer, legally-binding guarantees that they have a security of tenure and that their licence cannot be revoked unexpectedly. Licences could contain conditions that revocation would be limited to security requirements or to enable Gibraltar to comply with European Union obligations or international agreements. The provisions contained in the Bill are similar to those contained in the British Government's own Wireless Telegraphy Bill which is presently before Parliament. The regulations to be made under this Bill will, firstly, make provision for the levying of the relevant fees and, secondly, set out a form of licence to be granted to a successful applicant. The Bill also does other things. Clause 2(b)(i) brings up to date the definition of wireless telegraphy and its proviso. Clause 2(c) defines the Minister with responsibility for Wireless Telegraphy as the Minister for Trade and Industry, a regulation will be published later making the Minister, and not the Governor, responsible for certain aspects of the Wireless

Telegraphy Ordinance. Clause 2(6) creates various offences relating to misleading messages and interception and disclosure of messages. It will be an offence to give false or misleading messages which could endanger the safety of any person or any vessel, aircraft or vehicle. It will also be an offence for any person, unless authorised to do so, to obtain information of the contents, sender or addressee or any message. This will, in practice, outlaw, amongst other things the monitoring by members of the public of frequencies used by the Emergency Services. These offences are part of the UK's Wireless Telegraphy Act but were never incorporated into the Gibraltar Ordinance which has remained virtually unchanged, without amendment, since 1949. The final provisions of the Bill contained in clause 2(7) clarify penalties and legal proceedings.

Mr Speaker, spectrum is regarded nowadays as a national asset. It therefore has to be well controlled and priced. The Bill rejects the old idea that spectrum users should only be charged pretty much the administrative costs involved with its management. In future, prices will be based on the commercial value of the spectrum used by each licensee. This is a business asset which Gibraltar needs to exploit. In conclusion, the Bill provides for the better management of this radio spectrum including appropriate mechanisms for charging which will be fair and equitable.

There will be minor amendments that I will seek to move at Committee Stage. I do not think there is a necessity to deal with them now. They are small in nature and therefore I will reserve my comments on those amendments until that stage. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, the Bill really is designed to develop telecommunications as an industry other than as a service to the community in Gibraltar. This idea developed during our term in office and we welcome the Bill and we welcome that the development of telecommunications from a base in Gibraltar is taking off.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

The House recessed at 12.15 pm.

The House resumed at 12.25 pm.

THE BANKING (AMENDMENT) ORDINANCE 1997

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

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

This Bill, which is like various others that the House will now be taking, is rather technical. It contains a number of different amendments to the Banking Ordinance 1992. They are broadly of three types, some improve or modernise banking supervision, some are consequential on the series of Ordinances on financial matters which are currently before the legislature and some are more in the nature of housekeeping. Section 2 is a modernising provision relating to the expression "approved auditor". Under existing law, the Commissioner of Banking by a notice published in the Gazette, may declare professional bodies to be approved bodies. This in fact has never happened. There is already a method of approving auditors for the purposes of the Companies Ordinance and this amendment links this Ordinance to that provision. Section 3 makes a housekeeping amendment by taking out of the Banking Ordinance 1992 a provision which provided a test for when a person was resident in Gibraltar for the purposes of the Ordinance. This provision has ceased to have any practical utility after changes to the licensing regime in 1992. Section 4 is a provision to improve banking supervision. It strengthens the definition of deposit taking in a way to close certain loopholes in the existing wording. It must be said that these loopholes have appeared more in the UK rather than in Gibraltar but Gibraltar is passing this legislation to mirror UK requirements. Section 5 is a

further modernising provision. The existing exemption for insurers in section 10 of the Banking Ordinance refers to Gibraltar insurers who are authorised by certificate under the Insurance Companies Ordinance and does not deal satisfactorily with European insurers who are covered by certain Insurance Directives. As a result of changes in the Gibraltar Insurance legislation, it is now appropriate to refer to licences rather than certificates and the new exemption in section 5(1) of the Bill also covers, therefore, what are called EEA companies, an expression defined in section 10(3) of the Banking Ordinance 1992 and which is set out in section 5(2) of the Bill. Section 6, deals with the issue of administrative notices and replaces the existing section 16 of the Banking Ordinance with a more detailed provision. This is modelled on a provision contained in section 28 of the Financial Services Bill which is currently being taken or is being taken in this session of the House. Under the new version of section 16 the administrative notices can relate not only to the manner in which the Commissioner of Banking will exercise functions under the Ordinance but also can indicate what is required of credit institutions in Gibraltar in order to secure a compliance with relevant Community obligations. Sub-section (3) of the new section 16 lists several of the directives which are relevant. Section 7 is, in part, housekeeping and in part consequential on other current legislation. Sub-section (1) removes an unnecessary word from the definition of relevant investment business in section 2 of the Banking Ordinance. Sub-section (2) amends sub-section (8) of section 18 of the Banking Ordinance, first so as to take account of the fact that the expression "relevant investment business" is not appropriate to the sub-section because the definition, unlike the sub-section, is limited to recognised institutions.

Secondly, the amendment takes account of the new system of authorisation of investment firms to be introduced by the Financial Services Bill before this House. Section 8 is a further provision relating to Banking Supervision. It amends section 23 of the Banking Ordinance which sets out certain additional criteria which have to be fulfilled for the grant of a licence. The purpose of the amendment is to bring the text of the Banking Ordinance more closely into line with the first Banking Coordination Directive. Sections 9 and 10 and the Schedule deal with representative offices. Section 9 makes two changes about representative offices of Gibraltar licensees. These are in the nature of housekeeping. Section 10 and the Schedule, however, set out a more detailed regime for the establishment and maintenance in Gibraltar of representative offices of overseas deposit takers. These provisions are modelled,

again, on the UK's legislation and specifically on part 4 of the Banking Act 1987. Section 11 inserts a new section 75(B) to the Banking Ordinance. This creates the offence of fraudulent inducement to make a deposit and again improves banking supervision.

Finally, section 12 is another provision which is in part housekeeping and in part consequential on the new provisions inserted into the Banking Ordinance. There will be a number of minor amendments again introduced at Committee Stage. I do not think it necessary to make mention of those now, I therefore commend the Bill to the House.

Mr Speaker invited discussion on the General principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, as the hon Minister has said, together with a number of other Bills we will be dealing with later today, all deal with aspects of amending and in some cases introducing legislation which are geared entirely towards minor exceptions, the aspects of passporting in respect of banking investments and tidying up as he referred to in matters that affect insurance. The view that has been expressed to us by the industry has been, that until the position of Gibraltar and passporting generally has been clarified the brakes should be put on more legislation dealing with EU Directives and passporting. Indeed, the minutes of the resolution of the Bar Council which I referred to yesterday in Questions, contains a specific request from the Bar Council in particular, I am not aware of other associations or representations requesting that until the validity within the European Union of insurance, of banking and of investment vehicle licences issued in Gibraltar has been clarified, that no further EU Directives in relation to financial services should be transposed. That is a view that the Opposition Members agree with and indeed, taking into consideration the views of Government on the tax co-ordination proposals and the effect as outlined by the Chief Minister at the Insurance Intermediaries dinner, if they are as serious as that, and they may be, then clearly that needs to be clarified also. Mr Speaker, for those reasons we will not be supporting this Bill or, indeed, the ones that follow which transpose EU Directives.

HON P C MONTEGRIFFO:

Mr Speaker, I very much regret the position that is being adopted by the hon Member, not just on this Ordinance but indeed on the others which are now to be dealt with. I

think it is a fundamentally flawed, irresponsible and dangerous line for Gibraltar to adopt. The suggestion that Gibraltar can continue with development of financial services whilst at the same time flouting Community obligations in the way that the Opposition seems to be suggesting is naive. We share the views of the industry to the extent that there is a need to ensure that the practical benefits of passporting are obtained and to this end we make representations to London. I was in London on Friday last week with the DTI, with the Bank of England and with the Treasury making clear the need that Gibraltar had to ensure that insurance passporting, which is the only passporting that we have, actually worked in practice. I remind the House that we have the strongest possible UK ministerial support to our passporting rights. When insurance passporting was obtained in June this year it was accompanied by a very firm statement from the Minister saying that we could count on UK support in ensuring our rights and ensuring that they be respected and that is what we have to unite to obtain, practical recognition of rights. But the only way we achieve rights, is by passing legislation and by putting into place the necessary regulatory infrastructure to allow those standards of supervision required for passporting to be met. We cannot, frankly, expect those to be had whilst at the same time not moving on a parallel basis at least to implement both the legislation and the supervisory requirements. Banking passporting is an important badge. Investment services, which is the one after this, will be even more important. I totally reject the hon Member's view that the industry's view is that we should hold back on transposition until this is clarified. I do not accept that is the case. There are many aspects, there are many sectors in the industry that are of the view that indeed it is within the European Union that Gibraltar's edge can be won for financial services and whilst we recognise that there are some other sectors in the industry that have reservations, it is a distortion to suggest that the Government are pushing through against the views of the industry. The industry rightfully are concerned to ensure that these rights are in practice respected but my impression and I speak to the industry a great deal is that they are very strongly behind the Government's efforts to ensure that we achieve passporting and that we achieve the practical benefits that passporting will then bring. It is not open to the Government, nor to Gibraltar, simply to put on hold transposition of directives which need then to have opportunities for Gibraltar whilst we clarify perhaps again, in another melting pot, where Gibraltar's rights in these areas lie. The Government have no doubt about where Gibraltar's rights in this area lie. Gibraltar is a full part of the European Union for the purposes of financial services. The UK has always

endorsed that position and therefore we feel it is vital to proceed with our programme of transposition to get the rights that we will then want to have given in practice. I will now give way to the hon Member before I finish.

HON A ISOLA:

Mr Speaker, we are not recommending flouting, I think is the word that my hon Friend used, we are not recommending flouting. What we are saying is precisely what the Minister himself seems to be doing in actual fact which is to seek clarification. He referred to the meeting on Friday and of course the industry backs that because that is what the industry has asked for. I can tell him that the resolution of the Bar Council, and I quote, "The meeting unanimously agreed that immediate clarification should be sought from the UK and the relevant authority in the Commission of the EU in a..... with particular reference to the list, some of which are not mentioned, the validity within the European Union of the insurance, banking and investment vehicle licences issued in Gibraltar". That, from what the Minister has said, is in practical terms what we are doing. What we are saying is that until one has that clarification there is no point in bringing more legislation into place which will then need to be clarified once it has been done anyway. All we are saying is clarify the position. We have already got insurance passporting, well let us clarify the position of insurance and if then that is found to be working then you develop on to the next step but to suggest that what we are saying is flouting is inaccurate and for that reason I rose, Mr Speaker.

HON P C MONTEGRIFFO:

Mr Speaker, I think there may be an element of misunderstanding on what and how clarification is achieved in this area. The clarification in this area is not achieved by a Gibraltar Minister or the Government of Gibraltar sitting down with the Foreign Office or just an official at the Treasury or the DTI and saying, "Please tell me that Gibraltar licensees..." for example, the insurance licensees "are going to be respected in Europe". I want to highlight how practically clarification is sought. That clarification, Mr Speaker, exists, the clarification to the extent that we need it from London is there. London tells us quite clearly that Gibraltar licensee in insurance and it will be subsequently in banking, investment services, is a European licensee and you have passporting rights, period. The clarification the Member is seeking which we are seeking, which the industry is seeking, is one step beyond that and it is not so much clarification but specific recognition by other competent authorities in

other parts of the EEA that a Gibraltar licensee is competent to undertake that business on a passporting basis and that indeed the Financial Services Commission is a competent authority for the purposes of this business. That clarification or that recognition can in fact in practice only be achieved when you have something with which to face a competent authority in Germany or in France or in Denmark with. One cannot get these clarifications or recognitions in a vacuum. It is not possible before banking legislation is passed for the UK to turn up to France and say, "Recognise Gibraltar licences", because the legislation will not be in place. It is actually the clarification that the Member is seeking which the industry and the Government shares the need for is exactly the clarification from competent authorities in other EEA States and that can only be achieved, Mr Speaker, once we have put our house in order, once the legislation is transposed and once there is an actual recognition issue facing a competent authority elsewhere. That is exactly what we are doing now in insurance. That is exactly what we propose to do in banking if there is a problem and exactly what we have to do in the case of investment services. It is not possible to seek these clarifications from where they need to come, not from the UK where we have them, but from other Member States without this being put into place as it has to.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

THE BANKING (EXTENSION TO BUILDING SOCIETIES) ORDINANCE 1997

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to repeal the Building Societies Ordinance; to bring building societies within the scope of the Banking Ordinance 1992; and to make transitional provisions for registered building societies proposing to be wound up be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

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

At present building societies are exempt from the provisions of the Banking Ordinance 1992. This Bill makes provision for them to be brought within the scope of that Ordinance. The effect of this Bill is to repeal the Building Societies Ordinance so that banks and building societies will all become subject to the same prudential and supervisory regime. The building societies are currently registered and recognised under the Building Societies Ordinance and these fall within the definition of credit institutions as defined in Council Directive 77/780/EC, which is the first banking co-ordination directive. This Bill, Mr Speaker, by applying to building societies the provisions of the 1992 Banking Ordinance which, amongst other things, gives effect to a number of EC directives relating to credit institutions, will thereby extend European Community obligations to such societies. Clause 3 of the Bill provides for a transitional period during which existing building societies registered under the Building Societies Ordinance may be wound up. The intention is to give those societies, which do not wish to become subject to the same prudential and supervisory regime as banks, time to wind up whilst remaining subject to the requirements of the Building Societies Ordinance. If at the end of the winding up period of one year or longer the Commissioner of Banking allowing the society has not

been wound up, then it becomes subject, or will become subject, to the provisions of the Banking Ordinance from the end of that period. Clause 4 applies to those building societies who do not choose to take advantage of the winding up provisions. At the end of the appropriate period, set out in the clause, a society which has not been wound up will become a company under the Companies Ordinance and it will be necessary for such societies then to be subject to the provisions of the Banking Ordinance. This Clause sets out clearly the requirements which such a society must fulfil when converted into a company and the subsequent steps which the directors will have to take. Clause 5 deals with the status of building societies authorised in EEA Member States. They will have the same rights and obligations as a European institution under the Banking Ordinance 1992. Clause 6 deals with minimum capital requirements which registered building societies will have to meet under section 35 of the Banking Ordinance.

Mr Speaker, here let me just highlight that although the usual minimum paid up capital and reserve requirements for credit institutions and banks is 5 million ecu, the grandfathering provisions in the Bill will allow building societies that have a lower paid up capital and reserve to keep that lower level and not have to match the 5 million ecu limit normally applicable to credit institutions. Clause 7, places restrictions on the use of the title "Building Society" whilst the Schedule sets up the transitional provisions that I explained previously. Perhaps by way of further explanation I could highlight to the House that in the case of building societies in the UK, the UK has essentially extended the regime of credit institutions to building societies the same as we are doing in Gibraltar but has chosen to register and regulate building societies by way of separate legislation, namely the Building Societies Acts, rather than by the Banking Acts. The prudential and supervisory regime is the same and the need to comply with the relevant credit institution regulations is also the same. It should also be added, that although previously building societies and banks in the UK had been regulated by different bodies, namely the Bank of England and the Building Societies Commissioners, in view of the new moves in the UK to standardise and to bring together all the regulatory machinery, it is in fact proposed that building societies, together with banks and everybody else in the financial services industry, will be regulated by the Financial Services Agency which is being established in the UK.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, other than the comments that have already been made about the previous Bill which applied to this and every other Bill dealing with financial services, all of which we are opposing, in this particular instance, in addition, as far as we are concerned we are eliminating the possibility of building societies existing as institutions other than the fact that one can choose to register as a bank in the Banking Ordinance and call oneself a building society instead of calling oneself a bank. Clearly, we are not obliged to do this. In fact, nobody else is doing this anywhere in the European Union.

Either people did not have building societies in the first place or they are having to ensure that there are parallel provisions as in the case of the United Kingdom so that the building society, which is to a very large extent in direct competition with banks, is required to meet the same standards as banks. In practice, of course, there are very few Gibraltarian building societies and in fact passporting into Gibraltar has been something that was provided a very long time ago, since the view of the GSLP was that notwithstanding the fact that we were not getting reciprocity, since we wanted the business, we wanted to encourage people who wanted to come here to come here even if we could not travel in the opposite direction. We would have been doing ourselves no favours by saying, "Because we cannot go to the UK we will not let UK building societies passport into Gibraltar". So we have the situation where somebody that is a building society in the UK and the Building Societies Act in the United Kingdom, or whatever may be the relevant legislation, will be able to passport into Gibraltar but nobody will be able to create a building society in Gibraltar itself. We do not see why we should finish up with that situation. What they can do of course is register as a bank under the Banking Ordinance and call themselves a building society. We do not think it is the same because if it is the same why do we need to change anything other than make the building societies have similar standards under the Building Societies Ordinance as has been done in the United Kingdom. The United Kingdom retains the two possibilities, there must be a reason for having the two possibilities. We have had it here, I do not know whether there are any other Member States that have got the equivalent of building societies or not or whether that is a purely United Kingdom phenomenon. Certainly, the United Kingdom does not feel that in order to bring them within the umbrella of the 1977 provisions on credit institutions and they

have had twenty years on the road in 1997 to eliminate the existence of building societies outside the provisions of the United Kingdom Banking Act, which is what we are doing to comply with Community law, then we do not think that it necessarily follows and we do not think that we ought to remove the possibility of Gibraltarian building societies. Simply to say, "Well, look, they have got a choice of either becoming part of the Banking sector under the Financial Services Commission or winding up". Well of course the one that wants to wind up, I do not think anybody can stop them winding up if that is what they want to do. We are only talking about one or two building societies in Gibraltar, no more than that. I am not sure whether there are still two left or one.

Independent of the overall view that we have taken on all the measures dealing with financial services, of which we had already given an indication in the mutual assistance directive when the Bill on that subject was brought to the House, that we said we thought we ought to call it a day and get the whole business sorted out because we do not think that it is clear and we do not think that it is not subject to challenge. Independent of that, which we will not be repeating in every Bill because there is no point in repeating this same argument, there is a specific concern about the fact that we will be doing away with the concept of a building society as an independent entity albeit meeting prudential standards as a credit institution primarily for the protection of its depositors. In fact, in the case of the building society it follows that at least the one that is in existence which has got a wider sort of customer base, follows the same kind of mutual structure in the way that its rules operate, in that everybody that has got a mortgage with their local building society is actually a member of the building society. Presumably, those members will have something to say on whether they want to be dissolved or not dissolved.

HON P C MONTEGRIFFO:

Mr Speaker, the hon Member is wrong, I think the hon Member is quite wrong. He has just not understood some aspects of the legislation and not taken into account, frankly, the realities of the Gibraltar marketplace. It is true that in the UK they have elected to keep building societies registered under a separate piece of legislation but that is because in the UK it is a huge building societies industry which therefore made it practical, as far as the UK was concerned, to keep the statutory regime for the way they are organised, separate whilst in Gibraltar, frankly, it was just not a practical proposition. It would in theory have been possible to

have amended the Building Societies Ordinance and introduce into the Building Societies Ordinance the whole element of banking legislation. In theory there would have been a possibility, Mr Speaker, but in terms of practical considerations there is just absolutely no benefit to it. We are not abolishing societies as the concept is defined in terms as it is understood of a credit institution. Building societies are required to meet prudential and supervisory and solvency margins. At least in the future apart from the grandfathering provisions which meet credit institutions there is no question about a regime being allowed to exist in other Member States that Gibraltar is doing away with here. That is not the case at all. Building societies are required to match credit institution levels, that is the same here as in Britain as in other parts of the European Union. The size of the building societies industry in Gibraltar militates towards rationalising the basis on which they are regulated and that is exactly what the legislation seeks to do. It would be entirely possible for somebody tomorrow to incorporate a company, call it a building society, comply with the requirements of the Banking Ordinance which are basically the requirements of the credit institutions within the European Community and that possibility is as open today here as anywhere else. In fact it must be said, Mr Speaker, that the likelihood of a Gibraltar building society or a Gibraltar bank are pretty remote, that is the reality. The reality is that there was one Gibraltar bank historically that I am aware of that as the House knows was sold out to a non-Gibraltar entity because of the nature of Gibraltar's economy and the nature of capital access that we have to capital the ability for a Gibraltar credit institution, let us use that phrase, to be established out of Gibraltar capital, of Gibraltar resources is probably quite limited. It is not a real part of the business that we are seeking to develop. It could happen in the future but it is not a likely event and the priority is to bring all credit institutions into line with EU requirements for the wider purpose of passporting which I know hon Members now do not share although a lot of the time they certainly spent in Government was pushing, rightly so in my view, the benefits of passporting and most of the insurance legislation was indeed drafted by the last administration but that is a view they now seek to take. The priority is to get passporting in banking soon and we think that we are doing everything necessary to protect Gibraltar interests in this area.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

THE BANKING (AUDITORS AND INFORMATION) ORDINANCE 1997

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to give effect in Gibraltar to amendments made by the European Parliament and Council Directive 95/26/EC to Directive 77/780/EEC in the field of credit institutions with a view to reinforcing prudential supervision, to make corresponding provision with respect to the disclosure of information relating to other authorised institutions, within the meaning of the Banking Ordinance 1992, and to amend the provisions of that Ordinance relating to obtaining information and the production of documents be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

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

The principal purpose of this Bill is to give effect to certain provisions of Council Directive 95/26/EC. This directive is usually referred to as the "Post BCCI Directive" and this is the way I shall refer to it in this contribution. Other provisions of the post BCCI directive are covered in the Insurance Companies Prudential Supervision Regulations which have been published, the Financial Services Bill, before the House, and the Financial Institutions Prudential Supervision Bill, also before the House. The Bill, however, also deals with auditing matters relating to institutions licensed within the Banking Ordinance. Section 2 extends the existing section 46 of the Banking Ordinance which exempts auditors from civil liability for passing on information to the Banking Supervisor or Commissioner. Sub-section (1) alters "licensee" to "authorised institution" and thereby extends section 46 to cover auditors of recognised institutions as well as auditors of licensees. Section 3 of the Bill introduces a new section to follow section 48 of the Banking Ordinance. The new section is about licensees alone and does not derive from a Community obligation. The section requires auditors of licensees and bodies with which they are linked by control to notify the Banking Commissioner of information in circumstances falling within sub-section (3). Broadly, this information, Mr Speaker, is information that would suggest to the Commissioner that there might be some reason for him or her to have to intervene. In effect, although the new section does not arise from a Community obligation, it makes provision in relation to auditors of licensees and bodies with which they are linked by control which corresponds to provisions made in respect of investment firms by other sections in the Financial Services Bill also before this House later on today. This is a provision, again required to match the UK standards. Section 4 replaces the original section 16 of the Banking Ordinance with a more extensive provision which gives powers to authorised officers including the Commissioner of Banking, and to the Banking Supervisor, to obtain directly or through a person appointed to carry out an investigation, information about and documents relating to persons licensed in Gibraltar or authorised elsewhere in Europe to carry on deposit-taking business and persons associated with those who are so licensed and authorised. Section 5 follows and is a consequential change made to the previous section. Finally, sections 6 and 7 and the Schedule to the Bill give effect to the requirements about confidentiality of information in the field covered by the Commissioner which results from the amendments previously described. These confidentiality provisions are therefore derived from and consistent with the EU requirements. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

**THE FINANCIAL INSTITUTIONS (PRUDENTIAL SUPERVISION)
ORDINANCE 1997**

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to give effect in Gibraltar to amendments made by the European Parliament and Council Directive 95/26/EC to Directives 77/780/EEC and 89/646/EEC in the field of credit institutions and Directive 85/611/EEC in the field of undertakings for collective investments in transferable securities, with a view to reinforcing prudential supervision be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, at the risk of boring the House with what is a matter of not great interest to Opposition Members, in view of the attitude they have taken, I shall nonetheless run through some of the major provisions, if nothing else for the record. The Bill again is to give effect to certain provisions of the post-BCCI directive and I have mentioned the other transposition mechanisms that have been brought into place for the purpose of completing that transposition. Section 2, together with Schedule 1 again in this legislation introduces the concept of closely linked for the purposes of this legislation, in other words the concept that where certain institutions are closely linked with other parties that certain supervisory and prudential regulation consequences flow. Section 3 introduces amendments into the Banking Ordinance to ensure that a licence under the Ordinance may be refused or cancelled if the Commissioner of Banking views that such close links are such to prevent the effective supervision of an institution. The amendments to the Banking Ordinance in Section 4 complete the link between that Ordinance and this Bill. Section 5 and Schedule 2 give effect to the requirements about confidentiality of information in the field of UCITS similar to what has been passed in the legislation in the last Bill we dealt with, again arising specifically from the post-BCCI requirements. Section 6 requires auditors of UCITS to notify the authority about information in circumstances falling within the sub-sections of section 6. Broadly speaking, again, this is information which the auditors believe might be of value to the regulator in deciding whether any regulatory action should be taken in relation to such an institution. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

THE DEPOSIT GUARANTEE SCHEME ORDINANCE 1977

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar European Parliament and Council Directive 94/19/EC on deposit guarantee schemes be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, as we saw with the BCCI collapse, depositors often face losses when there is a collapse of a particular banking institution. For depositors of small amounts, in particular, the loss can be disastrous. If they are able to recover any of the money at all they may often have to wait a long time for it and during that time the liquidators have to trace missing money and sort out how much depositors are entitled to. Deposit guarantee schemes are designed to do two things: firstly, to cut out the wait to make sure the depositors do not have to wait for their money and also, of course, to guarantee certain minimum payments to them. In the case of the Gibraltar Deposit Scheme currently before the House the Scheme proposes that the amount of repayment to a depositor would be 90 per cent of the deposit or £18,000 whichever is the higher. It therefore would protect consumers and in particular small depositors against the possibility of a bank collapse. The adoption of the Scheme in Gibraltar again follows requirements set out in the European Union relevant directives on this matter. The Scheme is also an

essential part to getting passporting in banking services. In drafting the Bill we have taken close account of the views expressed by the industry. There has been extensive consultation with the banking sector and although the Bill is technical I will try to highlight some of the salient points and perhaps also indicate to the House that we have managed to transpose the requirements of the Bill in a much less voluminous way than in the UK. Our Bill runs about 30 pages and in the UK the equivalent runs in fact into several hundreds of pages.

As Members will note the Bill sets out two Funds. There will be an administration fund to which banks are required to contribute annual amounts and that fund will effectively be used simply for the running of the scheme and there will be also a default fund, a fund that will only become operational and to which banks will only contribute when there is a default, hopefully never in the case of Gibraltar, if there were to be a default by one particular banking institution. The actual scheme will be run by a Gibraltar Deposit Guarantee Board which will be appointed by the Minister for Trade and Industry with the approval of the Financial Services Commission. The way the scheme would work is that in the event of a banking default the Board will impose a levy on the remaining participants, in terms of the remaining banks in Gibraltar, to meet the cost of repaying the deposits. Unlike the system in the UK which provides for a permanent fund which is topped up if required, we have decided, as I indicated earlier, not to keep a permanent fund which we feel would be too onerous on the industry but simply to call upon the money in the event of any collapse taking place. The Board is required under the Ordinance to be in a position to repay depositors within three months of the collapse of any banking institution. Therefore, provided the depositor has properly established his claim, he will get his money very quickly. The remainder of the Bill deals with co-operation with other authorities operating similar schemes within the EEA. I should draw the House's attention to one important provision. Section 24 states that a participant must inform depositors of the fact that he is a member of the scheme but he cannot use that fact as part of its advertising. Again, this is consumer protection. Depositors have a right to know that their deposit is protected but they should not be persuaded into depositing money in a bank by the claim or suggestion that that particular bank is a member of a scheme which confers greater benefits than any other bank in Gibraltar could provide. Whilst this is driven by banking passporting requirements, it is nonetheless, in my view, and the Government's view, of interest and of importance for domestic consumers and it is a significant

contribution in the area of consumer protection for financial services and brings Gibraltar into line with other large banking sectors that have had deposit guarantee schemes for some time.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

THE FINANCIAL SERVICES ORDINANCE 1997

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 93/22/EEC on investment services and in the securities field, as amended by the European Parliament and Council Directive 95/26/EC, and to provisions of Council Directive 93/6/EEC on the capital adequacy of investment firms and credit institutions, to make further provisions about the functions of the Authority, within the meaning of the Financial Services Ordinance 1989, and to amend that Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, again this is a highly technical Bill and in view of the position adopted by the Opposition my original intention of perhaps taking Members through the more important sections may be a wasted exercise, I will, however, of course, highlight the basic purpose of the Bill. The Bill seeks to comply with the requirements of what is usually called the Investment Services Directive, the ISD, and it sets up a system for authorisation of investment firms both the ones that are based in Gibraltar and those that would be passporting into Gibraltar. Essentially, what it does is that it provides the regime similar to what has been done in insurance and what we have just done in banking for Gibraltar investment firms to passport out and for other EEA institutions to passport in. It is essentially the first and probably most important step with regard to investment services passporting. We are keen to move on quickly so that we can press to complete the regulatory requirements necessary to get investment passporting also in place. There are various other amendments introduced to the Financial Services Ordinance by this Bill that go beyond the requirements of the Investment Services Directive, the ISD. There are various provisions which tie up and improve the regulatory regime in respect of licensees generally under the Financial Services Ordinance that are not dealt with by the directive. Those provisions are contained primarily in part 8 of the Ordinance and in sections 30 to 37. I will not be seeking the third reading of this Bill at this meeting.

There are some representations which are now being made to the Government with regard to the second aspect of the Bill that I have highlighted, namely that part of the Bill that does not refer to ISD transposition but refers to improvement of regulation of licensees outside the concept of the directive. Although on first perusal of these I do not think the fears expressed are of significance, nonetheless since this particular legislation is not important for banking passporting, the Government are happy to defer third reading stage until we have had a chance to discuss those concerns with those sectors of the industry that have approached the Government. As I have mentioned on other occasions, the Government gives importance to obtaining the three passporting badges as soon as possible to therefore allow us to concentrate on making sure that those badges actually deliver practical business. That is the reason that we are speeding ahead with this transposition,

subject to the delay that I have now indicated to Members, but this is an important piece of legislation in being the cornerstone of the third passporting badge in an area of financial services where I think it is generally recognised there is great potential for Gibraltar, much more than, for example, would be the case with banking. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, in this Bill, and I am glad that the third reading today is being held back until representations can be made, we would have had a double no. No because of the EU transposition and no on part 8 because it has got nothing to do with the transposition of the EU Directive as the hon Member has pointed out and in fact it is introducing, as the industry has put it, more regulations in an area where there is no regulation elsewhere within Europe or the UK. Principally, the sections that allow for any conditions to be imposed by the authority and the requirements of the Ordinance and any regulations that may be put into place after it, I assume those are the representations that have been made to the Minister responsible. Indeed, on a number of other areas relating to advertising, if we are going to have transparency well then let us continue the advertising, let us not take that provision out. There is also another one in respect of the time that the Commission should respond to any application by and the change in the wording basically has the effect that applicants can be kept on a limb for as long as the Commissioner feels they wish to because they only have to respond within six months of them being satisfied that the application is properly made and therefore get into a dispute with potential as to whether they are satisfied or not. In any event, I am grateful that the Bill is not going through the third reading today in order to allow representations of the industry to be made.

HON P C MONTEGRIFFO:

Mr Speaker, as I have explained, that part of the Ordinance that is not dealing with the ISD transposition has been the subject of representations made by ATCOM to the Government and it is on the basis of those representations the Government are prepared to defer the third reading. But just to take up the hon Member's example, I would not want to prejudge either the representations made in more detail but the point is worth highlighting just to show the extent to which we are talking about minutiae here. The current Financial

Services Ordinance requires the Financial Services Commissioner to reply to an application within six months of the application being made. That seems sensible. The only thing this does is to say that before the six months start ticking the application has to be deemed to be a full application because there have been circumstances, so we are informed, where an application is made, but an incomplete application is made and the Commission takes the view, I think at first sight, subject to representations, that ATCOM might make quite reasonably that before it is required to respond it should respond to an application which is a full and complete application, an application properly constructed. That is the sort of issue that we are talking about and which I am happy to sit down with ATCOM and discuss with them further.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

The House recessed at 1.00 pm.

The House resumed at 3.00 pm.

THE EMPLOYMENT (EEA CERTIFICATES OF EXPERIENCE) ORDINANCE
1997

HON J J NETTO:

I have the honour to move that a Bill for an Ordinance for certificates of experience for persons pursuing certain professions to provide for recognition thereof in EEA States and thereby to transpose into the law of Gibraltar Council Directives, 63/607/EEC, 64/222/EEC, 64/223/EEC, 64/224/EEC, 64/427/EEC, 64/428/EEC, 64/429/EEC, 65/264/EEC, 66/162/EEC, 67/43/EEC, 68/363/EEC, 68/364/EEC, 68/365/EEC, 68/366/EEC, 68/367/EEC, 68/369/EEC, 69/82/EEC, 70/451/EEC, 70/522/EEC, 70/523/EEC, 74/556/EEC, 74/557/EEC, 75/369/EEC, 82/470/EEC and 82/489/EEC be read a first time.

Question put. Agreed to.

SECOND READING

HON J NETTO:

Hon Members can see we are actually talking of a small matter of 25 directives, some going back over 30 years. Accordingly, we are covering a very wide diversity of professions from one as common in Gibraltar as hairdressing to the less likely such as silk production. Naturally, in all cases evidence of training received will have to be produced supporting the application. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we have nothing much to say except that we are abstaining on it. We do not know why this is coming now or why there is a need for these certificates going back to 1963 but presumably the Government have been advised that it needs to be done irrespective of whether we have miners or printmakers or anything else.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON J J NETTO:

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

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

1. The Social Security (Closed Long-Term Benefits Scheme) Ordinance 1996 (Amendment) Bill 1997;
2. The Timeshare Bill 1997;
3. The Wireless Telegraphy Bill (Amendment) Bill 1997;
4. The Banking (Amendment) Bill 1997;
5. The Banking (Extension to Building Societies) Bill 1997;
6. The Banking (Auditors and Information) Bill 1997;
7. The Financial Institutions (Prudential Supervision) Bill 1997;
8. The Deposit Guarantee Scheme Bill 1997;
9. The Employment (EEA Certificates of Experience) Bill 1997.

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) ORDINANCE 1996 (AMENDMENT) BILL 1997

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

THE TIMESHARE BILL 1997

Clauses 1 to 22, Schedules 1 and 2 and the Long Title were agreed to and stood part of the Bill.

THE WIRELESS TELEGRAPHY ORDINANCE (AMENDMENT) BILL 1997

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

Clause 2

HON CHIEF MINISTER:

Mr Chairman, in respect of the previous Bill to which I would like to return, there was an amendment that I had to move to the Social Security (Closed Long-Term Benefits and Scheme) Ordinance of which I gave notice during the debate on the second reading. Perhaps we could return to that one?

MR CHAIRMAN:

I think the best way to do it would be to start from the very beginning again.

HON CHIEF MINISTER:

Whatever the House wants..... we can go backwards and forwards as the Leader of the Opposition says. Perhaps now that we have started on this other Bill perhaps we should finished that one and then come back to the Social Security one.

MR CHAIRMAN:

All right, we are in the Wireless Telegraphy Ordinance.

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

Clause 2

HON P C MONTEGRIFFO:

Mr Chairman, in section 2 I have given notice of four amendments. In sub-section 2(6), in the penultimate line of the new 12(A) substitute the word "time" for "fine". In sub-section 2(7), second line of new 15(2)(ii) substitute "(ii)" for "(i)". In sub-section 2(7), again third line of new 15(6) insert the word "the" after the word "to" so that would read "apparatus to the Wireless Officer" and, lastly, section 2(7), fourth line of new 15(7) substitute the word "ill" for the word "in", therefore reading "consisting in the use of".

Clauses 2(1) to 2(7), as amended, were agreed to and stood part of the Bill.

Clause 2(8)

HON J C PEREZ:

I think the Opposition would want to abstain on sub-section (8) because we do not know what the constitutional implications of that are on two areas, one is on the power of the Minister who appoints the Wireless and Telegraphy Officer, not on the powers to make regulations and the other more important one is that there is a clause in the Ordinance that where the Governor today has the power to control and take over the transmission and reception of messages in a state of emergency and that power is being passed on to the Minister and the actual definition of what an emergency is is left to the Minister to decide as well. We actually do not know what the constitutional position or implication of that might be so we would rather abstain on sub-clause (8).

HON CHIEF MINISTER:

Let us be clear Mr Chairman, I think the hon Member is making a couple of different points. He is saying that the power to do two things rests on the same person - to decide what is an emergency.....

HON J C PEREZ:

No, no, what I am saying is that at the moment the Governor decides what is an emergency and takes the measures to take over the system, the telecommunications etc. That power, both of defining what is the emergency and of taking over the system is being transferred to the Minister and I am not sure what the implications constitutionally of that would be.

HON CHIEF MINISTER:

Mr Chairman, I am sure His Excellency the Governor will be delighted that he has been able to recruit the support of the Opposition in preserving his constitutional rights and powers in Gibraltar. It was not that long ago that the Opposition Members were urging the Government to do the very opposite and indeed were doing so themselves. I do not see why the hon Member should feel less comfortable with his Minister doing something than with the Governor doing something. In so far as the Constitution is concerned, I think the hon Member can safely leave others to decide what they are willing to accept or not accept. The only people who insist on

enforcing the Gibraltar Constitution to the letter are the Spaniards, not the.....

HON J C PEREZ:

I will tell the hon Member what the difference is, the difference is that we would be supporting most of the powers that are being transferred to the Minister there except that [Interruption] frankly, I do not think that the Constitution gives powers to a Minister even in the United Kingdom to take over the control of the telecommunications and radio messages and everything else in a state of emergency. [Interruption] Frankly, it is not a question of being happy or not. We are here as legislators to take seriously what we do in legislation and since we are not sure what the constitutional position is we are only going to vote against it. We are going to abstain because there is no clarification of whether there is a constitutional implication there. Generally, we support the whole Bill and we will be voting in favour of the Bill but, frankly, that clause which I am sure has been an oversight on their behalf because I am sure that even Mr Montegriffo did not know that he was giving himself that power, is something that we are going to abstain on.

HON P C MONTEGRIFFO:

Mr Chairman, what I know is the power that we are getting. This is as I said in my contribution, the power to effectively make the required decisions as currently required under the Wireless Telegraphy Ordinance which are currently all now in the hands of the Governor and which this provision has the effect of transferring to the Minister. It is as simple as that and the Bill has been drafted without the position or comment on that basis and as far as the Government are concerned it is perfectly legitimate for a transfer of power to take place on that basis. If the hon Member has reservations about constitutional niceties that is a matter for him. It just seems out of character, frankly, bearing in mind their general political trajectory for them to nitpick on a matter of this nature when their general trajectory is, "The constitution is out of date and frankly we should be sitting beside Chancellor Kohl....."

HON J C PEREZ:

It is only out of character because of the perception the Government have had of us. We are saying generally that we agree with all the powers that are being transferred to the Minister in making regulations and in everything else, except defining what a state of emergency is and

then having the power to take over the whole of the telecommunications in Gibraltar.

HON CHIEF MINISTER:

Mr Chairman, if he prefers that the Deputy Governor should exercise that, all the hon Member is demonstrating is that he has not quite managed to shake off the Colonial yolk that he preaches to other people about. Why do they think it is all right for the Governor to decide to take over the communications network and not the Minister who is democratically elected by the people. It is an extraordinary position, of all people, somebody sitting in that party to take.

HON J C PEREZ:

It is a responsible one.

HON J J BOSSANO:

What is obvious in the proceedings of the House is that the only function that the Opposition can carry out is simply to say, "yes" or "no", without comment, without seeking explanations or without making observations. There is obviously in this House a situation where even the slightest doubt about a possible oversight on something which appears to be that the constitutional powers of declaring a state of emergency in Gibraltar should not be in the hands of a politician, or if it should be that it is a major issue which should not be slipped in but be debated, whether that is what is happening or not, the fact that it might be, is a perfectly legitimate thing to raise from the Opposition benches in a parliament without invoking the wrath of Government Members comparing us to the Spaniards as the only people.... [Interruption] Look, if the only way the Member can shake off his "palomo" past is to constantly point a finger at us it will not work. He will go to the grave with it.

HON CHIEF MINISTER:

Mr Chairman, unless the hon Member thinks that his political unpopularity in Gibraltar has descended to such depths that a "palomo" can defeat him from office, is that the hon Member's view? Because, frankly, if he has reached the depth in public esteem that even a "palomo" can unseat him from No. 6 Convent Place I am surprised that he has not collapsed into a nervous breakdown already. The reality is not that the hon Member has got a "palomo" past, Mr Chairman, the reality is that the people of Gibraltar have now accepted that when he has

tried to suggest that I have had a "palomo" past he has been lying through his teeth, that is what my election into office recognises and the hon Member is simply deluding himself, he is the only person in Gibraltar who continues to believe that and the more he repeats it in the face of the fact that nobody else believes it he is simply commenting on himself, not on myself. I would just ask the following question to the hon Mr Perez, "Who does he think in places that are not colonies decides when there is a public emergency?"

HON A ISOLA:

Mr Chairman, frankly to have heard all we have heard in the last 15 minutes on a Bill which the Opposition is supporting and voting in favour, it is not a disputed Bill, on one section, a small section where clarification is sought as to whether the position is legal or not, because of the constitution, nothing to do with niceties, whether it is within or out of the constitution, we seek clarification, that is all and the hon Member has suggested that we will be abstaining because we are not clear. Is that what deserves the outburst we have got from the Government?

HON CHIEF MINISTER:

Yes it is, with the greatest of respect, it is more than justified, Mr Chairman, because during the last eight years, and I can think of any number of legislations, the one that comes immediately to mind is shipping registries, in respect of numerous Ordinances they have done exactly this thing in any number of areas which raise exactly the same constitutional position.

HON J J BOSSANO:

Mr Chairman, if what we have to do is make a total nonsense of the role that we have to play in this House, then we will do it, from now on we will simply not bother to give explanations or seek explanations but simply concentrate on making our own minds about what we think it means and voting accordingly. The whole purpose of meeting in the House of Assembly, the whole purpose that the Government in accordance with their policy have for bringing things here, presumably is so that we can ask questions and get answers, not ask questions and get insults and that is what we get and if the Chief Minister wants to insult me, then the place to do it is out there and then I am not bound by any limitations of what I do to people who insult me. The only point that we are making is not that we do not support the fact that the role within defined domestic matters should be a Minister. The Chief Minister is quite right, for eight

years and before eight years, before he was here, the position was that whenever the powers were there for the "Governor" the Governor meant the Government in a defined domestic matter. The Governor in a state of emergency taking over the telecommunications did not mean the elected Government because internal security and defence are not defined domestic matters. If, in fact, the Government says to us today, "Yes, we have now decided to extend the role of the elected Government into defence and internal security, and that is what we are doing here", that is fine, that is the explanation but if that is not the explanation, maybe the explanation is that we have mis-read the consequence of that but it does not call for the kind of row that has developed over a perfectly innocent question saying the reason why we are abstaining on (8) is because out of the things that (8) is changing a sub-section of a section in a whole Bill, two or three words have raised doubts which we feel we need explained. Either there is an explanation for those doubts or there is not an explanation. If there is no explanation then we will abstain. If there is an explanation that satisfies us then we vote in favour. That is all that the Member for the Opposition speaking for the Bill has said, why should it then produce the kind of reaction we have had. It makes a complete nonsense of the role that we are supposed to be carrying out in this House.

HON E M BRITTO:

Mr Chairman, I will tell the House why it has raised temperatures on the Government side because that is not the only thing that has been said by the Opposition. It is the underlying implication of what has been said. I will tell the House what the underlying implication is because it has been said more than once and that is that the spectre of a Minister being able to create an emergency and then giving himself powers to conduct telecommunications which implies that a Minister would then be guilty of malpractice or would be guilty of abuse. [HON J C PEREZ: Nonsense] It is not absolute nonsense as the hon Member is saying because that is exactly what has been said by the Opposition. "We are not certain what is meant by a Minister being able to declare an emergency and then being able....." It is a question of the way they have read the clause and the way they have interpreted it because that is what they have said not what I have said and they have said, "That a Minister can create an emergency." That is what has been said from the Opposition benches, that a Minister can create an emergency and then take over telecommunications and that is what is worrying the Opposition Members and that is what I certainly take objection to.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
 The Hon Lt-Col E M Britto
 The Hon P R Caruana
 The Hon H Corby
 The Hon J J Holliday
 The Hon Dr B A Linares
 The Hon P C Montegriffo
 The Hon J J Netto
 The Hon R R Rhoda
 The Hon T J Bristow

Abstained: The Hon J L Baldachino
 The Hon J J Bossano
 The Hon J Gabay
 The Hon A Isola
 The Hon Miss M I Montegriffo
 The Hon R Mor
 The Hon J C Perez

Clause 2(8) stood part of the Bill.

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

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

THE SOCIAL SECURITY (CLOSED LONG-TERM BENEFITS AND SCHEME) ORDINANCE 1996 (AMENDMENT) BILL 1997

HON CHIEF MINISTER:

Mr Chairman on the basis that we all still agree that social security is a defined domestic matter and that it is OK for Ministers to make decisions in relation to pensions even though not emergencies, the amendment that I would like to bring Mr Chairman is by adding in clause 2 of the Bill the following sub-clause after sub-clause 7(b)(7). There is written notice of this Mr Chairman, so it is just really adding at the end of the Bill a new (8) which would read, "Nothing in this section shall entitle any person to claim any payment or benefit to which this section applies, in respect of any period prior to the 1st January 1998." Mr Chairman, that is the amendment which has been thought prudent by the people engaged in working this legislation because they think that it is open to doubt whether allowing people to now make up their arrears may or may not give them the right to claim retrospectively benefits that they have received at a reduced rate because they had short arrears records contributions and this simply makes it clear that one gets the opportunity to pay ones arrears now, that entitles one to a higher pension but only from this date,

one cannot claim retrospective increases in pension. That is the objective of the amendment.

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

THE BANKING (AMENDMENT) BILL 1997

Clauses 1 to 3

The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 to 3 stood part of the Bill.

Clause 4

HON P C MONTEGRIFFO:

Mr Chairman, I beg to give notice that in clause 4, at the beginning of section 4, there is a (1) as if suggesting there was going to be a subsection (2) which of course there is not, so as I have given notice we are seeking the deletion of the subsection (1).

Clause 4, as amended, stood part of the Bill.

Clause 5 to 12, the Schedule and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday

The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 5 to 12, the Schedule and the Long Title stood part of the Bill.

THE BANKING (EXTENSION TO BUILDING SOCIETIES) BILL 1997

Clauses 1 to 7, the Schedule and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 to 7, the Schedule and the Long Title stood part of the Bill.

THE BANKING (AUDITORS AND INFORMATION) BILL 1997

Clauses 1 to 7, the Schedule and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana

The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 to 7, the Schedule and the Long Title stood part of the Bill.

THE FINANCIAL INSTITUTIONS (PRUDENTIAL SUPERVISION) BILL 1997

Clauses 1 to 6, Schedules 1 and 2 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 to 6, Schedules 1 and 2 and the Long Title stood part of the Bill.

THE DEPOSIT GUARANTEE SCHEME BILL 1997

Clauses 1 to 29, Schedules 1 to 3 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 to 29, Schedules 1 to 3 and the Long Title stood part of the Bill.

THE EMPLOYMENT (EEA CERTIFICATES OF EXPERIENCE) BILL 1997

HON J L BALDACHINO:

Mr Chairman, I do not know if I am allowed to ask, but just for clarification.....

MR CHAIRMAN:

You are allowed to say anything so long as I am here.

HON J L BALDACHINO:

Thank you very much. Is there any specific reason why the commencement date should be 21 days after the Governor's assent? Is there any reason for that?

HON CHIEF MINISTER:

Mr Chairman, I think it has absolutely no significance. There are new draftsmen working on these things and different draftsmen have different techniques for commencing dates. That might easily have said on a date to be fixed by the Governor or the Government or might even have specified a day or indeed no day in which case it becomes immediately applicable when it receives the Governor's assent. There is no particular reason why this particular formula is present in this particular piece of legislation.

Clauses 1 to 5, Schedules 1 and 2 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 to 5, Schedules 1 and 2 and the Long Title stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Chairman, I have the honour to report that the Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 1997; the Timeshare Bill 1997; the Wireless Telegraphy Ordinance (Amendment) Bill 1997; the Banking (Amendment) Bill 1997; the Banking (Extension to Building Societies) Bill 1997; the Banking (Auditors and Information) Bill 1997; the Financial Institutions (Prudential Supervision) Bill 1997; the Deposit Guarantee Scheme Bill 1997; and the Employment (EEA Certificates of Experience) Bill 1997, have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

Question put.

The Social Security (Closed Long-Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 1997; the Timeshare Bill 1997 and the Wireless Telegraphy Ordinance (Amendment) Bill 1997; were agreed to and read a third time and passed.

The Banking (Amendment) Bill 1997; the Banking (Extension to Building Societies) Bill 1997; the Banking (Auditors and Information) Bill 1997; the Financial Institutions

(Prudential Supervision) Bill 1997; and the Deposit Guarantee Scheme Bill 1997.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bills were read a third time and passed.

The Employment (EEA Certificates of Experience) Bill 1997.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn to Monday 19th January 1998 at 3.00 pm.

Question put. Agreed to.

The adjournment of the House was taken at 4.15 pm on Friday 19th December 1997.

MONDAY 19TH JANUARY 1998

The House resumed at 3.00 pm.

PRESENT:

Mr Speaker.....(In the Chair)
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana - Chief Minister
The Hon P C Montegriffo - Minister for Trade and Industry
The Hon Dr B A Linares - Minister for Education, the
Disabled, Youth and Consumer Affairs
The Hon Lt-Col E M Britto OBE, ED - Minister for
Government Services and Sport
The Hon J J Holliday - Minister for Tourism and Transport
The Hon H A Corby - Minister for Social Affairs
The Hon J J Netto - Minister for Employment & Training
and Buildings and Works
The Hon K Azopardi - Minister for the Environment and
Health
The Hon R R Rhoda - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon A Isola
The Hon J Gabay
The Hon R Mor
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

CONDOLENCES

MR SPEAKER:

Before starting the proceedings of the House I am quite sure that you will all join with me in expressing our condolences to the Hon Miss Marie Montegriffo on the death of her father. I knew him well. All I can say about him is, he was a good man.

HON CHIEF MINISTER:

Although I suspect most Members of the Government have conveyed their condolences to the hon Lady privately, I think for the record in Hansard I would like to associate myself and the Government with Mr Speaker's words of condolences. I think it is possible to say that more than he was just a good man I think he was a good and well respected leading citizen whose passing away I think will be missed by many outside his own family.

HON J J BOSSANO:

I would like, on behalf of our Member and her family, to place on record our appreciation for those words. He was in fact a Gibraltarian that had been linked to people in the political field for many years, with the GSLP and before the GSLP and therefore I think he was a man who had earned the affection and friendship of many people in Gibraltar and that was reflected with his passing away and with the response that the family had. I am grateful that Members have chosen this opportunity to express their sentiments.

HON MISS M I MONTEGRIFFO:

I would just like to say a few words. I am very grateful for the kind words that you have expressed, also the Chief Minister and the Leader of the Opposition on behalf of myself and my family. Thank you very much.

DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to lay on the table a document.

Question put. Agreed to.

The Hon the Financial and Development Secretary laid on the table the Barclays Bank Supplemental Loan Agreement.

Ordered to lie.

BILLS

FIRST AND SECOND READING

The Hon the Chief Minister moved the suspension of Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Readings of various Bills.

Question put. Agreed to.

THE MAINTENANCE ORDINANCE (AMENDMENT) ORDINANCE

HON CHIEF MINISTER:

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

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. This Bill together with the next one on the Order Paper, which is the Domestic Violence and Matrimonial Proceedings Bill, is a Bill which will not be unfamiliar to Opposition Members given that when they were in Government they brought these two Bills in slightly different form to the House in 1993. They took it through the First and Second Readings but for reasons that were never disclosed, did not proceed with the Bills beyond Committee Stage and Third Reading and they never reached the statute book. These are Bills which, subject to some modifications which are contained in the Bills now before the House, received full support of the GSD when we were in Opposition in 1993 when, as I said, Opposition Members then in Government brought the Bills to the House.

Mr Speaker, the Government have consulted with a number of interested parties specifically with the Judges of the Supreme Court, with the Stipendiary Magistrate, with the Women's Aid Group, with the Probation Service, with the Marriage Care Gibraltar Counselling Service and with the Gibraltar Women's Association who have all expressed their desire to see this legislation on the statute book and therefore the Government decided to start afresh with the Bills.

Mr Speaker, the main object of this particular Bill is to provide for a party to a marriage or a cohabitee which is a term which is defined in the Bill as, "A man and a

woman living together as husband and wife even though they be not married", to make a complaint to the Magistrates' Court for an Order protecting either the complainant or a child of the family from violence or a threat of violence by the other party or for an Order prohibiting that other party from entering the matrimonial home and the matrimonial home includes the permanent residence of two cohabitees. Part VII of the Bill deals with this matter and it goes hand in hand with the provisions of the Domestic Violence Bill which is on the Order Paper for later.

Mr Speaker, this Bill goes further by making provision for a man to have the duty to provide reasonable maintenance for a woman with whom he has cohabited where he also has such a duty in respect of children of their relationship. New Section 45A provides for maintenance orders which are made in the Supreme Court to be registered in the Magistrates' Court. It thus makes it cheaper and easier for the enforcement of such orders. A number of amending clauses allow for access to the Magistrates' Court where a financial remedy is sought and the defendant has assets in Gibraltar. The Bill also deals with the question of penalties and other updating matters such as the abolition of the post of Director of Labour and Social Security from the Maintenance Ordinance. Other relatively minor matters such as substitution for the Probation Officer of a person appointed by the Government for the purposes of the legislation are also covered. In other words, there are several places in the Bill where certain powers are given to a Probation Officer and that is extended to a Probation Officer or such other person as may be appointed by the Government.

Mr Speaker, this is an important overdue legislative measure in the field of family law which I trust the House will welcome and commend given that it enjoys wide support amongst persons who work professionally in this line of activity. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, we will be supporting this Bill as indeed the second Bill on the Supplementary Agenda. We support any move that will protect innocent persons from violence and the moves stipulated within the Bill and we unreservedly support the Bill through the passage of the House.

HON CHIEF MINISTER:

Mr Speaker, obviously there is no need for me to reply except to express satisfaction that this piece of legislation will reach the statute book by consensus and just simply to mention that at Committee Stage I will be moving two amendments, perhaps I ought to have mentioned this in my opening address but if the hon Member wants to comment again as a result of the proposed amendments I will certainly give way to him and that is, that there is a defect in the drafting of the Bill in that the penalties for breaches of maintenance orders which creates this ability to go back to the Magistrates' Court and for the magistrate to give compensation to the aggrieved party, has been limited to maintenance orders made in favour of cohabittees and of course the intention was to create a new sanctions regime for breaches of all types of maintenance orders between husbands and wives as well in favour of children, not just in favour of cohabittees. That is the principal amendment that I shall be moving.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE DOMESTIC VIOLENCE AND MATRIMONIAL PROCEEDINGS ORDINANCE

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make provision for matrimonial injunctions, and to provide the police with powers of arrest for the breach of such injunctions in cases of domestic violence be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, as I said earlier on the previous Bill, this is the second of a sort of package of two Bills in this general area of law that had been

before this House in 1993 and did not complete its passage. Again, it has been the subject of the same extensive process of consultation to which I referred earlier. This Bill makes provision for protection in cases of violence and it breaks new ground. It is not an amendment to existing legislation but a new Bill in its own right. One important common feature which it has with the Maintenance Ordinance (Amendment) Bill is the definition of cohabitee, a concept which is not just limited to legally married spouses but also covers common law partners, that is to say, of different sexes, it does not apply to non-heterosexual relationships. The object of this Bill is to empower the Courts to have jurisdiction providing for temporary injunctions, excluding from the matrimonial home one party to a marriage or one of the cohabittees where the court takes the view that it is in the interests of the safety of the other party or cohabitee or of a child living with that party, it is necessary to exclude the other from the home. Clause 3 deals with the subject of matrimonial injunctions. Mr Speaker, the principal provision in the Bill is to be found at Clause 3 and it provides that, "On an application to the court by a party to a marriage," - and then at the end it says that all the above applies equally to cohabittees, - "the court shall have jurisdiction to grant an injunction containing one or more of the following provisions - (a) a provision restraining the other party to the marriage from molesting the applicant; (b) a provision restraining the other party to the marriage from molesting a child living with the applicant; (c) a provision excluding the other party to the marriage from the matrimonial home or a part of the matrimonial home or from a specified area in which the matrimonial home is included; (d) a provision requiring the other party to the marriage to permit the applicant to enter and remain in the matrimonial home or a part of the matrimonial home". In other words, this Bill provides a very quick and cheap remedy to the victim either of domestic violence or threatened domestic violence but of course not limited to wives who are excluded from the matrimonial home. They will now have the ability to go straight to the Magistrates' Court which is a court that meets every morning from 10 o'clock until 5 o'clock in the afternoon. So it is a remedy that is available five days a week, almost eight or nine hours a day and obtain an order in protecting the victim of this regrettably, not unknown or rare social misbehaviour. Mr Speaker, if the court is satisfied that the complainant or children are at risk the court can decide to attach a power of arrest to the order that it makes. And if, but only if, the court has thought it fit and proper to add a power of arrest to the order which it is only able to do when the court is satisfied that there has actually been violence and that there is a risk of it

recurring or that there is a serious risk of violence, only when the court has attached a power of arrest do police officers have the power to arrest the object of the order if he should break the court's order of not molesting or not entering the matrimonial home. It is important to highlight that orders made by the court restricting one party from going to the matrimonial home has no effect on any proprietary rights of interest in the matrimonial home except, of course, the compliance with that order and orders are limited in time to three months because this is intended as interim relief pending a more permanent resolution of whatever problems or whatever substantive permanent relief the applicant may be seeking. I trust that Opposition Members will also welcome this Bill which, apart from dealing with a source of great stress and pressure to people who fall victim of this sort of behaviour, has the additional advantage of providing a remedy at a low cost, because it is available in the Magistrates' Court which is often an obstacle to the very sort of people who tend to be victims of this sort of behaviour and indeed is quick, as procedures in the Magistrates' Court can be, as opposed to procedures in the Supreme Court. Therefore people do not have to suffer the very often traumatic consequences of being at the receiving end of this intimidating behaviour because they cannot get to a court of law quickly enough. This is, I think, groundbreaking legislation in Gibraltar which I think will be a much welcome relief to those in our community who suffer regrettably at the hands of such behaviour and which has the effect of bringing the law of Gibraltar more closely into line with that in the United Kingdom and other parts of western Europe where legislation provides relief to the victims of such behaviour. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, as I said earlier we will be supporting the Bill. There is and I think practice in that field to a limited extent at what is a very difficult time for families when they are suffering that particular stress to have the added threat or act of violence hanging over it makes the pain even worse. The relief being afforded in this Bill will have the effect of at least staying that threat or violence for a period of time which normally would lead to a more responsible attitude being taken and at the same time it does not, as the Chief Minister said, interfere with the proprietary rights of either party in respect of the matrimonial home itself. We welcome and will support the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

THE STATISTICAL RETURNS (CARRIAGE OF GOODS AND PASSENGERS BY SEA) ORDINANCE

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 95/64/EC on statistical returns in respect of carriage of goods and passengers by sea be read a first time.

Question put. Agreed to.

SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. The object of this Bill is to implement directive 95/64/EC which requires that certain statistics should be kept in respect of the carriage by sea of goods and passengers. The directive establishes a framework for the collection of Community wide and standardised statistics on the carriage of passengers and freight by sea, both within and to and from Community ports, and on ship traffic in European parts. Clause 3 of the Bill empowers the Minister to require shipping lines or their agents, to furnish data concerning the matters which are set out in detail in the Schedule. Clause 4 provides for penalties to be incurred for failure to make the necessary terms prescribed by the legislation or for making false returns. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we are not supporting this Bill. We have got certain reservations about the applicability in terms certainly of the question of the movement of goods given that we are outside the Customs Union and that these are statistics which show trade between the European Community and the external trading partners and we are in

that context, an external trading partner of the EU. In the directive itself there are references to maritime coastal areas in annex 4 and we note that in fact although the maritime coastal areas of the United Kingdom which have got a code which is what has to be reflected in terms of the way the statistics need to be presented, the United Kingdom is given the code 0061 and the Isle of Man 0062 and the Channel Islands 0063, Gibraltar in fact is not shown there as having a separate code. In the case of Spain, for example, it has two codes, one for the Atlantic coast and one for the Mediterranean and the South Atlantic. So in the case of Spain they have code 0111 and 0112. We do not know why we are excluded from that but in fact the directive actually provides in it the classification. Annex 5, for example, where there is the nomenclature that has to be used to designate the registry of the ship, Gibraltar is in fact shown with a different code from that of the United Kingdom and it is shown in addition to the UK, the Isle of Man and the Channel Islands. The directive says that where the country has more than one register then the code is in fact consisting of four digits as opposed to three to ensure that the subdivision of the register is coded separately. Therefore, we have, for example, in the case of Denmark 0081 for Denmark and 0082 for the Danish register that is offshore and therefore quite rightly Gibraltar registered ships would be shown with a classification that shows that where a British ship registered in Gibraltar just like it would happen with a ship registered in the Isle of Man and that applies not just to any statistics that we produce but the statistics that everybody else, including Spain, has to produce. However, we would have expected that there would be similarly a distinct classification for the maritime coastal area in which the port is located and this does not appear in the text of the directive.

We also have looked into the question of the regulation in respect of which the classification appears which is regulation 208/93 and there there is a code showing the nomenclature for external trade statistics of the Community and of the Member States. The code 006 applies to the United Kingdom, Northern Ireland, the Channel Islands and the Isle of Man but not to Gibraltar. In the annex which shows the Community codes, Gibraltar is not included. Gibraltar is however shown next to the Vatican City and Andorra and the Faroe Islands in the part of the annex which lists non-EEC countries. Therefore in the light of these reservations we are not prepared to support the Bill, certainly at this stage. I think if all the stages were not taken today then we might be willing to support it after we have gone further into it but if all the stages are going to be taken today then we will be voting against.

HON CHIEF MINISTER:

Well, Mr Speaker, without going into the merits of the observations made by the Opposition Member, I really have to say this, that the legal obligation on the part of Gibraltar to transpose EU Directives is not limited to those the content of which we like or approve of. If what the hon Member says is right or if it is a reason for Gibraltar not wanting to transpose this directive, then of course it is something that perhaps ought to have been spotted sometime before 8 December 1995 when this directive was in proposal form but once the directive was adopted in this form and the Government of Gibraltar of the day or others who might have done so, had not observed any point of the sort that the hon Member is now making, it does not provide us now, four years later, with a justification for not transposing the directive. That is not to say that I accept or for that matter reject, the potential significance or the implicit reasoning that the hon Member is attributing for the non-listing of Gibraltar in certain parts of certain annexes. The fact is that that is the directive as it is. We have now resourced an office in Brussels which gives us very early warning of all directives of this nature and we now have an opportunity which we take to make representations to Her Majesty's Government at a very early date long before a directive is actually adopted so that at least we get the opportunity to point such matters out, whether or not our representations prosper in the sense that they are reflected in alteration in the wording to the directive is, of course, another matter. But that is one of the principal reasons why we have resourced an office in Brussels. I accept that the previous Government that the Opposition Member led did not have that facility in Brussels and that, indeed, having that facility in Brussels now does not mean that we are going to spot them all or pick them all up. [Interruption] Well, we have picked many up already, I am sure he will be happy to learn. But, of course, the fact that we pick them up, as I said before, does not mean that they are resolved in our favour when we do point them out but at least we do not find ourselves in positions where we discover things that we do not like after the event. Really what I am saying to the hon Member is, that it is clear that Gibraltar has a code which is 64 in this regime for the purposes of nationality of registration of vessels and that whatever may be the significance, if any, of the point made by the hon Member does not enable us to say, "Therefore we are not going to transpose the directive". The hon Member, I know, is aware of that and all that we would be doing is inviting infraction proceedings to which it would not be a defence to say before the

European Court of Justice, "We did not transpose it because we did not have our code in annex 5".

HON J J BOSSANO:

Mr Speaker, if the Chief Minister would give way. I do not know whether this is something that is on the point of generating infraction proceedings or not but what I am saying is that if, in fact, in producing the statistics the procedure that is laid down has to identify, by reference to a code, the port of entry of the goods and there is not a code for Gibraltar then how do they propose to produce the statistics never mind anything else?

HON CHIEF MINISTER:

Mr Speaker, that of course is a different matter and as with so many other Directives of this kind the devil is in the implementation and not in the transposition. If transposing it, and in a sense we are in the same position with the telecoms liberalisation directives and regulations, that there are things that we will transpose but that we physically cannot implement because of problems which are outside our control and this will be just one such matter. Clearly if Gibraltar does not have a code we will not be able to provide the statistics, it really is as simple as that.

MR SPEAKER:

I will call on the mover to reply.

HON J J HOLLIDAY:

I do not want to say anything.

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano

The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bill was read a second time.

HON J J HOLLIDAY:

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

Question put. Agreed to.

THE CONTROL OF TRADE IN ENDANGERED SPECIES ORDINANCE 1997

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to make provision for the enforcement of Council Regulation (EC) No. 338/97 on the protection of species of wild flora and fauna by regulating trade therein and of Commission Regulation (EC) No. 939/97 which implements the former regulations be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. As hon Members know Council Regulations have effect in Gibraltar automatically and do not require further transposition. The Bill before the House simply gives the relevant authorities in Gibraltar power to enforce EC Regulation 338/97, the Principal Regulation, and EC 939/97, the Subsidiary Regulation. The Principal Regulation implements in the Community the 1973 Convention on International Trade in Endangered Species of Wild Flora and Fauna, commonly known as CITES. Regulation 338/97 moreover requires further provision to be made in domestic legislation because of the provision regarding sanctions contained in Article 16 of that Regulation.

Mr Speaker, perhaps I should explain at the outset how this Ordinance, once enacted, will interact with the Endangered Species Ordinance. Both the latter Ordinance and Regulation 338/97 EC prohibits the import of certain species of wild flora and fauna without certain documentation. But the species listed in the Regulation and in the Ordinance do not coincide. There would be

little sense, clearly, in having separate regimes applying to the same species. To avoid any overlap or conflict between the two, the proposed Ordinance substitutes a new Schedule 1 in the Endangered Species Ordinance for the current Schedule 1 of that Ordinance. This has the effect of excluding the species provided or protected by the CITES Regulation whilst at the same time also covering an extended endangered species which have not been covered by the Endangered Species Ordinance to date and are not covered by the Regulation. Hon Members should also note that it would not be possible to combine the two regimes in one Ordinance because as the Regulation is automatically law in Gibraltar, it would in fact be wrong to transpose it. It is desirable to continue to cover those species currently protected by our law which are not protected by the Regulation and so the regime already set out in the Endangered Species Ordinance should continue to apply.

Returning to the question of sanctions contained in Article 16 to which I referred earlier, the Bill contains various clauses providing for criminal offences relating to breaches of the Principal Regulation, particularly clauses 3 and 4, the former dealing with the question of false statements or information in order to obtain a permit or certificate, and the latter dealing with the misuse. Clause 6 also makes it an offence to contravene any condition or requirement of a permit or certificate. Clause 7 makes it an offence to move a live specimen listed in Annex A of 338/97 from the address specified in the permit or to keep it at a different address without prior authorisation. Whilst clause 8 creates a number of offences relating to a range of activities including the purchase and sale of specimens listed in Annex A or of specimens listed in Annex B which have been imported or acquired unlawfully. Clause 5, in turn, refers to powers of persons commissioned or authorised by the Collector of Customs to require proof of lawful importation or export of a specimen. Whilst clauses 9 and 10 make provision for powers of entry, including the power to take samples and seizure. Clause 11 provides for forfeiture of specimens upon conviction and clause 12 provides for the liability of corporations. Finally, it is clause 13 which amends the Endangered Species (Import and Export) Ordinance to avoid overlap with 338/97. The protection for some native species not protected by this Regulation is re-enacted and new protection is also extended to certain other native species. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

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

Question put. Agreed to.

COMMITTEE STAGE

ATTORNEY-GENERAL:

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

- (1) The Maintenance Ordinance (Amendment) Bill.
- (2) The Domestic Violence and Matrimonial Proceedings Bill.
- (3) The Statistical Returns (Carriage of Goods and Passengers by Sea) Bill.
- (4) The Control of Trade in Endangered Species Bill 1997.
- (5) The European Communities (Amendment) Bill 1997.
- (6) The Financial Services Bill 1997.

THE MAINTENANCE ORDINANCE (AMENDMENT) BILL

Clause 1

HON CHIEF MINISTER:

Mr Chairman, just to add the date "1998" after the word "Ordinance" in the title.

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

Clause 2

HON CHIEF MINISTER:

Section 33, as amended by the Bill as printed before the House, would have the effect of imposing on a male the same duty to make provision for a female cohabitee as he would have in respect of his wife. In other words, it creates a common regime for common law wives as for

wives. But the Bill as originally drafted does not reciprocate in favour of men. In other words, there is not a Maintenance Ordinance in which a wife has to make provision for her husband, it is a much more narrow ground and it is only limited to circumstances in which the husband is unable to support himself by reason of age or infirmity. This simply makes the regime of cohabitee mirror the situation as it relates to husbands and wives. In other words, just as the common law wife gets the same rights as a wife, so a common law husband gets the same rights as the husband has against the wife in the existing Maintenance Ordinance. The circumstances in which a husband and therefore a male cohabitee can rely on his wife for maintenance are very much narrower than the circumstances in which a wife and a female cohabitee can rely on her husband. But still in the interests of keeping it free of sexist connotations, that is introduced in order to replicate exactly the existing provisions in favour of husbands in the Maintenance Ordinance. The amendment takes the form of inserting a new Clause 17A to the Bill.

Question put. The amendment was agreed to.

HON CHIEF MINISTER:

Still on Clause 2, Mr Chairman, and again to make this provision entirely neutral in terms of gender and also to make clause 33A consistent with the amendment that we have just discussed, the next amendment proposed is that in existing clause 2(18) it says, "Where a man fails to make reasonable maintenance", the amendment proposed is to substitute the word "man" and replace it with "cohabitee" because if the previous amendment is carried of course it would be possible that a woman should be at the receiving end of a maintenance order and therefore rather than 33A saying, "Where a man fails to provide reasonable maintenance", it would read, "Where a cohabitee fails to provide reasonable maintenance". The second amendment is in that same section, in the next line down it would then read, "Where a cohabitee fails to provide reasonable maintenance for any cohabitee under section 31(1)(e)", there we would have to add "or 33(1)(d)" which is what we would have just have inserted by the first amendment that we discussed. In other words, the obligation of a female cohabitee to make provision for her male cohabitee has been inserted by adding a new section 33(1)(d) and therefore we make a reference to that section 33(1)(d) in the new section 33A where it relates to making an application to the Court. In other words, the amendment creates the obligation to make reasonable provision and section 33 gives the person entitled to the provision the right to apply to court if that maintenance is not provided voluntarily.

Question put. The amendment was agreed to.

HON CHIEF MINISTER:

Mr Chairman, the next amendment is the one that I highlighted during the Second Reading which is that if the hon Members focus on page 4 on the bold print just above where the Bill refers to a new section 33B, it says "Maintenance order: penalty for breach of section 33A". Section 33A which is just above that deals only with maintenance orders in favour of cohabitees so that the regime that the new section 33B creates in all those following sections about what the beneficiary of a maintenance order can do if the party that has to make the payment fails to make them, if we left the references to section 33A as printed in the Bill that would have the effect of limiting that regime only to orders made under section 33A and therefore limited only to maintenance orders in favour of cohabitees. Whereas the intention is that that much quicker remedy for people who suffer the consequences of not receiving the payments that have been ordered in their favour, all of them whether one is a cohabitee or whether one is a husband or a wife or whether one is a child of the marriage, one should have this quick and cheap procedure of going to the Magistrates' Court and saying, "Mr Magistrate, an order has been made in favour of my husband or my wife or my cohabitee to make such and such payments per week. He or she has not made the payments". The Magistrate then has those powers there and the idea is that those additional powers should be available to the court in the case of non-compliance with all maintenance orders not just with maintenance orders made in favour of cohabitees. That is what the amendment achieves. It extends the provision of proposed new section 33b(1) to all maintenance orders and not to maintenance orders in favour of cohabitees which would be the effect, if we did not amend this as proposed.

Question put. The amendment was agreed to.

HON CHIEF MINISTER:

In Clause 2(30) there is in effect, Mr Chairman, what I suspect a misprint. If hon Members would turn to page 9 of the Bill, there are there those powers which in large measure overlaps some of the powers on the Domestic Violence Bill. But although the very first line of the proposed new section 69(1) says, "A cohabitee or either party to a marriage may make a complaint", the heading actually does not refer to cohabitees. The heading says, "Power of court to make orders for the protection of a party to a marriage or a child", and the amendment simply

has the effect of making that subheading read, "Powers of the court to make orders for the protection of a cohabitee or of a party to a marriage or a child of the family," which is what the substantive words underneath in the new section 69 indeed already say.

Question put. The amendment was agreed to.

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

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

THE DOMESTIC VIOLENCE AND MATRIMONIAL PROCEEDINGS BILL

Clauses 1 to 7 and the Long Title were agreed to and stood part of the Bill.

THE STATISTICAL RETURNS (CARRIAGE OF GOODS AND PASSENGERS BY SEA) BILL

Clauses 1 and 2

The House voted:

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 1 and 2 stood part of the Bill.

Clause 3

HON J J BOSSANO:

In clause 3 the provision is that the Minister may require, by notice in writing, the provision of information on matters set out in the Schedule to the Ordinance. The Schedule to the Ordinance appears to be

reproducing the statistical variables laid down in Annex 1 of the directive but with changes. I would like to have an explanation of the changes. Why is it, if we are implementing the directive, for example, where in the directive if we go to the Schedule it says, information in relation to the vessel deadweight and gross tonnage of vessel, the directive requires that it should be the deadweight or the gross tonnage but not both. Why do we want in Gibraltar to have to provide both if the directive says we can provide either? In the type of cargo the directive says that the information that has to be provided on cargo, for example, is the type of cargo according to the nomenclature shown in Annex II and that is exactly the same as it is in the directive but then the directive goes on to say that one also has to provide the description of the goods using the nomenclature in Annex III and we do not have to do that here in Gibraltar. There appears to be in the content of the Schedule some bits that go beyond what the directive requires and some bits that fall short of what the directive requires. Presumably the Government know why they want to do that. If they do not know then perhaps they ought to take a closer look at this instead of passing it through all its stages in one day.

HON CHIEF MINISTER:

As far as the second point that the hon Member has mentioned, I suspect that that is probably just a deficiency of proof reading. Certainly in respect of the first one, the hon Member knows that the directives are not just transcribed into law, the question is whether an additional obligation is being placed. I would accept that there is no need and certainly no desire or intention on the Government's part to impose obligations over and above those required or imposed by the directive. The Schedule in the Bill, of course, is headed, "The matters about which persons may be required to furnish returns pursuant to section 3" and I think the hon Member can assume that there will be no mandatory requirements to produce information in excess of that which is required by the directive. I suppose it is a question of good grammar. If the directive permits one to obtain information about the deadweight of.... [HON J J BOSSANO: The deadweight or gross tonnage which is 1.3 of the Schedule.] Yes, that is right. The directive says, "deadweight or gross tonnage". The Minister may specify deadweight and gross tonnage. I suppose it is arguable that the Minister can require details of both but not of only one of the two, that might be a very strict interpretation of using the word "and" there. If so, that will be something that the Minister could do under local law voluntarily even though there is no obligation imposed by the directive to obtain it. It is

interesting to note that the second item that the hon Member referred to which, in fact, relates to Annex III is not an Annex which is of the sort to which the hon Member referred in his address on the Second Reading. In other words, it is not an Annex that excludes Gibraltar, it is an Annex that simply gives numbers to different types of goods. I do not think it lends itself to a suspicious interpretation that our Bill should have conveniently excluded reference to that Annex III. If there had been a similar exclusion in respect of Annex IV which is the one where he correctly points out that Gibraltar has not been given a code, I might be tempted to join him in his suspicion that the Bill had been drafted so as to carefully avoid the consequences of that exclusion. But I do not think it is open to that interpretation in the event of this matter. It is not a particularly urgent piece of legislation, on the other hand it is my intention to bring this meeting of the House to an end.

What I would say to the hon Member, if he agrees, whether or not this Bill goes further than the directive technically requires, that it is not a particularly important or onerous matter and if he were to agree with that he might be able to support it in exchange for an undertaking that if, upon further investigation, the Government discover that there is in fact an onerous consequence to this, we would bring amending legislation to the House.

HON J J BOSSANO:

I am not trying to be difficult, I am just trying to do my job which is I think what is required of me. I have pointed out two examples but there are more. For example, in the Schedule at the end in "1.3 Information in relation to the vessel" we provide that people can be required to provide the name of the maritime transport operator or agent. That is not something that the directive makes provision for. The directive says we must give the numbers of the vessels, how many vessels there have been. We do not require the numbers of vessels, we require instead their names, that is not in the directive. There are quite a lot of things that are different, I have picked two at random. If this is not urgent it would seem to me more sensible to look at the points that we have raised rather than to have to come back, say, in the next House and bring an amending Bill to change all these things, if it is not something that is very pressing and requires to be put through all the stages because, as I say, there are infraction proceedings pending or there is a great deal of pressure to have this on the statute book. All I am trying to do is to comment on what I read in the directive and what I

read in the Bill before the House so that if in fact there has been, if it is a matter of policy and the Government choose to use the opportunity to seek information which they do not need to transmit to the EEC, that is the explanation but that does not appear to be the case. Therefore I do not understand why there are these differences. There is a lack of consistency, as far as I can tell, in that, for example, the Chief Minister is right when he says the question of Annex III has nothing to do with the point I raised in the Second Reading. The point I am making is why is it that we say the type of cargo has to be reported on using the nomenclature in Annex II and yet when we come to the description of the goods we say that we have to be given a description of the goods but not using the nomenclature in Annex III, why? Why do we require them to follow Annex II in telling us the type of cargo and not Annex III in telling us the goods? I think there is also a point in which I am not clear in relation to the whole of the statistical variables which are partly reflected in the Schedule and which is, what clause 3 of the Ordinance refers to and that is, that in the actual directive it says in Article 4 that the ports which have to make these returns are for a transitional period the ports that are handling more than two million tonnes of goods and at the end of the transitional period the port handling one million tonnes of goods. Well, we are nowhere near the one million tonnes of goods never mind the two million tonnes of goods. It then goes on to say that the ports that are not selected, that is to say, the Member States according to Article 4, have to draw up a list of their ports and then make returns only in respect of ports with this volume of business and in respect of those which are not selected from the list, summary data has to be provided in conformity with Annex VIII. I am not 100 per cent sure whether that means that only Annex VIII is what we have to comply with and that, in fact, everything else in Annex I and Annex II and so forth does not apply to us because of the fact that we are too small. It appears to suggest that but, frankly, I think a lawyer would be better equipped than me to look at this and decide whether those are the implications. But if that is indeed the case, and I am reading it as a layman, then it seems the need to do the whole directive in the way that it is being done is questionable. These are concerns which we are bringing to the attention of the Government. I think it would be a better thing to take a second look rather than to have to come back and do a lot of surgery but I leave it up to the Government to make their own mind up.

HON CHIEF MINISTER:

Mr Chairman, the hon Member may be right. I am sure he understands that the Government issued instructions to the draftpersons and the instructions are to transpose the directive strictly. The Government, at a political level, consider the Bill from a point of view of policy. In fact, Ministers of course do not sit down proof reading what are very often very long Bills to compare them to see whether a word that is an "and" in the directive has become a "nor" in the Bill and things of that nature. One proceeds on the basis that officials carry out their instructions and that they carry them out efficiently and competently and if it is in fact the case that there has been errors in the exact transposition of this directive which were the points that would fall into the first category that the hon Member dealt with, then I think of course it is important that those be corrected. Insofar as the second point that the hon Member makes, the last one that he has made about whether this directive applies to Gibraltar at all given the cargo limitation, it would have to be looked at by lawyers to see whether that means that if the port - because the United Kingdom, for example, as a country would transpose this directive notwithstanding that it has some ports that are small and some ports that are big and therefore there is a difference between the obligations to transpose, to have the law on one's statute book which is different to whether one has actually got to provide the information up to Brussels and it is that second question that depends on whether one is big or small. The hon Member knows what I mean when one exceeds the cargo threshold. Therefore what I am saying to the hon Member is that although he raises an interesting point which I am certainly going to have considered by lawyers, thinking on my feet I think that it is not necessarily correct to assume that because one does not reach the threshold that there is no obligation to transpose. I suppose that this is a less outrageous example of the ones that the hon Member used to use about why make us transpose directives about nuclear power stations and freshwater fish and freshwater rivers when we do not have them. But certainly if the effect of the directive is that not only does it not have to be complied with the same as information having to flow but if on its proper interpretation the correct interpretation of the directive is that if one has no big ports, so to speak, in one's country one does not have to even transpose the directive into one's laws then that would certainly be a good reason for not transposing the directive at all. I do not think, as I say thinking on my feet and not expecting to be held to this view, that would be the correct interpretation. But certainly given that this Bill does not raise matters of Government policy and

given that it is not one under which the Government are under, at least as far as we are aware, it is not one under which there are threats of immediate infraction proceedings, I am very happy to stand this Bill over until the next meeting of the House by which stage some of the observations that the hon Member has made will have been looked into and either the Bill modified accordingly or otherwise some explanation offered to him as to why it will not be.

HON J J BOSSANO:

Mr Chairman, can I just say, for the sake of putting the record straight, I am not suggesting that the possible interpretation of Article 4, clause 3, is that it should not be transposed. What I am saying is the text of the directive says, for ports which are not selected from the list, that is, ports with more than one million tonnes or two million tonnes for the next three years, summary data is to be provided in conformity with Annex VIII. If that means only summary data in conformity with Annex VIII then what I am saying is the correct transposition of the directive would be limited to simply what is in Annex VIII which is much less than what is here, not that there would be nothing at all to be done but that what would be required to be done would be less than we are providing. If that is the interpretation that is correct which I am not 100 per cent sure on reading it.

MR CHAIRMAN:

So consideration of the Bill will be left for another occasion. We have had the First and Second Readings.

HON CHIEF MINISTER:

Well, we have had the First and Second Readings and we are in the course of the Committee Stage and I think we are able, are we not, to simply stay, I suppose will be in judicial terms, the consideration so that when we next start we start where we left off.

MR CHAIRMAN:

The Committee Stage stayed.

THE CONTROL OF TRADE IN ENDANGERED SPECIES BILL 1997

Clauses 1 to 13, the Schedule and the Long Title were agreed to and stood part of the Bill.

THE EUROPEAN COMMUNITIES (AMENDMENT) BILL 1997

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

Clause 2

HON J J BOSSANO:

Mr Chairman, I beg to move that the Bill be amended by the addition of a new Clause to be numbered 3 and to read as follows: "3. Section 5 of the European Communities Ordinance is repealed". I have got a copy of the amendment for hon Members. The proposal in my amendment is to delete the provision in the principal Ordinance which was brought in 1972 when the European Communities Ordinance was introduced in the House and it is one to which I have referred in connection with the provisions of the Social Insurance Closed and Open Schemes when they were brought to the House which talked about the liability on the Consolidated Fund arising from Community obligations. In fact, in the United Kingdom the provisions that were put in the United Kingdom European Communities Act was not what was done in Gibraltar although at that time we were led to believe, when the Bill was introduced in the House, that in fact it was the exact provisions that the UK itself had. The provision in the United Kingdom permits.....

MR CHAIRMAN:

Have you got the amendment in writing so that it can be circulated?

HON J J BOSSANO:

Yes, I have photocopies. I will now proceed to explain the effect of the amendment. The principal Ordinance in Gibraltar reads, "There shall be charged on and issued out of the Consolidated Fund the amounts required to meet any Community obligation arising out of or in respect of Gibraltar". This wording in fact means that virtually anything that can be construed as arising out of our membership of the European Union or which is in respect of Gibraltar because of our membership of the European Union including, for example, the results of any infraction proceedings which involve public spending or the payment of pensions to former Spanish workers, if that were to be ruled to be a Community obligation as it was very close to happening when the matter was on the verge of being taken up by the Commission in ECJ, would automatically become by virtue of the law a charge on the Consolidated Fund without the House, or for that matter the Government, being able to do very much about it since it would be a direct legal obligation in the same way that meeting the pensions of civil servants or meeting the public debt is a direct legal obligation. In fact, in the United Kingdom this is not the case. In the United

Kingdom from which ostensibly we copied our provisions, what it says is, "There shall be charged on and issued out of the Consolidated Fund any Community obligation in respect of contributions to the capital or reserves of the European Investment Bank or in respect of loans to the bank or to redeem any loans or obligations issued or created in respect of any Community obligations" and therefore it is in fact an obligation on the Consolidated Fund of the United Kingdom in respect of meeting liabilities which are the parallel of the national obligations and therefore it is of the same nature as the obligation we have always had in our law which is in fact similar to what the United Kingdom and other countries have in respect of national debt. In Gibraltar, in fact, the wording was not constrained as it is in the United Kingdom which goes on to say, "Any other expenses require to be paid out of monies provided by Parliament" and therefore there has to be an appropriation in respect of other expenses which are Community obligations. At the moment we have, as a result of the changes brought in by the Government, all the money in the Consolidated Fund and therefore, to that extent, the original provision in the Ordinance is now something that permits access not just to some of the reserves of the Government but in fact to all of the reserves of the Government since all the reserves of the Government are now in the Consolidated Fund and not anywhere else. Therefore although we did not support the Bill because of its main purpose for the reasons that we explained in the Second Reading and, in fact, we have not had an indication from the Government as to the questions that we had regarding the bits that were not being included but certainly we have had no amending provisions tabled today to suggest that they are going to be included, which was one of the things we were told at the Second Reading might happen if there was the question that they had been overlooked. It is an opportunity I think to close a door that should not have been opened in the first instance in 1972. We are in the process of amending the principal Ordinance and therefore we commend the Bill to the House as a way of providing a safeguard for the Government against potential pitfalls in the future when they may find themselves being pushed, as indeed happened in the past, when the Government of the United Kingdom were insisting that the payment of the Spanish pensions was a Community obligation which they had the right to require us to accept as a legal liability. The position in the past was that at one stage they were very insistent but, of course, they would have not got much change out of the money that there was in the Consolidated Fund to pay the Spanish pensions. We commend the amendment to the Government, we think it is a wise move and that they should take the opportunity now that this Bill is before the House to bring this in.

HON CHIEF MINISTER:

Mr Chairman, if the hon Member had moved his amendment with the remotest hope or expectation that it should be supported by the Government as opposed to simply using it as some sort of ambush then I suppose that he would have given us more than five minutes warning of what would be a major and fundamental departure from the law as it has been for nearly 27 years now. Indeed, if the hon Member had thought that his ideas which I hasten to say have a degree of logical attraction to me, were so important in order to protect the Consolidated Fund which, of course, it does not mean just the reserve but indeed the whole revenue of the Government in any one financial year from the potential threat that he sees lurking around the corner and which frankly I have seen no sign of since I have been in office, then presumably he would have taken steps during his eight years in office to have taken this safe and prudent step. It is all very well for the hon Member to not do so or not to have done so during the last eight years and hope, not that he does, that we should do so on an amendment to the Ordinance required by an unconnected matter which is the passing of the Maastricht Treaty which certainly does not give rise to the case that he has made. If the hon Member wishes to write to me making a fuller case than the one that he has done this afternoon or if that is the best case that he thinks exists for this matter, I will reread him in Hansard and if I should change my mind about the wisdom of thanking him for his advice but not taking it then I will of course be happy to revisit the matter but I do not think the hon Member can possibly believe that it would be a reasonable decision for the Government to take in the circumstances that he invites us to do. Therefore the Government will most certainly not be supporting the amendment. Given that the hon Member felt that - and I remember actually, I cannot remember in what circumstances, whether it was just in relation to the pensions or there was another set of circumstances in which he and I debated this, I think when he was then in Government and I was in the Opposition, he has had plenty of opportunity, I would have thought, that this was an important and necessary defensive mechanism. He knows very well how the Government of Gibraltar should conduct our relationship with the Government of the United Kingdom by agreement and consensus. Agreement and consensus certainly reached following the taking by the Government of Gibraltar of a reasonable but firm and resilient stand on particular issues as they arise but that he knows jolly well that the affairs of Gibraltar cannot safely be conducted on the basis of manning the barricades which is, in effect, the legislative effect of what he is proposing, that if it ever came to protecting

our funds from the reach of the United Kingdom by legalistic means of this sort, that the relationship would have deteriorated to a point where the wider interests of Gibraltar could not be safeguarded simply by the fact that the United Kingdom Government, the Governor, could not access the Consolidated Fund. The hon Member knows that there are in any case constitutional provisions in place at the moment which would override any repeal of this section if the United Kingdom Government ever thought that they needed that or needed to access the Consolidated Fund and therefore whilst I see the detached logic of the hon Member's argument, I do not think it is actually necessary or indeed helpful to or indeed one that I envisage ever being deployed as a means of resisting payment even if the law were what the Opposition Member suggests that it should be. But as I said the law was in place for eight years whilst he was Chief Minister, it has now been in place for 18 or 19 months whilst I have been Chief Minister and neither of us have detected an inclination on the part of Her Majesty's Government, unless, of course, he knows something that I do not, certainly I am not aware of any threat by Her Majesty's Government to access Gibraltar funds without the consent of the Government or the agreement of the Government of Gibraltar. It may well be that he was at the receiving end of some such threat, I do not know. Certainly, I have not been and I would be most surprised if he had been.

The Government will not support the amendment and of course will keep the substance of the point that he has made under review should the need for it arise or should we get an indication that it might arise but it certainly would not, in my opinion, certainly would not be justified for the Government to make the sort of position that the hon Member is suggesting to in this manner or in these circumstances or without proper and full consideration which the hon Member must know, moving the amendment in the circumstances that he has moved it at such short notice, does not give the Government the reasonable opportunity to make a prudent decision. I do not know whether that disposes of the amendment and whether I can continue to address the Committee Stage of the Bill.

[Interruption]

Mr Chairman, whilst we were taking the second reading of this Bill the Leader of the Opposition enquired as to why the Bill which purported and indeed purports to give legislative effect to the Maastricht Treaty amending the Treaty of the European Union referred only to titles, 2 3 and 4. The hon Member will recall but did not relate or

refer to titles 5 and 6 of the Treaty which deal with such matters as well as title 1 which is also not referred to, as common provisions. Title 5 of the treaty is common foreign and security policy and title 6 are justice and home affairs, also not referred to of course is title 7 which is final provisions. I thought the hon Member's point was worth looking into and the Government therefore agreed to hold over the Committee Stage until today. I am happy to say that we have looked into the hon Member's anxieties in relation to the non-reference for example to titles 5 and 6 and I am happy to tell him that his fear, which I would have shared had it been correct that the omission of titles 5 and 6 somehow was politically motivated because of the subject matter of those particular titles, is in fact not correct. Indeed the English Act doing this same job, in other words, transposing the Maastricht Treaty in the United Kingdom is cast. There are one or two words different in respect of points which are relevant to the UK but not relevant to us, but in respect of the purpose of this Bill the language of the United Kingdom's old Act passed in the House of Commons is in the same terms, in other words, it relates to titles 2, 3 and 4 of the Treaty on the European Union signed at Maastricht on the 7th February 1992 together with the other provisions of the Treaty so far as they relate to those titles under protocols adopted at Maastricht on that date and annexed to the treaty established in the European Community with the exceptions of protocol 14 on social policy. The reason why neither our Bill which is in the same terms as the United Kingdom Bill nor the United Kingdom Bill itself refer to, for example, titles 1, 5, 6 and 7 of the Treaty is this, the provision here in our clause 2 which is also the United Kingdom's clause 2, does not list the provisions of titles 5 common foreign and security policy or of title 6 justice and home affairs because these parts of the Treaty on the European Union do not provide a basis for the adoption of Community legislation and neither give rise to rights and obligations of Community law nor amend the Community Treaties. They relate to action which takes place on an intergovernmental level, on common, foreign and security policy or in justice and home affairs and do not, as I have said, give rise to Community rights and obligations. Such intergovernmental matters are dealt with for example by conventions or by joint action programmes. The titles do not make provision as do the Community treaties for the legislative instruments needed to give effect to Council decisions for example by regulations, directives, decisions, etc. The subject matters of titles 5 and 6 of the Maastricht Treaty are not issues that can result in directives or regulations which we might have to transpose into the laws of Gibraltar necessitating this amendment to the European Union Amendment Bill. They are

areas in which the Community and therefore the Community institutions in the form of the Commission do not have confidence and they are areas which can only generate subject matters that can only generate intergovernmental agreements and cannot create legal rights and obligations other than by separate treaties, conventions or joint action plans in each case. On the occasions and I can tell the hon Member as he may be aware from reading the press that for example in respect of title 6 justice and home affairs there are hundreds of justice and home affairs proposals going at present through the various steps of consideration and as and when they emerge they emerge not as directives or as regulations, not as anything that is capable of creating an obligation under the Treaty established in the European Union but rather as intergovernmental conventions or joint action plans and then to the extent that Gibraltar is included or not included and of course there is an issue there constantly, as I am sure it was for him, but it is certainly an issue at the moment that how the United Kingdom deals with Gibraltar in those justice and home affairs issues which do not arise from Community obligations but by case by case intergovernmental treaty negotiation to the extent that Gibraltar is included in those we would then have to give legislative effect to those to the extent that they require legislation to implement those obligations by ordinary legislation rather than by any mechanism to give effect to directly applicable binding European Community obligations. That is precisely the case that appertains in the United Kingdom. The European Union, it is called in England the European Communities (Amendment) Act 1993, has been amended in the same terms referring to the same titles and also referring to the titles not mentioned by number by using exactly the same formula as is used here in our Bill together with the other provisions of the Treaty. So far as they relate to those titles and it is just an identical legislative mechanism which recognises the fact and which accommodates the fact, only that these titles do not create Community obligations, are not capable of creating Community obligations and simply establish areas whereby government can agree at intergovernmental level on a case by case basis if they choose to do so. Therefore on the basis of that clarification the Government are entirely satisfied that it is correct and proper to amend the European Communities (Amendment) Ordinance in this form. Of course, I acknowledge that that clarification will not recruit the support of the Opposition Members to the Bill because their objections, as I recall them from last time, were based on much more radical hard line grounds than that, namely that the position of the Opposition now appears to be that we should not comply with any of our Community obligations until some of the areas in which we say our Community

rights are being infringed are saved. I think that the hon Member should recognise that that is not a responsible position, indeed it is not the position that he adopted when he was in Government. He, as he well knows, transposed numerous Community obligations notwithstanding that the same things that we object to, such things as non-recognition of our voting rights etc etc were just as germane then as they are now and it is just another example, Mr Chairman, of radical and bold action that the hon Members recommend to us that they were not able or willing to take when they had the opportunity to do so and for that reason, as well as because we do not agree with the approach inherent in their suggestion, their suggestions do not look attractive to us from this side of the House. I therefore hope that at least it is a clarification that the hon Member sought and it certainly enables the Government to proceed with the Bill as we had presented it to the House originally.

HON J J BOSSANO:

Mr Chairman, when we referred to the protocols and the areas that had not been reflected, title 6 in particular, in fact I think at the second reading, we asked the Government whether in fact the explanation was if this was intergovernment and at that time they were not able to confirm this and now they have confirmed it presumably by checking back as to the reasoning behind the leaving out of this title. It is, of course, something that I think needs to be recorded and repeated but this particular title is very relevant to the provisions of new title 3A in the Amsterdam Treaty and that the Amsterdam Treaty is removing parts of what is covered as an intergovernment pillar in title 6 in areas such as the external frontiers, the rules governing the crossing by persons, the asylum policy, the immigration policy. Quite a number of the things that are included in title 6 under article K(1) will become Treaty obligations under title 3A so we will then see what happens when that particular Bill has to be transposed or not transposed into the national law of the United Kingdom and into our own law. But, the explanation that has been given as to the fact that it is historically, that is to say, at the time that it was done in Maastricht it was an intergovernment obligation and of course in the United Kingdom it was brought in in 1993 and it has not been brought in in Gibraltar until now. Therefore, I think it is very pertinent that at this particular time, when we are bringing in, for example, title 2 and where title 2 provides for a uniform voting system we have in the House of Commons in the United Kingdom a Bill which creates one constituency for Northern Ireland, one constituency for Scotland, one constituency for Wales and a number of

constituencies for England where the Government of Gibraltar has written to all the Members of Parliament asking for their support in including Gibraltar. We are accepting in what we are doing the application of title 2 to Gibraltar notwithstanding the fact that we are being excluded and the fact that we are asking other people to do something about including us. It seems to me that the timing of this is appropriate particularly for those circumstances and therefore I cannot accept the argument of the Government that we should have done it in 1993 or before that or since then because in fact we never brought it in. They are bringing it in, we did not. Mr Chairman, I am afraid that notwithstanding the explanation as to why the intergovernment deal has not been reflected which is following UK practice, the Chief Minister is correct in saying that what he has told us will not get us to change our minds on the voting and we will be opposing the Bill as a whole.

Question put on the amendment. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The amendment was defeated.

Question put on Clause 2. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clause 2 stood part of the Bill.

HON CHIEF MINISTER:

In the Long Title, Mr Chairman, given that it was held over it does say 1997 and of course that should now read 1998. I have not given written notice but I do not suppose hon Members will care. That should now read 1998.

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

THE FINANCIAL SERVICES BILL 1997

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

Clause 2

HON P C MONTEGRIFFO:

Mr Chairman, there are three amendments to clause 2 subsection (2). In subsection 2(2) the word "delegate" in the definition of Minister should be replaced with "designate" and again in section 2 between subsections (4) and (5) the insertion of a new subsection (5) to read "Section 2 of the Financial Institutions (Prudential Supervision) Ordinance 1997 (meaning of closely linked) applies to the purpose of this Ordinance" and thirdly in consequence thereof subsections (5) and (6) of section 5 become subsections (6) and (7).

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clause 2, as amended, stood part of the Bill.

Clauses 3 to 37 and Schedules 1 to 6

Question put. The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

Clauses 3 to 37 and Schedules 1 to 6 stood part of the Bill.

HON P C MONTEGRIFFO:

Mr Chairman, in the Long Title we would like to delete the words "to provisions of" where they appear before the word "Council Directive 93/6/EEC".

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

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Maintenance Ordinance (Amendment) Bill, the Domestic Violence and Matrimonial Proceedings Bill, the Control of Trade in Endangered Species Bill 1997, the European Communities (Amendment) Bill 1998 and the Financial Services Bill

1997 have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

Question put.

The Maintenance Ordinance (Amendment) Bill 1998; the Domestic Violence and Matrimonial Proceedings Bill and the Control of Trade in Endangered Species Bill 1998, were agreed to and read a third time and passed.

The European Communities (Amendment) Bill 1998, and the Financial Services Bill 1998.

The House voted.

For the Ayes: The Hon K Azopardi
The Hon Lt-Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon J J Holliday
The Hon Dr B A Linares
The Hon P C Montegriffo
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

For the Noes: The Hon J L Baldachino
The Hon J J Bossano
The Hon J Gabay
The Hon A Isola
The Hon Miss M I Montegriffo
The Hon R Mor
The Hon J C Perez

The Bills were read a third time and passed.

The House recessed at 4.55 pm.

The House resumed at 5.40 pm.

PRIVATE MEMBERS' MOTIONS

HON J J BOSSANO:

Mr Speaker, I beg to move a motion of which I have given notice namely that:

"This House:-

1. Recognises the enormous contribution made by Robert Peliza to the political affairs of Gibraltar;

2. Pays tribute to his exceptional representation of Gibraltar internationally and particularly in the United Kingdom Parliament;
3. Recognises the substantial contribution made by him in Gibraltarian constitutional advancement;
4. And in recognition thereof resolves to bestow on him the highest honour that this House can bestow on a citizen of Gibraltar, namely the Honorary Freedom of the City of Gibraltar."

Mr Speaker, when I put the original motion in the House last year in fact I thought that the way it was worded was sufficient as a follow-up to the motion brought to this House about a year ago to proceed in the course of 1998 to grant, obviously on the assumption that the motion would be carried, the Freedom of the City to Bob Peliza some time this year. It was brought to my attention that this was not the case, that it did not follow automatically without the wording that actually involved the act of bestowing the Freedom of the City on him and therefore I gave notice on the 12th December 1997 replacing the original wording with this wording. Since then, of course, I am sure we are all delighted that Bob has been honoured in the New Year's Honours and it is incorrect in the sense that I am not referring to him by his new title but I am sure Bob will expect us to continue to call him Bob for many years to come as people that have shared a great chunk of his life in the political scene in Gibraltar. I think he has both in the receiving of the Knighthood and in this motion in this House he sees this as a tribute not to him as an individual but as a recognition of the importance of the contribution that he has made and the issues over which he has been committed for such a long chunk of his life. Now that we are hearing new numbers being convinced of the value of integration there is all the more reason for us coming around to the idea that perhaps Bob's contribution to Gibraltar's political development and constitutional history may yet go further than it has done until now, since there appears to be new converts every day when one reads the correspondence columns, some unexpected converts I may say in the process. Certainly, when we are looking to 1998 in the context of the forthcoming statement by Her Majesty's Government on the review of the Dependent Territories and the prospects for constitutional change in Gibraltar then recognising the work of those that have been pushing to protect Gibraltar's political future and give us a secure place in the world in the past is something that serves a dual purpose in my judgement, one is to give the recognition that is due and another one is to encourage us to continue the good work on the foundations that our

predecessors have laid down. I commend the motion to the House.

HON CHIEF MINISTER:

Mr Speaker, the Government are very happy to support this motion. On the 5th July last year at the time that we sought to uncouple the granting of the Freedom of the City to Sir Bob Peliza from that of Sir Joshua Hassan I said that in our opinion Bob Peliza is deserving of the Freedom of the City and indeed I added words which became our amendment to the Leader of the Opposition's motion to the effect that, "This House recognises the enormous contribution made by Robert Peliza to the political affairs of Gibraltar and in consequence thereof records its intention to further acknowledge his contribution by conferring upon him the Honorary Freedom of the City of Gibraltar at an appropriate occasion in the future". It is, I think, proper that we ought to have placed a period of time between the motions in favour of Sir Joshua and Bob Peliza and I think the time is now very ripe to bestow the honour also on Bob Peliza. When the people of Gibraltar reach their final destination as a people and our history and the history of that trajectory is written there will be a number of individuals who have contributed to Gibraltar's affairs who I think will earn a particularly noteworthy mention in that history of Gibraltar and I believe that Bob Peliza will be counted amongst those individuals. He has contributed as much as anybody else and probably much more than most amongst Gibraltar's political class to fostering closer links with the United Kingdom and in particular I think perhaps the younger generation in Gibraltar are not perhaps aware of the extent to which the existence of the Gibraltar Parliamentary Lobby is something which we owe to Bob Peliza who, during the years that he lived in London, devoted much of his spare time to developing friends for Gibraltar in both Houses of Parliament and indeed amongst the press in the United Kingdom and that has formed the bedrock of what is today still the British Gibraltar Group in both Houses of Parliament and in a sense he was the father of that as well.

Very young Gibraltarians may not be aware that Bob was at the forefront of the campaign to persuade the then Tory Government of the merits of giving the people of Gibraltar the right to apply to register as British Citizens at the time when that was denied by the British Government to the citizens of all other dependencies and Colonies and Bob was instrumental in moving the Gibraltar Lobby, particularly in the House of Lords where the rebellion against the Government started on this issue to bring about an amendment to the British Nationality Act, the effect and result of which was that Gibraltarians to

this day and have had now for many years the right to register as British Citizens. I think, as if those were not sufficiently noteworthy achievements, I think his greatest achievement was his enormous contribution - some would go further than that, some might say that without him it would not have occurred - his enormous role in securing the inclusion of the Preamble to the Constitution in the Constitution. It is a commitment on behalf of the British Government, on the part of the British Government, that to this day, judging by the number of times it is quoted at us and by us it is still almost the fundamental precept of politics in Gibraltar and again I think it is right that this House should recognise his central part in obtaining that sort of categorical assurance which nobody had ever succeeded in obtaining from a British Government before. That might be, of course, because nobody else had wanted it before. Bob was also the first Chief Minister under the new Constitution in 1969 and he has also been Leader of the Opposition. He served as Speaker of this House between 1988 and 1996 and I think there are few people in Gibraltar that have occupied as many offices of importance. Not only was the man the things that I have described but he also did the things that I have described in Parliament in the Constitutional discussions and things of that kind. He also found time to found in Gibraltar another institution which remains central to our general political life which is the European Movement. I think that the recommendation from Gibraltar that Bob should be recognised by Her Majesty the Queen in this New Year's Honours List by the award of a knighthood is nothing less than he deserves and I think coupled with this honour which we now bestow on him, I think it is nothing less than the recognition that he is entitled to by and from the people of Gibraltar. When one has finished saying all that about Bob Peliza which is really much more than it will be possible to say about most of us one can still say that in addition to all these virtues the man has the extraordinary ability to be a friendly gentleman at all times and that by that friendly engaging friendly way in which he carried out the role in politics with his opponents he has earned the respect and affection of political friends and political opponents alike. At the end of the day I know that that must be something of which Bob is also very proud. It has been a pleasure to have come into political contact with him. He, towards the end of his parliamentary career, mine towards the beginning, but certainly those of us that have had the opportunity to rub shoulders politically, in political institutions with him, will be much the better off for having had him as a guide during our early formative years in this House whilst I was on the other side of it. It therefore is a great pleasure and satisfaction to join with the Opposition in bestowing the

Freedom of the City on our mutual friend Sir Robert Peliza.

HON J GABAY:

Mr Speaker, there is no doubt whatsoever that Bob's contribution to the political life of Gibraltar is really quite singular in many ways but rather than mention his achievements in the political field, which have already been highlighted by the Chief Minister and the Leader of the Opposition, I would like briefly to pay tribute to a certain aspect of his character which I think has enhanced almost all the roles that he has undertaken in the past. Those of us who knew him as an Officer in the Gibraltar Defence Force will recall that he was not merely the typical Officer of the day - far from it. He was, to some extent, a father figure to his men. He always brought to bear the flexibility of reason when arbitrary law seemed to be the order of the day as you might expect in the army. An understanding, indeed, a great deal of understanding, where hard tasks might have overwhelmed the raw recruits of the day and in fact even comforting hints when the arrogance of power was virtually the order of the day as well in those days. I will always recall one particular incident, even though it goes back a long time, when on parade at Buena Vista Barracks for virtually two hours in the heat of summer, one of the young Officers, and there were many of them in those days doing national service, came up and said to me, "Local, unpaid Lance Bombardier, what are the initials of His Excellency the Governor?". Well, under the stress of the sun for two hours I said, "Look, I do not know and what more I do not care". He said, "Well, you are on two charges, one for ignorance and one for insolence". The matter was referred to then Captain Peliza, who ironed out the situation and sent me off with a book to read and this is really quite characteristic of the man. He was very much a father figure to all of us there.

Whether as Chief Minister or whether as Speaker of the House I knew he always displayed these commendable traits of character which I would list as integrity, openness, friendliness and a keen sense of commitment and purpose as well as an enthusiastic love for his home and his people. Generally speaking, whether locally or globally, in the practice of politics one does not always enjoy a good reputation. It is occasionally branded with reproach and cynicism, so thinking of a provocative approach that characterises this cynicism there is a quotation from H L Mencken who once said, humorously but of course provocatively, and I quote, "Experience teaches us one thing. It teaches us this, that a good politician and a democracy is quite as unthinkable as an honest

burglar". Mr Speaker, I am usually accused of being provocative, which I rather enjoy, but I think in granting Bob the Freedom of the City this House is recognising not only his contribution to political life but those finer qualities of character that are an example of moral calibre in a politician which we can refresh our memory of, honesty, decency, modesty, integrity and long and unremitting effort for his people.

HON J J BOSSANO:

All I want to add, Mr Speaker, is that I am sure that the sentiments that have been expressed by the three of us that have spoken are shared not just by all of us in this House but by the vast majority of our fellow citizens and that the people of Gibraltar will be very pleased at the step we are taking today.

Question put. Passed unanimously.

PRIVATE MEMBERS' BILL

HON P C MONTEGRIFFO:

Mr Speaker, I move leave to introduce a Bill.

Question put. Agreed to.

HON P C MONTEGRIFFO:

Mr Speaker, I have the honour to move the suspension of Standing Order 38 in order to proceed with the first and second readings of the Bill.

I am not sure whether the House will appreciate an explanation at this stage of the background to the Bill before the House votes on the suspension. Mr Speaker, as my contribution to the second reading will demonstrate it is a pretty unique type of legislation to be brought to a legislature but not unique by any means by comparison to what has been undertaken in other legislatures, specifically in the case of the NatWest situation in the legislatures of the Isle of Man, Guernsey and Jersey.

The Bill will have the effect of transferring the business of NatWest Plc which is the UK Plc to NatWest Isle of Man which will establish a branch in Gibraltar and the reason that the business is being transferred is purely for restructuring purposes. The NatWest group, together with other groups, are in a constant course of reorganisation. The reorganisation of the Gibraltar operation is purely to bring the NatWest Gibraltar presence under the umbrella of its offshore operation rather than under the umbrella of its onshore UK

operation. Members might ask what has this got to do with the House? The reason for that which will be covered in my substantive contribution in the second reading, is that the logistics involved in transferring the accounts held by clients of NatWest Gibraltar to the new NatWest would be horrendous. There are roughly 10,000 account holders with mortgages, with security documentation, with loan accounts, etc, so the mechanism used quite often in these circumstances is actually to effect a transfer of the undertaking of a company lock, stock and barrel by legislative means from one entity to the other. Such measures are sometimes undertaken by a court of law. Indeed, in similar situations, for example, in the insurance world, where one insurance company takes over another there are often applications to a court so that instead of issuing new policies a court can indicate that the rights that one particular policy holder might have will now continue with the new company. Essentially, what we are doing and the reason for the legislation is purely to replicate what the other jurisdictions where NatWest have also restructured operations, have already done, namely pass legislation which will allow in one go for the business of NatWest to pass from where it currently is to its new offshore structure. Gibraltar will in fact be the last place that does this. The Isle of Man, Jersey and Guernsey have already passed this legislation and the reason I am seeking suspension of Standing Orders is that indeed as a Private Members' Bill the rules would require publication in the Gazette on two separate occasions before this matter is brought to the House. Mr Speaker, this is purely as a result of oversight and I am going to be quite candid with the House on that. The matter has not been dealt with on that basis but it is not as though, indeed, this is a last minute thought, it had been the intention of the Government to actually bring this Bill to the House in the December meeting and we deferred for January in order to give more time for last minute matters to be attended to but it is not as though it is anything other than an administrative oversight. It is actually now urgent and important for the business to be taken because the transfer of all the offshore business, Isle of Man, Jersey, Guernsey and Gibraltar was to have taken place by the beginning of this year and because of the delay now all the group is being held back before the Gibraltar part of the jigsaw can be put into place.

Mr Speaker, with the House's leave, I would seek that the Standing Orders be suspended and I will in my contribution in the second reading give more details of the background to these provisions and to what effectively is involved in the transfer of this undertaking. Let me add that not only is this legislation one that has been taken through other

legislatures but indeed it is likely that a second Bill of this type will be presented to the House in the course of 1998. It is by no means something which is unique to NatWest. It is something which is now becoming quite common in reorganisations of this type and it is likely that another international banking group in Gibraltar that is seeking to restructure its operations in terms similar to the ones that I have outlined for NatWest, will also be seeking the Government's support in the presentation of a Bill along the lines currently before the House.

HON J J BOSSANO:

Mr Speaker, I imagine the provision in the Standing Orders is more for the benefit of the public than for the benefit of the House, although without the suspension of Standing Order 38 the Standing Orders prevent the Bill going through a first reading because the Bill has not been published on two consecutive occasions in the Gazette. But I am afraid the reason why we need a Bill in the first place is not clear from the explanation that has been given because, presumably, every time a bank takes over another bank they have to do the same thing. We have had takeovers in Gibraltar before when Jyske Bank came in and bought Galliano they took over the business of Galliano with all its assets and all its liabilities and all its accounts. When BCCI bought the City Bank the same thing happened. The House did not have to pass legislation transferring the existing business from a previous owner to a new owner. To say that there is a lot of logistics involved because there are 10,000 accounts, well presumably any business that is bought over by another business involves that the new owner acquires all the commitments of the previous owner in relation to the customers. It may be that it is cheaper to do it this way than to do it any other way and that therefore what we are doing or what we are being asked to do and what is being done by other jurisdictions is simply that it is a more cost-effective way of bringing about the same result. But independent of looking at the merits of the Bill like any other Bill that is before the House, the principle, at this stage of having a transfer of ownership carried out by legislation is not one that I think has been previously done by this House of Assembly. I do not know whether it is common practice in other jurisdictions but certainly it is not something that I have ever come across in the time that I have been here and if it is going to happen in the future then I think we need frankly more of an explanation than has been provided simply by saying the logistics problem is very big. Certainly in our case there is an added dimension when we are talking about banking in that at the moment what we have in Gibraltar, as I understand it, is a UK

bank that has passported in, unless the NatWest entity in Gibraltar is not a branch..... it is a branch? Well if it is a branch then what we have is somebody operating on a UK licence under the terms of Community law. It will cease to be the branch of a Community bank and it will become the branch of a non-EEC bank. I think in looking at that particular dimension the operations in Jersey, Guernsey and the Isle of Man have been the competitors of Gibraltar after the same market, that is to say, the manager, presumably, in the Gibraltar operation had an interest in proving to his superiors in London that it was better getting businesses than the branch of the same bank after the same customers in Jersey or Guernsey. The new set up is one where Gibraltar will report to the Isle of Man and not to London, from what has been said so far. I do not know whether that is going to bring us more or less business but it is something to do really with the second part of the exercise which is actually the merits of the Bill itself in terms of what it does for Gibraltar. I think at this stage what we are saying is we certainly do not want to do anything or say anything that is going to be detrimental to the attractions of Gibraltar to people in the finance industry and therefore we do not want to send the message to NatWest and certainly we would not want to do anything if the choice was that either we do it this way or they close the branch down and make everybody redundant. If that was the choice then there is nothing more to be said on the matter but if it is not that black and white then why is it that there is a need to proceed in this way? Why is it that the ownership of the Gibraltar branch cannot be simply transferred like any other business being bought by a third party? Suppose there was a takeover of any of the banks that are here, we would not be expecting to be legislating to do the transfer through an Ordinance in the House of Assembly, surely?

MR SPEAKER:

I want to have clear, are you against the suspension?

HON J J BOSSANO:

No, no, I am in fact speaking in relation to the suspension because what I am saying is we are prepared to support the Government because we do not want to do anything to hinder the process and therefore we will vote in favour of the suspension so that the Bill can proceed but frankly, the degree to which the need to bring the Bill to the House has been explained which has been simply that the logistics of changing the ownership of a branch with 10,000 accounts, what is different between any other business in Gibraltar being bought by anybody else? Would that not normally simply happen commercially

without the need for legislation? What makes it different in this case?

Question put. Agreed to.

BILLS

FIRST AND SECOND READINGS

THE NATIONAL WESTMINSTER BANK PLC ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transfer the Gibraltar undertaking of National Westminster Bank Plc to NatWest Offshore Limited and for connected purposes be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, as I said a couple of minutes ago, the purpose of the Bill is to transfer the business of the Gibraltar Branch of the National Westminster Bank Plc to NatWest Offshore Limited which is incorporated in the Isle of Man, this is part of an overall restructuring of NatWest operations in the UK offshore territories in Europe, namely Jersey, Guernsey, Isle of Man and Gibraltar. Legislation similar to this Bill has been passed by the legislatures in all the other territories. The objective of the Bill is to enable NatWest to bring together its different offshore operations into a single grouping under which management and resources across jurisdictions can be combined under a single company structure with shared information technology and data processing as well as a single customer base for marketing purposes and common terms of conditions of employment for all staff.

Mr Speaker, NatWest first established its presence in Gibraltar in 1988 and this year celebrates its 10 years in Gibraltar. They currently have 50 staff in Gibraltar which makes it one of the largest banking institutions on the Rock. It currently has, I was mentioning a few minutes ago, 10,000 customers and the Branch provides services which are corporate, right through to personal etc. The restructuring will enable these services to be greatly expanded. The benefits, therefore, of the Gibraltar Branch coming under the new NatWest Offshore structure will include the following:

Firstly, customers in Gibraltar, and elsewhere, will benefit from an increased ability by NatWest to develop services specifically for local and expat markets, with better prices and benefits;

Secondly, NatWest anticipate this will be a positive opportunity for staff in Gibraltar with increased opportunities for staff to take on wider responsibilities and increase training as they move around the offshore units of the NatWest group and indeed it is expected that staff numbers will increase as a result of this move;

Thirdly, it is anticipated that the level of tax revenue to be generated by NatWest Offshore Limited for the Gibraltar Treasury will be the same and probably increased as the business grows as a result of these changes.

NatWest feels the creation of NatWest Offshore is a logical step that will allow NatWest in Gibraltar to benefit fully the benefit of its customers and staff. The Bill before the House, when passed, will allow NatWest to change its structure with the minimum of inconvenience to customers and will avoid the need to transfer accounts, credit agreements, securities and so forth. Dealing specifically then with this point in more detail, it is essentially the question of convenience and logistic ease which is at the heart of this Bill. There is no more magic to it. It may be a matter of judgement whether the legislature should be put out for one particular class of business more than any other. There are few businesses certainly that involve the transfer of this amount of individual accounts with the consequent costs and logistical headache but it is essentially nothing more and nothing less than legislation to avoid the otherwise extremely onerous task of changing mandates, changing bank documentation, indeed transferring the undertaking of the business in the way that would normally be required. Evidence of that is the fact also that the three other jurisdictions in question have been persuaded to pass this legislation. As I mentioned, Gibraltar is not trailblazing in this exercise, we are following what the Isle of Man, Jersey and Guernsey have done. All of those jurisdictions have passed this legislation which will therefore see their NatWest banks falling under and reporting to the Isle of Man Bank. A result which of course they are perfectly capable of achieving even if we chose not to pass this legislation, if indeed the bank was required to enter into purely commercial and contractual arrangements for the transfer of the business, the same result would ensue, the only thing that would happen, frankly is that whilst NatWest would be very happy with the legislatures

of Jersey, Guernsey and the Isle of Man, we would have some explaining to do in why Gibraltar sought not to also be of assistance to them in maintaining low costs in what is just a restructuring when the other three jurisdictions who are indeed our competitive jurisdictions in that sense had waved the legislation through. It certainly weighs on my mind that when Gibraltar is keen to protect its industry and to show itself to be helpful and prepared to accommodate reasonable changes especially changes that are indicated as being ones that will enhance the position of the bank in Gibraltar and give it a bigger offshore focus, it weighs on my mind that we should not be the odd man out basically saying no when the other jurisdictions have said yes. Costs I think is also the second point the Leader of the Opposition mentioned, is also an important feature. This provision will reduce significantly the cost to NatWest of an otherwise very onerous exercise and it is something which, as I say, another bank quite independently of this exercise, is also seeking the Government's consent and support of.

With regard to the regulatory issues I do not share personally the concern or the anxiety or the significance attached by the hon Member to the question that today we have a branch of a UK company and we shall shortly have a branch of an Isle of Man company. The Financial Services Commission have in fact already issued fresh licences to NatWest Offshore Limited, fresh licences both to the entity as a bank and to the entity as a financial services provider, for things like investment, dealing in brokerage, etc. Indeed in this transfer from branch of the UK to branch of the offshore structure there are those that would argue, and I argue this generally and not specifically in the context of NatWest, that it is often better for offshore clients, expat clients, to be housed under an entity which is not reportable to their domestic jurisdiction and I can say that certainly from my previous experience professionally, that used to be a consideration with some clients. The fact that there should not be a link on computer basis and on reporting lines back to domestic head office and the fact that they are now into head office offshore umbrella may have its advantages and may partly explain as well part of the reasoning for segregating the business away from UK domestic into offshore structure. I think I would concede that the legislation is an unusual piece of legislation. I am not aware of the Gibraltar legislature having passed a piece of legislation like this in the past but I am very aware and it has been confirmed to me that it is not untypical either in the case of NatWest or indeed in previous restructurings that other jurisdictions have undertaken and I therefore think in the circumstances that I have explained to the House it

is a reasonable use of this Legislature's time and a reasonable facility extended to a major banking group in the context of the facilities extended to it by the other offshore territories within Europe within which it operates for Gibraltar to accede to this request and for this House to support and pass this legislation. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

We will support the Bill but I am afraid that we have not heard any argument from the Minister which deals with the need for the House to do this other than it suits National Westminster to do it this way. The fact that Jersey, Guernsey, the Isle of Man or anybody else may choose to do it, I do not know what considerations or what debate there has been in those legislatures before this Bill was passed or whether it was passed in one afternoon or whether it was debated at length. At the end of the day the decision that we have to take we have to take on the basis of the arguments that are put here.

HON P C MONTEGRIFFO:

If the hon Member would give way, I want to make sure that he is not labouring under any misconception. There are no other reasons. The reason is that, and this is what Private Members' Bills are for, and the reason that the Government have sought to support it and to table the Bill is because the Government believes that the request is a reasonable one for the Government and for Gibraltar to support but the reason is principally and indeed entirely the convenience and logistical ease which this will give to the restructuring of NatWest's offshore structure. As I said, hon Members may take a view on the extent to which such measures should be supported legislatively. I would simply say that the view taken by the Gibraltar Government is identical to that taken by the equivalent legislatures and of the Governments of the other three centres in which the NatWest offshore group operates and it would seem to me not a good position to put Gibraltar in for us to be the ones that were refusing to cooperate in what is a very competitive and sensitive area.

HON J J BOSSANO:

Mr Speaker, the point of asking why the law is needed is because to simply say it is because of the logistic inconvenience and because there are 10,000 accounts does not explain anything as far as we are concerned. If we

were being told National Westminster Bank will not continue in Gibraltar unless we do it this way then as I said at the beginning there would be nothing to discuss because we want them to stay here. They employ 50 people and they generate employment and income. If it is a question that there is no other way of doing this because each one of the 10,000 account holders has to be individually asked then my question would be that it is very strange that when Banesto was taken over, when Galliano's Bank was taken over, when the City Bank was taken over, none of this seemed to be necessary. I am trying to establish, not because we are against it being done, I am trying to establish the reason why we are doing it given that it seems to me that it is not something that we have ever done before in this House. It may well be that in Jersey, Guernsey and the Isle of Man they have done it many times before and presumably the first time it was done, somebody questioned why it was being done and then it was not questioned subsequently, if they had done it many times before, but this is the first time we are doing it here. Since it is the first time, we have made clear from the beginning that we are not seeking to be difficult or obstructive or prevent anything that makes Gibraltar attractive to people in the Finance Centre or sends the wrong message to NatWest Bank, it is just that simply to say it is for logistical reasons, well, what does that mean? Does it mean that they have to get the consent of all their account holders? Is it not going to continue to be called NatWest Bank? Have we not had changes of bank ownership before? In Gibraltar there have been changes of ownership of banks and people have finished up with a new bank and to my knowledge and having been a customer for some of those banks, it did not require a major logistic exercise. I just found myself with a different provider of the same service the day after and nothing else changed, except that one cheque book was taken away and another cheque book appeared with a different name on it. If it is a question that doing it this way will save NatWest having to spend money on lawyers fees or whatever, then fine, we think we ought in this House to be reducing the legal costs of the uses of the finance service. That may be a very good idea particularly since some Members are no longer in the field and they probably feel less constrained that they might otherwise be, but if it is a sensible thing to do and we are going to be doing it more often then, frankly, maybe if we had been given the explanations the Minister thought we had been given, we might not be asking the question, we might have asked them directly of the people that have approached the Government but the truth is that this is the first opportunity we have to ask those questions.

HON CHIEF MINISTER:

Mr Speaker, I really do not see why the hon Member is being so dogged in his refusal to get his mind around us in this matter. It is true that there is not a great history of such legislation in Gibraltar but the same is not true in the United Kingdom where Private Members' Bills are constantly being taken to the House of Commons to regulate what are exclusively private interests and indeed even in Gibraltar we have an example of a Bill which was not a Private Members' Bill only because the Government decided to bring it to the House as Government business which is the Christian Brothers Property Ordinance which was passed by the House in order to cure a defect in the title of, curiously enough what is today NatWest house, that used to belong to the Christian Brothers and there was some strange defect which I now cannot remember what it was in the title and an Ordinance was passed in this House to cure that title and to correct that title so that the Christian Brothers could sell the building. The mechanism of using legislation in order to bring about some entirely private, sometimes commercial, sometimes not commercial interest is very common in the United Kingdom and the reason he asks why have not the others done it, I suppose the answer is that they were not advised by their lawyers that they could do this.

One of the reasons the hon Member has cited to, he cited the takeover of Galliano's Bank by Jyske Bank and the takeover of City Bank by BCCI, but in those cases it probably was not necessary because Jyske Bank did not come to Gibraltar and say, "I, Jyske Bank in England, or Jyske Bank in Denmark, will buy the business of Galliano's Bank". What they did is that they bought the share capital from the existing shareholders of a company called Galliano's Bank Gibraltar Limited and then changed the name of that company to Jyske Bank Gibraltar Limited so that in fact there was no change of legal entity, there was no business to transfer, there were no accounts to change, there were no security documents, because all there was was a buy out of shares followed by a change of name of the company and indeed I believe that the same thing happened when BCCI bought City Bank, they bought out the Gibraltar company and changed its name to BCCI Gibraltar Limited. These became subsidiaries so there was no change in the legal personality of the company involved but I think that whilst that is probably the reason, I do not speak from certain knowledge but whilst that was probably the reason why those two transactions were not structured in this way, the hon Member is absolutely correct when he says that others taking over, not buying a company, but taking over a branch could easily opt to proceed in this manner and of course I

accept something which is almost implicit in what the hon Member says and that is if the House of Assembly sets itself up as a sort of quickie legal lawyers office and through this we run the risk of having to do it for everybody that asks us or otherwise having to do it for some and not for others. I agree that that is a danger. On what basis do you agree to do it for one commercial entity and not for every commercial entity that subsequently asks and then points to this one as a precedent. But certainly the mechanism is not particularly strange in parliamentary usage in the United Kingdom and that it could have been used by others in the past but simply has not been, I think, is certainly true as is also true the fact that at the end of the day it is down to pure convenience. Either it is done this way or every mortgage has to be re-executed and the parties have to sign again and every bank mandate has to be signed again and every Letter of Instruction and every Direct Debt and every Standing Order and every Loan Agreement has to be resigned. It is either that which is simply expensive and inconvenient or this and therefore that is why the Minister said that at the end of the day there was no point in looking for any greater justification or explanation for this but that it is the quickest and cheapest way of achieving what they want to achieve and that the alternative involved a hell of a lot of management time, a hell of a lot of administrative effort and probably a lot of expense. It has to be borne in mind that there probably is a degree of loss of revenue to this for the Government given that some Stamp Duty would have been payable, for example on the transfer of Mortgage Security but at the end of the day the Government takes the view as the mover of the Bill has said that if we can provide a friendly facility to an important financial services organisation and there is not a particularly good reason to turn them down then I think it is in our interests to keep financial institutions like NatWest Gibraltar-friendly and I suppose it all boils down to that and there is no need to look any deeper for a reason other than that.

HON P C MONTEGRIFFO:

I have nothing further to add. Without being able to confirm the position either with BCCI or with Galliano's, certainly the distinction that the Chief Minister has made with regard to the position of that Branch and subsidiary would be a perfectly legally good distinction which will explain completely the differences in logistical costs involved in the acquisition of a subsidiary, where nothing changes other than a name, and the acquisition of a business or a branch, in this case it is in fact a UK branch, or a branch of a UK company which of course it would be impossible for the offshore

group to acquire. There is no way in which you can get round the problem by the acquisition of the head office of the branch.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

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

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the National Westminster Bank Plc Bill 1998, clause by clause.

Clauses 1 to 13 and the Long Title were agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the National Westminster Bank Plc Bill 1998, has been considered in Committee and agreed to without amendments. I now move that it be read a third time and passed.

Question put. Agreed to.

The Bill was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do not adjourn sine die.

Question put. Agreed to.

The adjournment of the House was taken at 6.35 pm on Monday 19th January, 1998.