

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

12<sup>TH</sup> NOVEMBER 1991

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Twelfth Meeting of the First Session of the Sixth House of Assembly held in the Assembly Chamber on Tuesday 12th November, 1991, at 10.30 am.

PRESENT:

Mr Speaker . . . . . (In the Chair)  
(The Hon Major R J Peliza OBE, ED)

GOVERNMENT:

The Hon J Bossano - Chief Minister  
The Hon J E Pilcher - Minister for GSL and Tourism  
The Hon J L Baldachino - Minister for Housing  
The Hon M A Feetham - Minister for Trade and Industry  
The Hon J C Perez - Minister for Government Services  
The Hon Miss M I Montegriffo - Minister for Medical Services and Sport  
The Hon R Mor - Minister for Labour and Social Security  
The Hon K W Harris QC - Attorney-General  
The Hon P J Brooke - Financial and Development Secretary

OPPOSITION:

The Hon A J Canepa - Leader of the Opposition  
The Hon G Mascarenhas  
The Hon M K Featherstone OBE  
The Hon Dr R G Valarino  
The Hon K B Anthony

The Hon P R Caruana  
The Hon Lt-Col E M Britto OBE, ED

ABSENT:

The Hon J L Moss - Minister for Education, Culture and Youth Affairs (away from Gibraltar)

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 26th March, 1991, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

I think for the record I would like to inform the House that the Hon and Gallant Colonel Britto is now taking the whip of the Social Democratic Party. I would also like to draw the attention of the House, if they have not noticed already, to the fact that we have a new public address system which I think is second to none in quality. I think the people who will most appreciate the new equipment will be the regulars who come to the Strangers Gallery who should now be able to enjoy, or otherwise, what happens in the House with great clarity. At the same time I would like to thank the employees of GibTel who carried out the installation so smoothly and efficiently. We hope that we shall not have, in the future, the interruptions that we used to have with the old system.

DOCUMENTS LAID

The Hon the Minister for GSL and Tourism laid on the table the following documents:

- (1) The Statistics (Hotel Occupancy Survey) (Amendment) Order, 1991.
- (2) The Tourist Survey Report, 1990.
- (3) The Hotel Occupancy Survey, 1990.

Ordered to lie.

The Hon the Minister for Trade and Industry laid on the table the following document:

The Registrar of Building Societies Annual Report.

Ordered to lie.

The Hon the Minister for Medical Services and Sport laid on the table the following document:

The Gibraltar Health Authority Accounts for the year ended 31 March, 1990.

Ordered to lie.

The Hon the Minister for Labour and Social Security laid on the table the following documents:

- (1) The Employment Survey Report - October, 1990.
- (2) The John Mackintosh Homes Accounts for the years 1987 and 1988.

Ordered to lie.

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

- (1) The Accounts of the Government of Gibraltar for the year ended 31<sup>st</sup> March, 1990, together with the Report of the Principal Auditor thereon.
- (2) The Financial Services (Licensing) Regulations, 1991.
- (3) The Financial Services (Fees) Regulations, 1991.
- (4) The Financial Services (Conduct of Business) Regulations, 1991.
- (5) The Financial Services (Advertisements) Regulations, 1991.
- (6) The Financial Services (Unsolicited Calls) Regulations, 1991.
- (7) The Financial Services (Accounting and Financial) Regulations, 1991.
- (8) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 13 of 1990/91).
- (9) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 4 of 1990/91).
- (10) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 1 of 1991/92).
- (11) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 2 of 1991/92).
- (12) Statement of Supplementary Estimates No. 1 of 1991/92.
- (13) Government of Gibraltar £50m 11 7/8% Loan Stock 2005 - Placing Agreement.

Ordered to lie.

#### ANSWERS TO QUESTIONS

The House recessed at 1.00 p.m.

The House resumed at 3.30 p.m.

Answers to Questions continued.

The House recessed at 5.20 p.m.

The House resumed at 5.40 p.m.

## BILLS

### FIRST AND SECOND READINGS

THE ARMS CONTROL AND DISARMAMENT (INSPECTIONS) ORDINANCE, 1991

HON CHIEF MINISTER:

Sir, I have the honour to move that a Bill for an Ordinance to facilitate the carrying out in Gibraltar of inspections under the Protocol on Inspection incorporated in the Treaty on Conventional Armed Forces in Europe signed in Paris on 19<sup>th</sup> November, 1990, be read a first time.

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

#### SECOND READING

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, let me first clarify that the Bill has nothing to do with the exocets to which I made reference in our differences with the Ministry of Defence nor does it mean that we are changing the Constitution in order to be responsible for our own defence. However, we had a choice given to us by the United Kingdom of having the provisions of this Protocol applied to Gibraltar by an Order in Council from the Privy Council or the bringing of the Bill to the House. In line with the view that we take that we should take increasing responsibility for our own affairs and have a clear say, symbolically if nothing else, I preferred to bring the Bill to the House although technically, in fact, it is part of the commitment of the United Kingdom to an international agreement as part of NATO's Disarmament Treaty with Eastern Europe where defence establishments in the Western part, like defence establishments in the Soviet Union and in the Eastern part, can be made the subject of inspection to ensure that international commitments on disarmament are being honoured. Therefore, to a very large extent, even though it is the Gibraltar Regiment that is now the Resident Army Unit in Gibraltar, it is still the United Kingdom both as a signatory of the Protocol in Paris a year ago and as the Constitutional authority in the 1968 Constitution with responsibility for defence in Gibraltar that actually is answerable internationally. It is not a question of us deciding whether we want to be in or we want to be out. We are in because we are part of the West and we are part of NATO. We are therefore committed to this process of disarmament even if that creates some economic problems for us in the process and therefore we have to support the view that it is right that the machinery should be there and the legal authority should be there for such inspection to take place. That, Mr Speaker, is really what the Bill is for. So really the only point of principle which I hope Members opposite will appreciate and agree with the Government is that we felt it was better that we should be doing it ourselves and voting it ourselves than that somebody should decide it in London and apply it in Gibraltar. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, we support the Bill and the manner in which the Government is proceeding with this matter. I think that it is to our credit that in less than a year of the Protocol on Inspection having been adopted in the Treaty in Paris we should be proceeding to enact the necessary legislation. I think that it is an indication of our commitment to Britain and to NATO that we should be doing what is required of us in this respect. We are very happy to see that because of Clause 18 we shall not be required to provide any helicopter at any inspection site. Perhaps the most, having regard to our size, and being less than twenty square kilometres in area, the most that we might be required to provide might be a bicycle or roller skates for the Inspection team. So we will be supporting the Bill and we commend the speed with which this matter has been proceeded with.

HON LT-COL E M BRITTO:

Mr Speaker, the Members on this side of this side of the House have no difficulty, in principle, in supporting this Bill. To a certain extent the discussion is academic for the reasons given by the Chief Minister but nevertheless we also agree with and commend the Chief Minister for the decision of bringing this Bill to the House as opposed to having it dictated from above, as it were. I therefore have no hesitation in saying that we will be voting in favour.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, I am grateful to the Leader of the Opposition and the Hon and Gallant Member, who may well understand more of the Bill than I do from his military experience, for the support that they have given me on this issue and for the fact that they understand why the issue of principle is one that, I think, will appeal to Gibraltarians. I will be moving an amendment at the Committee Stage which I will circulate today so that Members are aware. It is a minor thing but it is something that has partly worried people quite a lot in London. Although it was something that was quite inadvertent which is in Section 3(1)(b) the Bill as presently drafted provides that we can actually challenge an inspection within any area of Gibraltar where the challenge is authorised by the Governor and that, in fact, would not be a declaration of UDI by me, it would be a declaration of UDI by His Excellency because it would mean that in our

legislation we would be giving His Excellency the Governor the right to overrule the Secretary of State for Defence who might find he had authorised somebody to come to Gibraltar and then find him challenged by the Governor when he got here. So this has been pointed out to us and although obviously it was never the intention that that should be the case we are going to be deleting "Authorised by the Governor" and substituting in its place the word "granted" and leaving it to the imagination as to who will do the granting. We hope to take the Committee Stage, of course, tomorrow because it is important, as the Hon Leader of the Opposition has pointed out, that we are seen to be complying with such international requirements as quickly as possible and there is really no point in delaying it to the later part of the House.

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

HON CHIEF MINISTER:

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

This was agreed to.

THE ENDANGERED SPECIES (AMENDMENT) ORDINANCE, 1991

HON CHIEF MINISTER:

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

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

SECOND READING

HON CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, Members will see that, in fact, the explanatory memorandum of the Bill makes it self evident why we are introducing this amendmnet and that this is to permit in the species where we have already prohibited trade in keeping with our international obligations, the exception to the general rule where the purpose of the importation or the exportation of an identified specimen of an endangered species is intended for scientific purpose. This was something that we had not thought of when we brought the original Bill to the House, which is now law. It had been brought to our attention subsequently and we received representations from the professionals in this area and therefore it is clear that, of course, the exportation or importation of a particular specimen or an endangered species can be an important part of the international fight to conserve the species and if you cannot move them from anywhere

to anywhere you may be actually defeating the whole purpose of the original protective legislation preventing exports and imports of animals which are intended clearly to stop them being traded and becoming extinct because people are selling them at a profit. There is no more to it than that. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON K B ANTHONY:

Mr Speaker, the Official Opposition have no difficulty in supporting this Bill. We accept fully the Hon Chief Minister's reasoning that this was an oversight when the original Bill was brought before this House. There is only one point I would like to raise. Scientific study to me is a scientist or one of the professional zoologists that we have. Would this Bill also extend to our schools where perhaps our 'A' level students might want specimens brought in for their studies? I am not sure whether this is so and perhaps the Hon Chief Minister can confirm or deny this when he exercises his right of reply. Apart from that we do fully support this Bill, Mr Speaker.

HON LT-COL E M BRITTO:

Mr Speaker, the Social Democrats will be supporting the Bill.

MR SPEAKER:

If there are no other contributors I will ask the Mover to reply.

HON CHIEF MINISTER:

Mr Speaker, taking the point that the Hon Mr Anthony raised, the position is, of course, that the Bill leaves it to the discretion of the Collector of Customs to satisfy himself that it is bona fide. I am sure that if the request came via the Education Department officially then there will be no problems. I am sure that point would be covered.

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

HON CHIEF MINISTER:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the adjourned meeting of the House.

THE LANDLORD AND TENANT (AMENDMENT) ORDINANCE, 1991

HON J L BALDACHINO:

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

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

SECOND READING

HON J L BALDACHINO:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, the object of the Bill is to make the Landlord and Tenant Ordinance practical in the present circumstances. It makes provision for recognising that there are unfortunate families in circumstances which may result in the tenant of protected premises ceasing to live in the premises and where, society in general, recognises that it is equitable to transfer the right to occupy these premises to the families left behind. The kind of circumstances that it is likely to cover are, for example, hospitalisation on a more or less permanent basis, desertion of the family, permanent separation between spouses and, most regrettably, long-term imprisonment. The Bill, Mr Speaker, increases the role of the Rent Assessor in dealing with the property which would not previously have come within the Ordinance but by virtue of the amendment which allows property becoming forty-five years of age to fall within the Ordinance, the Rent Assessor has the role in determining a statutory rent and are therefore within the need to introduce the fee making provision. Until these amendments, the Landlord and Tenant Ordinance was static. It did not bring within its provision ageing property, it took a pre and post-war position and it now makes provision for the property to fall within its ambit as it becomes forty-five years of age. Equally it recognises that it would not be appropriate and necessary to apply to that property or to renovate that property, the rent calculation method contained in the Ordinance and therefore introduce in the proposed Section 11(a) a mechanism for determining the statutory rent in relation to such property to ensure that the interest of the landlord and tenant are fairly taken into account by the Rent Assessor. An earlier omission in the Landlord and Tenant Ordinance did not allow the provision of the Ordinance to be applied where property had to be demolished in part, and I remember this well, Mr Speaker, because it happened when I was in the Opposition where a building had to be demolished and therefore the family was found to be homeless due to an Order being given by the Environmental Health Department because it was negligence on the part of the landlord. The Ordinance, Mr Speaker, also makes provision for dealing with the position where a tenant had to be moved out in order that a building would be renovated. It did not protect, as I said before, the tenants, where demolition was the only solution. The new subsection 11 to be added to Section 18 of the Ordinance would deal with this situation. The Bill adds two new Schedules to the Ordinance, the first of these dealing with the tenant's liability, which we also think is important, Mr Speaker, to repairs and spelling out the items for which the tenant is responsible as the Ordinance was silent before and which he is required to maintain during the tenancy. Schedule



7, which it is proposed to add to the Ordinance, lists the furniture which a landlord is required to provide as a minimum level when the property is let furnished. Members, Mr Speaker, will see that the bulk of the Bill is concerned with residential property. The only amendment to that part of the Ordinance dealing with commercial property is Section 38 which is an amendment designed to ensure that the Ordinance can be applied as was intended and that there is no difficulty resulting from an unreal distinction as to where a business is being carried on even though the premises are being used. The remaining provisions of the Bill deals with fines and refers to the now common practice of the standard scale of fines provided for in the Criminal Procedure Ordinance. An opportunity has been taken at the same time to update the fines to a more realistic level than the Ordinance currently provided for. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON M K FEATHERSTONE:

Mr Speaker, we in the Official Opposition are fully in favour of this Bill. There is a lot of sense on the question of a tenant who departs from the dwellinghouse and that his family should be protected in special circumstances that have been stated of where a person being a long time in prison, he may even be deported, or the case where there is divorce. We are pleased to see that property over forty-five years of age is going to be protected at all times and this will be an ongoing thing. We agree that when property becomes controlled under this Section the rent of the dwellinghouse should be worked out by the Rent Assessor. We are also in favour of the fact that the landlord should have to give suitable alternative accommodation where the property is being demolished by a Court Order. We are pleased to see in the Schedule the amount of furniture that has to be provided and that a refrigerator is included. This is a very good thing indeed. We fully support the Bill.

HON K B ANTHONY:

Mr Speaker, I of course fully support the Bill like my colleague. A couple of minor points that I feel I must mention. The term "prescribed reason" we have heard a number of reasons mentioned like imprisonment, divorce, deportation but I think that these should be specified because "prescribed reason" is a very vague term and it may mean something legally but to me as a layman I do not know what it covers. The section on the furniture to be provided, Schedule 7, I would like to see a couple of minor changes to this Schedule. It specifies that any room let as a bedroom should have one dressing table or a chest of drawers. I feel this is discriminating slightly between the sexes, very few men want a dressing table, so I would like to see "one dressing

table and chest of drawers" rather than "or". That applies also in any room let as a sitting room which says "two armchairs or one settee", I would like to see "and one settee". What happens if you have a visitor, do they sit on the floor or on the dining room table? In a room let as a kitchen it says "one electric cooker". This is like a piece of elastic, an electric cooker can be anything from a one ring to a four ring with an eye level grill. I think there should be a minimum standard rather than just a single term "an electric cooker". I think there should be a minimum of possibly two rings. I am not an expert on cookery but I think that this is a little bit vague and I am not suggesting that any landlord will take advantage of this Bill but I would like to remove the risk to avoid anybody being caught by a microscopic electric cooker which complies with this Bill. But apart from these small points I, of course, fully support this Bill, Mr Speaker.

HON P R CARUANA:

Mr Speaker, we support the Bill and in resonance to what the Hon Member has said we cannot think of a good reason, perhaps the Minister in his reply will be able to explain, why the very good reasons that the Minister has mentioned cannot be stated in the Ordinance and why the Government wishes to reserve the right to prescribe reasons under the amendment to Section 3 dealing to the modes of vacation of the property before the family get protection. That is basic to the Ordinance, it is fundamental to the regime that the Ordinance establishes and we think that the Bill would be substantially improved if the reasons were set out in the Ordinance, if for no other reason so that both landlord and tenant know with certainty what those reasons are and that they are not subject to be chopped and changed by Regulation from one Thursday to the next in one Gazette to the other. We have a concern, Mr Speaker, in relation to the proposed amendment to Section 10 which makes every property which is forty-five years old automatically subject to the Ordinance. That would have as an effect really the discontinuance of the purchase of property in Gibraltar by way of investment for rent because the investor, and it may be that such persons do not exist, but the investor would know for certain that with the passage of time that property would definitely become controlled and, indeed, there are "modern" blocks of private dwellings in Gibraltar which approach the age of forty-five years much sooner than some people might think. I wonder whether the Government has given any thought to the possible impact that this provision might have on the construction of property for rental rather than for outright sale and whether the Minister would consider that to be detrimental to the renewal of housing stock in Gibraltar and the basis of private capital in the future. There is, as a matter of principle, Mr Speaker, and it is the last point that I make on the question of the principles of the bill, is that it seems paradoxical that in dealing with certain imbalances that might have been perceived to exist in the regime of the Landlord and Tenant Ordinance, the Government has not had the political courage to go the whole way and reform the whole regime

in matters that balances out for both the benefit of the landlord and tenant. For example, it will not have escaped the Hon Minister's attention that whilst the obligations on the landlord are what the law says they are and that the cost of complying with those obligations rises by the incidence of inflation from year to year, no political party in Gibraltar for the last six years has had the political courage to increase the level of statutory rents. What that leaves is the landlord with a legal obligation that is imposed and enforced against him by the Environmental Health to carry out works and there is no compensatory increase in the level of rents that he can charge. It is also paradoxical, Mr Speaker, that in relation to Elliott's Battery the latest set of residential accommodation that the Government is going to give out, it has not assumed the same burden that it imposes on private landlords so that whilst private landlords, if the Government by this Ordinance generally and not this amendment to the Ordinance, the whole regime of the Landlord and Tenant Ordinance, in my opinion quite rightly imposes on the landlord the obligation for structural repairs, it is paradoxical and something that the Government will have to explain, why it has not assumed the same level of burden in relation to Elliott's Battery where some of the expenses which fall on the landlord in private accommodation will fall on the management company in the case of Elliott's Battery. Subject to that, Mr Speaker, and subject to the preference that we would have had to reform the whole regime of the Landlord and Tenant Ordinance to deal with all the imbalances that exist, in principle, we support the Bill.

MR SPEAKER:

If no other Hon Member wishes to speak I will ask the Mover to reply.

HON J L BALDACHINO:

Mr Speaker, I will not say that what the Hon Member has just said is a load of rubbish because it is not totally rubbish. He has a point to a certain extent but he seems to forget one Section of the Landlord and Tenant Ordinance and that is Section 15. I can tell the Hon Member that the way to get out of what is the prescribed rent that should be charged on pre-war dwellings is under Section 15 and I can tell him, Mr Speaker, that what private landlords are charging on pre-war houses are about three times more than what the rent would be in Elliott's Battery. There is nothing stopping any private landlord entering into a self-repairing lease with any tenant.

HON P R CARUANA:

If the Hon Minister will give way. The simple reason is that you cannot change the terms of a tenancy once the tenancy is there so if I have a tenant in my building who has been there for twenty years I cannot change the terms of the lease and I have the burdens that are imposed on me by law.

HON J L BALDACHINO:

Neither is the Government doing it with sitting tenants, Mr Speaker. We have invited applications and I can tell the Hon Member that we have received 425 applications so any private landlord can do exactly the same. I also think that we have been fairer with this amendment than what existed before in the Landlord and Tenant Ordinance because we have not, Mr Speaker, said that property that is now forty-five years old will now have a rent that is the provision of the Landlord and Tenant Ordinance. What we have said that the rent will be determined, and it will be a fair rent, by the Rent Assessor and therefore it will be beneficial to both the tenant and the landlord. There is some reason, up to a certain point, where it is unfair to other landlords who had the misfortune that when the Select Committee of the House was set up to discuss the Landlord and Tenant Ordinance - and you must remember, Mr Speaker, because you were a Member of the Opposition at that time - when we had amendments to the amendments to the amendments to the amendments, after a report from a Select Committee of the House of Assembly that they now find that their property was protected and because other property that did not fall in that category built before 1940, forty-five years old, they were not protected. Therefore I think it is also fair that property and there is a relationship not to pre-war or post-war, because let us hope there is not another war then otherwise those that, are post-war today will be pre-war after the start of the war! Therefore I think that it is only fair that we put a life on the building and therefore the building should be forty-five years and I think that we are doing a fair thing, Mr Speaker, because we are protecting tenants who live in property after forty-five years and I do not think it will stop investment because any landlord will get his investment before the forty-five years are up without any protection. Therefore the argument of the Hon Member, Mr Speaker, was not whether the tenant should be protected or not, his argument was based on the rent level that private landlords are able to charge to their tenants and therefore that also safeguards, and I presume, Mr Speaker, that he is in agreement that there should be a certain amount of protection to the tenant and not that the landlord has the right to give some six months notice and then they have to find somewhere else to live something which happens today. That is what we are doing, Mr Speaker, and with those amendments we are making it fairer than what it was before.

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

HON J L BALDACHINO:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the adjourned meeting of the House.

MR SPEAKER:

At this point I think that it is appropriate that we should adjourn until tomorrow afternoon at three o'clock.

The House recessed at 7.10 pm.

WEDNESDAY THE 13TH NOVEMBER, 1991

The House resumed at 3.00 pm.

At this point in the proceedings the Hon J L Moss joined the meeting.

MR SPEAKER:

Before we continue with the business of the House, I would like to make the following observation. Yesterday during supplementary questioning on Question No 100 of 1991, the point was made as to whether headings 6 and 7 of the Report of the Select Committee on the Declaration of Members' Interests applied to Ministerial visits or Official visits by Members of the House. The interpretation and practice in the past has always been that they did not apply to such visits. As a result of this, I asked the Clerk, who is the Registrar of Members' Interests in Gibraltar, to clarify the matter and he has spoken to the Registrar of Members' Interests in the House of Commons from where our nine headings are derived and it has been confirmed that the interpretation in the United Kingdom is that this does not apply to Ministerial visits or to any other type of Official visit undertaken by Members of the House of Commons.

SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) so that the Minister for Education, Culture and Youth Affairs may answer Question Nos. 55 to 62.

This was agreed to.

THE EMPLOYMENT (AMENDMENT) (NO.2) ORDINANCE 1991

HON R MOR:

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

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

SECOND READING

HON R MOR:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, there are three objectives

proposed by this Bill which cover several sections of the Employment Ordinance. The first objective which the Bill sets out to achieve is to update fines for offences committed and to relate these fines to the Standard Scale on fines under the Criminal Procedure Ordinance. If I may just remind the House, Mr Speaker, the levels mentioned in the Bill relate to Level 1 - £100, Level 2 - £200, Level 3 - £500, Level 4 - £2,000 and Level 5 - £5,000. The second objective of the Bill is to amend Section 86 of the Employment Ordinance to extend the powers of the Governor to make regulations to give effect to obligations resulting from International Treaties and that may result in any laws passed by the European Economic Community which may be in conflict with or different to our own laws in the Employment Ordinance, and thereby make provision for the repeal or modification of any part of the Employment Board where this situation arises. The third objective of the Bill, Mr Speaker, is to extend to Crown employment the provision of the Employment Ordinance dealing with the rights to equal treatment. As the law stands the provisions of Section 52(a) to 52(g), which deal with the rights to equal treatment, are not included in Section 89. Section 89 refers to the provisions covering crown employment and the object of the Bill therefore to extend the rights to equal treatment for crown employment. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, certainly we will be voting in favour of the Bill. My only doubt was as to part three in the Explanatory Memorandum where it says "to apply to Crown employment the provisions of the Ordinance dealing with the right equal treatment". However the Honourable Minister has clearly defined what that means. In fact, the Honourable the Leader of the Opposition is just going to recheck but I am sure that that will be alright as far as we are concerned.

HON A J CANEPA:

Mr Speaker, will the Minister confirm when he exercises his right to reply that there must have been an oversight because I imagine that it was always the intention that Section 52(a) and 52(g) should apply to the Crown and that that was not done by an oversight or is it that it was not an oversight and that it was a deliberate act of policy and now a different decision has been taken.

HON CHIEF MINISTER:

Mr Speaker, when it was brought to our attention we could not find any reasons on record as to why it had been originally omitted and therefore it is quite possible that it was overlooked. I remember that in the original Employment



Ordinance there were some Sections that applied to the Crown and some did not. For example, things like unfair dismissal or the right to join Trade Unions, those were specifically applied to the Crown. There is, of course, an underline concept which in practical terms is not relevant but there is this underline concept that in the Employment of the Crown people have no rights and that, in fact, the law cannot bind the Crown and the Crown can terminate at pleasure peoples' employment. But, of course, it has always been held that in practice the Government cannot very well require other employers to keep certain standards without observing it itself, whether the law says that it applies to the Crown or not. So we are introducing it at this stage really because it has been brought to our attention that it is specifically left out and there seems to be no conviction for leaving it out. But, in practice, we would expect it to be observed in accordance with the spirit of the law whether it applied to the Crown or not until now. So it is not that we are expecting a major change taking place as a result of this law.

HON P R CARUANA:

Mr Speaker, as the Members opposite now know from my voting pattern at the last sitting of the House, the Party that I lead would prefer that the scale of charges attached in the Schedule of the Criminal Procedure Ordinance were itself subject to change by primary legislation as opposed to subsidiary legislation. I am reluctant to continue to vote against legislation simply because it contains a further step in introducing references to scale rather than to fines. I therefore put on record that my failure to vote against the particular Ordinance that includes this device is not an abandonment of that principle and that whilst I support, in principle, the Government tidying up legislation by referring to fines on the basis of a point in scale rather than a sum of money the scales themselves should be changed by primary legislation and not by regulation. It is also our preference that primary legislation be used whenever possible and that whilst there is Constitutional Authority in the United Kingdom for giving to the Government, by regulation, the power to amend or repeal Ordinances, there are instances of it in the United Kingdom, probably the most famous one is in the Factories Act of 1961 but they are rare and exceptional and are not ordinary of the legislative process. The Government appears to have the stated policy of legislating by regulation whenever possible and that is not something that we would seek to encourage from this end of this side of the House. Insofar as it affects the implementation of European Community obligations, then, as the Learned Attorney pointed out yesterday, Section 4 of the European Community Ordinance already gives the Governor the power to make regulation in that respect. The proposed amendment in Section 86 of course goes further because it refers to International Treaties and not just to EEC legislation. Our concern about the terms of Section 86, and this is a point of principle to which I refer, is that the method of complying with an EEC provision of law

is not itself a scientific fact, it is not itself a science in the sense that the European law may impose a series of requirements but how that is translated into legislation is a matter which we would prefer to have done by this House on the basis of a Bill drawn up by the Government in the usual way. We have no objection, in principle, with the substantive content of the Bill but we do have those two objections, in principle, to the resort to regulation for the doing it. Subject to that on the principles of the Bill, the substance of the Bill, we support but we will abstain on the vote for the reasons that I have indicated.

MR SPEAKER:

If there are no other speakers, I will call on the mover to reply.

HON R MOR:

Mr Speaker, there is really nothing much to say, other than to thank the majority of the Opposition to supporting it and for the minority of the Opposition to support the idea behind it but on a technicality that they will abstain on the Bill.

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

The Bill was read a second time.

HON R MOR:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the adjourned meeting of the House.

THE PENSIONS (AMENDMENT) ORDINANCE, 1991

HON ATTORNEY-GENERAL:

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

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, in addressing the House on the general principles of this Bill, I think, that there is very little I need add to what is contained in the Explanatory Memorandum in view particularly of the short length of the Bill. I hope that Members on both sides can appreciate that Clause 2, in fact, seeks to amend the fourth paragraph of the proviso of Section 10 and it is the words which follow the first reference to the word Ordinance in the second line of that paragraph which are to be deleted and not merely the words which follow the second reference to the word "Ordinance" within that paragraph. I appreciate, Sir, that Clause 2 of the Bill does not specifically say that. I have seen a necessity at the moment to indicate my intention to raise an amendment at the Committee Stage to the Bill but I did feel for the assistance of Members that I should draw attention to precisely what the Bill intends. As Members will be aware Section 10 of the Ordinance deals with the reduction or abatement which must be made to an Officer's Pension where he is in receipt of certain other benefits. Paragraph 4 of the proviso that at present provides that no reduction shall be made in respect of any benefit or part thereof which is payable under the Social Security Insurance Ordinance and this of course refers to what is commonly called the Old Age Pension. However, the exception from such reduction is at present limited and I quote "to the extent that it is attributable to a contribution made by the Government under that Ordinance in respect of employment in the Public Service by the Officer on or after the 1st day of April 1980." It is those words, Mr Speaker, which the Bill seeks to remove. Thus an occupational pension will no longer be reduced or abated in any way when the Officer concerned begins to receive his or her Old Age Pension. I understand that the abatement has been nominal in any event and that we are talking about a figure of only £2 per annum for each year that the Government has contributed its share as an employer of the contribution towards the Social Insurance Fund from its inception on 3rd October 1955 to 31st March 1980. The latter date is the date as from when the then Council of Ministers agreed that the abatement should be discontinued in respect of service beyond that date. Mr Speaker, Government has considered to what extent, if at all, the amendment this Bill proposes will result in disparity of treatment to those pensioners who

previously worked for the United Kingdom Government and I am happy to be able to confirm that the Foreign and Commonwealth Office to whom enquiries have been made that there is no objection whatsoever to this Bill being proceeded with. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON DR R G VALARINO:

Sir, we welcome the Bill and we will be voting in favour. We are grateful for the explanation given and I am sure that a fair amount of people will be happy with the fact that they will be receiving an extra little bit of money as a result of this amendment.

HON A J CANEPA:

Mr Speaker, this morning downstairs I was buttonholed by an old gentleman who asked me "when are you going to remove the provision whereby I have £4 deducted from my Old Age Pension because of my former employers contribution to the Social Insurance Scheme?". So I said to him this afternoon and he was very much taken aback since he thought that I was joking. I of course took the Bill out of my briefcase and showed him that that was precisely what we were going to do. The whole question of abatement has been a matter that vexed me no end during the years when I was Minister for Labour and Social Security. I used to get constant representations from old people and what was very annoying was the fact that everytime that one brought legislation to the House increasing benefits payable under the Social Insurance Ordinance, everytime that we increased the Old Age Pension the abatement of the Government Pension of Ministry of Defence Pension was greater, so obviously we took the decision in 1980 of no more abatement. I honestly thought that we had done away with it altogether, but apparently what we did in 1980 it is clear that we froze it. We said for service after 1980 there will be no more abatement. No doubt we must have been advised that such abatement as there was prior to April 1980 must have been a small sum of money which has become increasingly a smaller proportion of the actual pension. I was however honestly under the impression, Mr Speaker, that we had done away with abatement altogether. That it was a retroactive piece of legislation and, of course, it is clear from reading the Pensions Ordinance that that was not the case. I imagine that in the same way as I was buttonholed this morning, the Government must have received representations recently from affected parties and has responded positively in the way that anyone, in the words, I think, of Mr Feetham yesterday, "with a social conscience" would have done. I am very glad to see that what we left undone the present Government is doing. I therefore support the Bill wholeheartedly.

HON LT-COL E M BRITTO:

Mr Speaker, once again the support is unanimous on this side of the House. We welcome the Bill for the reasons that have already been explained so I will not go into detail. The only other minor point which I would like to put to the Learned the Attorney-General is that in fact his concern about which Ordinance is not really relevant because the comma only appears after the first time the word Ordinance appears and not after the second time.

MR SPEAKER:

If there are no other contributors I will ask the mover to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, it is very gratifying to me that in the period, slightly in excess of two years that I have had the privilege to be a Member of this House and it has been my duty and pleasure to propose a number of Bills, I do not think, that in any occasion any of the Bills that I have presented have been voted against by the Members who sit opposite to me. I particularly pleased therefore to, for the moment at least, retain my 100% record. I am grateful to all Members of the Opposition for their support. It is well known that the Honourable Leader of the Opposition and myself have crossed swords in the past but that was a long time ago and we have been friends for a long time since then and I am particularly grateful for his kind words and his support for this Bill. Thank you Mr Speaker.

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

HON ATTORNEY-GENERAL:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the adjourned meeting of the House.

THE INCOME TAX (AMENDMENT) (NO.2) ORDINANCE, 1991

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. Over the last year or so the legislative

programme of the EEC has began to focus much more than hitherto on taxation issues. This has been less on the forefrontal assault towards tax harmonisation which some in the 1980s were advocating, instead measures implemented or in the pipeline have concentrated much more on removing very specific blocks arising from the differing tax systems around Europe that discourage towards integrated markets and cross-borders business. Recent examples of measures taken by the EEC to remove such blocks have dealt with removing withholding on cross-border dividend and interest flows and initiating a common system of treatment for offsetting losses within cross-border company structures. These measures and others in the pipeline will make cross-border company structures much more attractive than previously. Whether this process constitutes an opportunity to our Financial Services Industry depends on our ability to stay ahead of the evolving process, with the legislation that both meets our European obligations and which is a suitable springboard for product development. Our ability to succeed in these changing circumstances would derive in no small measure from anticipation of the opportunity that change itself represents. By demonstrating an early and ready response in our legislation we will create an environment attractive to modern international businessmen who are also having to adapt to succeed. Furthermore by the nature of our response the Government does believe that the Gibraltar Finance Centre can contribute to the process of change that the EEC is trying to bring about and which will place Gibraltar firmly in the middle of market intergration. Accordinally the purpose of this Bill is to extend the Governor's powers to make rules contained in Section 98 of the Income Tax Ordinance to provide for such roles to implement in Gibraltar the legislation of the EEC insofar as it has an impact on the Income Tax Ordinance. This is achieved by the addition of the proposed conditionality (b) to the rule making power. The power contained in conditionality (a) repeats an existing power within the Ordinance. The rules will of course be subject to Gazetting in the normal way. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Can we have some explanation, Mr Speaker, as to whether the EEC legislation that is being referred to is of a binding nature? Does it have to be implemented by EEC Member States or is there discretion as to whether there is a choice as to whether it has to be proceeded with or not? If it is binding then I suppose that we would have no real objections to it being implemented by regulation. But if it is discretionary, we would prefer that legislation be brought to the House, primary legislation or amending legislation to the Income Tax Ordinance be introduced in the House,

that would also additionally give us an opportunity to comment on the proposed legislation. So at this juncture subject to what we may hear from Members opposite our inclination would not be to vote in favour. We would probably abstain.

HON P R CARUANA:

Mr Speaker, as far as concerns the Gibraltar Social Democrats, this Bill is either unnecessary or undesirable. If it is unnecessary, it is unnecessary because Section 4 of the European Community's Ordinance already gives the Governor the power to do everything that this Bill intends to achieve. It is undesirable really for the reasons that I have already said in relation to the previous Bill and I do not want to carry on repeating myself everytime the opportunity arises and that is that in relation to the implementation into Gibraltar Law of Community Law requirements, and I accept what appears to be the policy of the Government, that Gibraltar should implement EEC law obligations but the manner of implementation of that law ought to be brought to the House for debate and for discussion and that really we do not support any major changes to the law books of Gibraltar to be achieved by regulation if it can be avoided. For that reason and again subject to anything that the Chief Minister may say when he has finished reading the book that he now has in his hands, we will probably abstain.

HON CHIEF MINISTER:

Mr Speaker, when we are talking about the application of Community legislation to Gibraltar, let me remind the House that effectively there are two instruments, one is a Community Regulation which effectively requires no action at all on our part, either by way of primary legislation or by way of regulation, other than the possible repeal of Gibraltar law where the regulation is in conflict with EC Law because the regulation effectively states that it is immediately applicable in all the territories of all the Member States without further action by those States. This is why, for example, in the areas like the Air Liberalisation process, we have the peculiar situation that you have primary Community legislation, I do not know what the Honourable Member thinks of that as an example of Parliamentary practice, but here you have primary legislation which says "this legislation applies in all the territories of all the Member States except Gibraltar where it is suspended". If we had a law in Gibraltar which was in conflict with the 1991 EEC Regulation on Air Traffic, our law would de facto have to have been repealed. So this is about giving effect, in Gibraltar, to Community Directives and therefore what it requires is an adaptation of our system in order to bring it into line with UK. It is a matter of policy on the part of the Government that we should do this by Regulation as far as possible for a variety of reasons. One of which is, as has been already indicated by the Financial and Development Secretary, that we feel that the flexibility that that gives us provides us with a competitive edge over other people and that those Regulations which can be tailored and produced, taking very much into account the advice of the professionals in the business, much quicker than they can be produced by anybody else anywhere else. The Hon Member is right

to say we could simply use the powers under the European Community's Ordinance which was passed in this House in 1972 and came into effect in January 1973 on accession, but we feel that rather than use that blanket power we should, in fact, introduce specific provisions in specific Ordinances and we have already done this in some other areas. In fact, the power to make the Regulation is already in Section 98. Therefore what we are saying is that at the moment in Section 98 we have a situation where the Governor may make rules for carrying out a number of different matters in connection with the provisions of this Ordinance and there is now going to be a Subsection (2) of Section 98 so, in fact, what we are doing is retaining the power in Section 1 but extending the occasions on which it may be used and it may be used, not only, to give effect to the provisions of the primary Legislation of Gibraltar but also to give effect to the provisions of the primary Legislation of the Community obviously in a way that makes one compatible with the other. However, in terms of the principle of being able to make rules, the principle, is already there and has been there all the time but we may from time to time make rules generally for carrying out the provisions of this Ordinance and for anything which under the provisions of this Ordinance is required or permitted to be prescribed. It is that rule making power by the Governor that we are saying we wish to make use of to give effect to EEC obligations in Gibraltar. In the particular case that we are looking at at the moment, which is a case which has been giving us some concern for some time over the last twelve months, is, in fact, something which may or may not give us a headache when we come to test it in the Market. I am sure that the Member may know about it professionally. It is an area that we want to put to the test as quickly as possible because a lot of investment decisions are pending, awaiting this and it goes to the very root, in fact, of our membership of the Community. We have a very clear legal opinion from our own Chambers and from the Foreign and Commonwealth Office that from 1993 a company elsewhere in the Community that has a subsidiary operating in Gibraltar has to be treated under Community law in a certain way. It is a requirement by the Community on the creation of the Single Market. It is a requirement which has been designed in order to remove obstacles to the Single Market in the provision of services and in the free movement of capital and that requirement we are clearly told we are obliged to put into effect and if we did not do it we could be challenged for failure to do it in terms of money earned in Gibraltar and sent to a parent somewhere else. We are going to go ahead and do this because we are told we are required to do it and because we want to demonstrate our willingness to very quickly move into line with Community requirements. Therefore we hope that that will mean that we can ensure that there are no problems created when the flow of money is in the other direction, that is to say, money earned by Companies elsewhere in the European Community which are owned by parents in Gibraltar. It will be obviously completely unacceptable if we had a situation where we are being prevented from taxing dividends payments from Gibraltar to anyone of the twelve Member States

and yet anyone of the twelve Member States, not to mention one in particular, would be able to continue to tax payments made to Gibraltarians or to Gibraltar registered Companies. That is the most immediate test that we have in front of us and it is the first use we intend to make of this but we are sure that there are going to be others in the future. Quite frankly, not to put too fine a point on it, it is another facet of the problems that we face in asserting our position in the European Community similar to the one that we are facing in connection with the External Frontiers Convention. We have it very clear that this requirement has been there since 1973 and has always applied to us but we are supposed to behave in a certain way and we are supposed to be treating other people with investments in Gibraltar in a particular way and we intend to do it. However the other side of that coin is that other people are supposed to treat Gibraltar based investors in a non-discriminatory fashion. I do not want to spell the thing out in more detail than that and if Members would like to get any further information from me on what is at stake here I am quite happy to provide it but that is the context in which this has been produced and the reason why we want to proceed with it immediately and give it effect.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The only thing that I will add, Mr Speaker, to what the Hon Chief Minister has just said, is in response to the question on whether these Directives generally speaking are binding or discretionary. The ones that we have seen so far have tended to be binding by their nature although typically they do allow discretion in terms of the time-scale on which they are implemented. They tend to give a couple of years for implementation to be phased in. I think, that really emphasises the point that I was making that it is important to us to be able to anticipate that discretion by implementing these measures as quickly as possible and certainly we will do so.

HON P R CARUANA:

If the Honourable Member will give way before he sits down. Mr Speaker, although I have said already several times today that we as a Party are not in agreement with the Government's policy.

MR SPEAKER:

May I draw attention to the speaker that he cannot introduce any new matter. He may ask questions on any matter that he is not clear on but he cannot introduce at this stage any new matter.

HON P R CARUANA:

Very well Mr Speaker. What I was going to say I could say at a later opportunity.

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

The Hon J L Baldachino  
The Hon J Bossano  
The Hon Lt-Col E M Britto  
The Hon P Caruana  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J e Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon Dr R G Valarino

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the adjourned meeting of the House.

THE SUPPLEMENTARY APPROPRIATION (1991/92) ORDINANCE, 1991

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, 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 with the 31st day of March, 1992, be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The Bill is supported by a more detailed statement previously tabled by me in accordance with established practice I will not make any speech on the general principles of the Bill but merely commend it to the House.

MR SPEAKER:

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



HON P R CARUANA:

Yes, Mr Speaker. It seems that at least the part of the Supplementary Appropriation relating to Housing is described as being for the eight hundred units. That presumably will be explained at Committee Stage and perhaps the Government would also explain why the need for this money, the accelerated need for this money, in such a short period of time.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Simply to confirm, Mr Speaker, the points that have been raised will be dealt with at Committee Stage.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Arms Control and Disarmament (Inspections) Bill, 1991 and the Supplementary Appropriation (1991/92) Bill, 1991.

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

THE ARMS CONTROL AND DISARMAMENT (INSPECTIONS) BILL, 1991

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

Clause 3

HON CHIEF MINISTER:

Mr Chairman, I beg to move that this should be amended by deleting in Subclause (1) (b) the words "authorised by the Governor" and inserting the word "granted". As I explained during the Second Reading of the Bill the situation is that when we introduced that in the Bill initially and we sent it of to the United Kingdom for the perusal, it was not in order to create a situation where His Excellency the

Governor would be given the powers to overrule the Secretary of State for Defence. Their view is that theoretically there would appear to be what we are doing and therefore they have asked us to remove it so that potential conflict is not created. Therefore the word "granted" is neutral because it does not say who is going to be doing the granting.

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

The Schedule was agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1991/92) BILL, 1991

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

The Schedule

HON A J CANEPA:

Can we have an explanation from the Government how the programme, the substantial housing programme, is going? The eight hundred units, the £11.4m is required in this Financial Year?

HON CHIEF MINISTER:

Mr Chairman, the Honourable the Leader of the Opposition will remember that in 1988 and in 1989 my Colleague explained that when we were being asked in fact about the breakdown of the composition of the five hundred units it was explained in the House that the Government had taken an option on Westside 2 because we felt that before committing ourselves to a new construction programme we wanted to be sure that all the property that had been available for home-ownership was going to be sold. It would not have made sense to have had a situation where the market of home-ownership was exhausted and we were building additional units and those units remained unsold. When in fact the position was reached that the level of sales was tapering off and it looked as if that option might effectively be exercised in meeting our own commitment to finance five hundred units we took the policy decision of introducing as a further impetus to home-ownership the provision of co-ownership. We would finance, as a Government, 50% of the unit and the private owner-occupier would finance the other 50%. The effect of that has been to bring the cost of financing the property forward for us because, of course, if we are financing one hundred houses over eighteen months you do it over eighteen months, but if you are financing instead half of two hundred houses then you do it in nine months because you are doing it in the first nine months of the two lots of one hundred houses. We have therefore had to put more of the money upfront because effectively out of the eight hundred units

we have five hundred and eighty units in the 100% Government owned new project which is going on slightly ahead of schedule but that is not the main reason for the additional funds being required in this Financial Year. We have found that the take up of the 50%-50% option has been greater and therefore has put a burden on us, both in terms of the numbers for units that are going to be financed in the current year and also in terms of the stage at which the property is nearing completion. So it really means that in practical terms when we are talking about the eight hundred units we will finish up with the situation where the Government will probably own something like say six hundred and fifty units 100% and within two years maybe another three to four hundred units 50%. Taking us really over the eight hundred total but in practice in the current Financial Year we will effectively be financing a bigger share of the total estimated cost of the eight hundred units than we thought would have to be the case when we put the figures together at the beginning of the year. This was before we had tested the demand for the 50%-50%. In actual practice what my Minister tells me is that there has been unsatisfied demand and that if there had been more property available more would have been sold. I am not sure how we would have managed to find the money but that is another problem. That is one for the Financial Secretary to worry about not the Minister for Housing!

MR CHAIRMAN:

Before we continue with the Committee Stage of the Bill I should point out to the House that I overlooked the fact that this Bill has been taken today and I should have asked permission from the House whether the House agree that we should take it on the same day. Does the House agree?

HON P R CARUANA:

Mr Speaker, of course the House agrees and I would not have made the point except that yesterday when I fell foul through inexperience of the rules of the House I was deprived of the opportunity to give twenty-four hours notice of a motion on the adjournment. If I had taken this point today, of course, I would be in time by 5 o'clock tomorrow to give my twenty-four hours notice on the adjournment motion because it is now 4.30 pm.

HON A J CANEPA:

Mr Chairman, may I just point out that in Item 17 there seems to be a conflict between the remarks and the actual Item. It is not clear whether it is Lady Grundy or the Honourable Lady opposite who are to have the overhaul. Mr Chairman, further down Item 34 Purchase and Refurbishment of Port Launches and the next Item really is the same question. These are both new Items which the Government is coming to the House for new expenditure. I can understand in the case of GBC that the Minister did not seek this provision when the Estimates were presented because perhaps he was not ready. There were negotiations going on at the

time and therefore he may not have been ready. I can understand that. However in the case of the Port Launches can the Government explain why it is that half way through, or well after, the beginning of the Financial Year they have decided to purchase a new launch for the Port.

HON M A FEETHAM:

It is very simple, Mr Chairman. An opportunity arose during the course of the Financial Year for a launch to be bought through the local market, second hand, from one of the agents which was acceptable to us and, of course, that made quite a substantial saving against buying a new one in the UK. As a result it gives us an opportunity to refurbish the one that we are actually using at the moment.

HON J C PEREZ:

Mr Chairman, the Honourable the Leader of the Opposition is quite right in saying that at the time of the Budget the question of GBC was not resolved and the question of the decoders had not been agreed. What I would like to inform the House, which I did yesterday, is that the Financial and Development Secretary will most probably have to come with a new Supplementary provision for GBC in terms of equipment for GBC itself which is unrelated to the decoders and for possibly a loan to a new Company which will be dealing with the production part of GBC.

HON A J CANEPA:

Mr Chairman, is the Minister or the Financial Secretary able to say to what extent the decoders are resulting in increased revenue? Are people up the Coast purchasing decoders?

HON J C PEREZ:

Mr Chairman, my information is that without having marketed the decoders properly up the Coast we have sold over a hundred already. The intention is to have a strong marketing drive up the Coast and there will be GBC personnel visiting each hotel up the Coast offering the decoders. It is envisaged that at least something like five hundred extra decoders could be sold up the Costa del Sol if we are successful. They would need to order more decoders if the demand were there because the cost of the decoders included in this Supplementary provision are for the ones being used in Gibraltar. These have been given to subscribers free of charge because we have to have an encrypted signal for the purposes of the BBC Governors agreement to receive BBC programmes in Gibraltar.

HON A J CANEPA:

I have a question, Mr Chairman, on the last Item - the Incinerator. The construction the treated water pipeline. What is it that has lead to this requirement being necessary now?

HON J C PEREZ:

Mr Chairman, it was overlooked at the time of the Budget that because we were having the commercialisation by Lyonnaise Des Eaux and they were the recipients of the water from the Incinerator Plant and we had an agreement with the Incinerator, that the Government would be providing the pipeline between the Incinerator and the Reservoir. It was overlooked at the time of the Budget. The arrangements that have been entered into with Lyonnaise is that we do the work ourselves because the price put forward by the Contractor was twice as much. This is for the pipeline that goes from the water being desalinated by the Incinerator Plant to the Reservoirs of the Gibraltar Government.

HON M K FEATHERSTONE:

Does this include the cost of any pumping that is necessary?

HON J C PEREZ:

No, the cost of pumping is the responsibility of the Incinerator Plant. They run the pumps.

The Schedule was agreed to and stood part of the Bill.

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

#### THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Arms Control and Disarmament (Inspections) Bill 1991, with amendment, and The Supplementary Appropriation (1991/92) Bill, 1991, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

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

ADJOURNMENT

HON CHIEF MINISTER:

Sir, I have the honour to move that this House do now adjourn to Wednesday the 4th December, 1991, at 10.30 am.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Wednesday the 4th December, 1991, at 10.30 am.

The adjournment of the House to Wednesday the 4th December, 1991, at 10.30 am was taken at 5.00 pm on Wednesday the 13th November, 1991.

WEDNESDAY THE 4TH DECEMBER, 1991

The House resumed at 10.40 am.

PRESENT:

Mr Speaker  
(The Hon Major R J Peliza OBE, ED)

GOVERNMENT:

The Hon J Bossano - Chief Minister  
The Hon J E Pilcher - Minister for GSL and Tourism  
The Hon J L Baldachino - Minister for Housing  
The Hon M A Feetham - Minister for Trade and Industry  
The Hon J C Perez - Minister for Government Services  
The Hon Miss M I Montegriffo - Minister for Medical Services and Sport  
The Hon R Mor - Minister for Labour and Social Security  
The Hon J L Moss - Minister for Education, Culture and Youth Affairs  
The Hon K W Harris - Attorney-General  
The Hon P J Brooke - Financial and Development Secretary

OPPOSITION:

The Hon A J Canepa - Leader of the Opposition  
The Hon G Mascarenhas  
The Hon M K Featherstone OBE  
The Hon Dr R G Valarino  
The Hon K B Anthony

The Hon P R Caruana  
The Hon Lt-Col E M Britto OBE, ED

IN ATTENDANCE:

C M Coom Esq - Clerk of the House of Assembly

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

- (1) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.14 of 1990/91).
- (2) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.15 of 1990/91).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.3 of 1991/92).

- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.4 of 1991/92).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No.5 of 1991/92).
- (6) Statement of Supplementary Estimates No.2 of 1991/92.

Ordered to lie.

### BILLS

#### FIRST AND SECOND READINGS

THE COMPANIES (AMENDMENT) ORDINANCE, 1991

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. There are Mr Speaker, two main purposes of this Bill. Firstly, it seeks to give effect to our obligations to implement requirements of two important EEC Directives relating to the control of Companies and their activities. Secondly, it proposes the introduction of a number of measures to streamline and make more effective our procedures to Company Legislation. The measures relating to EEC Directives have already been the result of extensive consultation with the Finance Centre Institute. Indeed the measures have been prepared with the assistance of a number of our local professionals. Nevertheless the changes proposed are extensive and as such of potential significance that I intend to merely present the Bill to the House today, but hold back its subsequent stages to allow time for that consideration and consultation to be broadened. In this light I will confine myself in my presentation to describing the principles of the Bill and some of the background proposals contained therein. We will deal first with the EEC related measures. I have emphasised in presenting earlier Company related matters to the House, that it is important, if we are to be able to claim the benefits of the intergrated European Commercial Market, that our Companies formed here in Gibraltar should be seen and be demonstrably Euro Companies in every sense. They must be seen to meet the regulatory standards that the EEC sets and therefore be capable of taking part in cross-border formation and structuring within Europe. If I can just dwell on the history of this legislation for

a moment. There have been a number of false starts in tackling our obligations in this respect and whenever there was an attempt to make progress we became somewhat bogged down and we were given assistance by the United Kingdom by providing a Law Draftsman experienced in Company Legislation. Much work was done towards a major reshaping of our Company Legislation which after all remains to this day largely based on the 1929 United Kingdom Legislation. While I was not personally part of the efforts at the time, my understanding is that there was a general dissatisfaction with the material produced as perhaps being too heavy handed and not entirely appropriate to the special circumstances of a Finance Centre such as ourselves. Then, in 1990, the position was again reviewed in the light of the need to make progress and the United Kingdom's Department of Trade and Industry seconded to us Mr John Warman with a view to recommending a practical way forward. The conclusion of that study was that our existing Ordinance albeit being based on old outdated United Kingdom Legislation, nevertheless remained perfectly valid as a starting point of adaptation. It was suggested that this was a more practical way forward in view of the resources that would be necessary to sustain the production of a totally new Ordinance. The Report by Mr Warman therefore, recommended a procedure for carrying out such an adaptation and proposed a logical sequence for tackling these requirements for individual EEC Directives. It was in this light that work began with examining the requirements of the Second and Fourth Company Directives and these were identified as forming the basis for implementing most of the subsequent Directives that draw largely on their provisions. In doing so we could of course have drawn on the powers approved by the House earlier this year to enable EEC compliance to be implemented by way of Regulations. But once again once it began it quickly became apparent that because these two particular Directives are so similar in their effect that the provisions really needed to be integrated very closely with existing primary Legislation. It is for this reason that the measures are being brought forward as amendments to the primary Ordinance. In general terms, the Second Company Directive deals with safeguards for those with an equity interest in a Company or who otherwise deal with the Company. As such, certain of these provisions are more pertinent to the type of Company which has a potentially unlimited number of members and where the shares interest are capable of being freely traded. It is proposed therefore, as in the United Kingdom, to distinguish between such Companies which in future will be known as Public Limited Companies and Private Companies for which both membership and share transfers will remain as at present restricted. The Fourth Company Directive deals with the preparation and provisions of financial information about all Companies and the requirements as to audit. As such, it leaves a certain amount of discretion to Member States concerning their treatment to different sized Companies to which I will refer later. If I can just draw out for Members the principle provisions of this Bill that derive from the Second Company Directive. Clause 4 defines the minimum capital requirement for the Public Limited Company

as being £20,000, which is set by the relevant EEC Directive. Obviously, a private company will remain and continue to have a lower capital or make it to have a lower capital. Restrictions are based on a plc as to the minimum to which its shares must be paid up which is set in Clause 23 as 25%. The extent to which it can distribute profits, which is defined in Clause 47, its ability to reduce capital and the procedures to be followed, is in Clause 23 and a variety of protections and requirements in relation to acceptance for the purchase of shares are arrangements that involve other than cash, which are set out again in Clause 23. All of these provisions by their nature are relevant to a situation in which there are a large number of share interests which may be constantly changing. Amongst the most important measures that affect all Companies including measures to provide protection where a Company trades before its registration is complete, provision in Clause 18. The protection of existing shareholders where a new issue of shares is proposed is in Clause 23. All Companies are also required to take specific action including consulting their Members where losses seriously diminish shareholders funds. This is provided for in Clause 26. As the Fourth Company Directive, the new accounting and reporting provisions to reflect EEC requirements are largely contained in Clauses 41 and 42 together with the Schedules 14 to 18. Clause 44 reflects the requirements of the EEC that certain accounting information be filed with the Registry, although the House will notice from the definition of the small company, which itself reflects EEC requirements and which is contained in Schedule 13 but the vast majority of Companies registered in Gibraltar will fall within this definition of a small company. They will therefore be eligible to include in their returns the considerably truncated material set out in Clause 44 and Schedules 15 and 18, which amounts to a short form of balance sheet and relevant notes. Indeed provision is made that even this may not be required when a Company is not trading as defined in Clause 44. There has inevitably been some considerable focus during consultation on the potential sensitivity of the filing of accounting information. Whilst views inevitably differ, I think, that there is a general understanding that maximum use is being made of the flexibility permitted by the Directives and the filing of the truncated level should really be no burden to the quality of business that Gibraltar is seeking to attract. Furthermore any additional accounting work and therefore cost attached to the accounting requirements is very largely offset by the flexibility permitted under the Directives where we seek to make use in Clause 45 to remove the audit requirements in specified circumstances. This may be a considerably rationalisation, for example, where a Company perhaps holds a single asset and has a single Member and where the requirements to hold an audit inspection is of less relevance. A number of transitional arrangements are contained in respect of the implementation of all these EEC Directives related measures, perhaps the most important of which is the provision that the new accounting requirements will only relate to accounts ending in a period after December 1992. This will give time for accounting

procedures to be adjusted. Further work will also be necessary to amend some of the existing Schedules to the Ordinance to reflect all the previously mentioned measures. This can be done under delegated powers. Turning now to the various streamlining of measures with regards to the work of registering companies, I am sure that all Honourable Members will agree that the provision of unaffected registration process is important to the image and development of our Finance Centre. Some of the measures in the Bill are merely tidying but the more significant that I will like to draw to your attention including Clause 4 of the Bill, the Enabling of Objects Clauses in Memorandum of Association, to permit the Company to do many things for which it has legal capacity, this reflects current United Kingdom practice and avoids the lengthy statements in Memoranda of all encompassing objects which currently takes place to the same end. Clause 36 provides streamlining of the filing procedure and Clause 53 enables a less cumbersome procedure for removing from the Register, Companies that are defunct. Clauses 54 and 56 deal with the form in which material may be supplied to the Registrar are available for access to the public and will permit, for example, a greater reliance on microfilmed or computerised material and methods of transmission. Those then, Mr Speaker, are the main provisions of this Ordinance and some background to their purpose. One final matter that I would like to refer to is that it may be appropriate at some stage to return to the possibility of entirely replacing the Companies Ordinance with a new Consolidating Ordinance. We can continue to adapt on our existing Ordinance in the light of advise and because the need to make progress is recognised. However we are likely to get to the point eventually where a complete consolidation becomes appropriate. What we must all acknowledge however is that this is a task not to be likely undertaken, not least because of the very extensive upheaval, loss of continuity and need for transitional arrangements that will be involved. Nevertheless it is a possibility that is being given parallel consideration in conjunction with the Finance Centre Institute and will be kept in view as the process of adaptation to existing essential obligations continues. One final point I would like to make in regards to the Bill is that there are a number of typing and printing errors in the Bill and although I will not obviously be moving them today, I will nevertheless circulate them to all Members for their subsequent consideration. With that Sir I commend the Bill to the House.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, in very general terms we are grateful to the Honourable the Financial and Development Secretary for explaining the main provisions of the Bill. He has also explained the background and the history indeed of this



Bill. In the past, certainly when we were in Office, Mr Speaker, it was not exactly an easy task to comply with the huge amount of legislation coming from Brussels. For many many years the Chambers of the Attorney-General were under-staffed, not because there was no adequate provision in the Establishment, but because recruiting for such posts was not an easy task. In any case the kind of expertise that was required in order to draft this and other complicated EEC Legislation just was not there hence the reason why the British Government decided to give us some assistance. At the time it was also felt, as the Financial and Development Secretary has intimated, that perhaps a general review and a new Companies Ordinance should be the first priority before we followed on with the giving legal effect to the Second and to the Fourth EEC Directives. We are not going to go into a lot of detail at this stage, Mr Speaker, though my Honourable Friend Mr Featherstone is going to draw attention to one or two points that have struck us. There will be an opportunity, no doubt, before we go into Committee to have a closer look at the detailed provisions of the Bill and comment accordingly. I am glad to see that there has been extensive consultation particularly with the experts in the Finance Sector and that therefore this Bill broadly speaking meets with their concurrence. It is tactically a good thing that the Bill should come to the House now and that we should comply as much as possible with EEC Directives and Legislation, particularly in a situation where, in political terms, Spain is questioning our Membership of the EEC and therefore if for that reason alone we would support the Bill. But generally, we think that this is a good piece of Legislation, it is following what is required in 1991, not only to comply with the EEC Directives, but to streamline the Companies Ordinance in line with procedures that have been adopted in the UK. So we have no difficulty, Mr Speaker, in voting in favour of this Bill.

HON M K FEATHERSTONE:

Mr Speaker, as my Honourable Colleague has said we support this Bill because we support the application of EEC Directives to Gibraltar. We must however go into this Bill with our eyes open because it does have one feature which is completely new to our way of life and that is that all Companies, be they public or private, large or small, will have to deliver their balance sheets to the Registrar. These will therefore be open to a search by anybody who wishes to see such balance sheets etc, and it is to be hoped that the search fee for such an opportunity will be set sufficiently high to prevent frivolous application of this facility. One very interesting feature in the Bill, is Clause 19, in which a Companies capacity is not limited by its Memorandum. This is a very good thing. In the past we have had Companies which have branched into other lines and have been told "this is not included in your Memorandum" and considerable difficulty has been introduced therefor. So we support this very much indeed. As I say, Mr Speaker, the Bill has a number of technical features which does streamline the whole facility of

Companies Ordinance and we are sure that this is going to be something which will redound to the improvement of the Companies Legislation as we have it in Gibraltar. Thank you Sir.

HON P R CARUANA:

Mr Speaker, we on this end of this side of the House support in principle the Bill for the reasons that have already been stated. We think that it is correct and proper that Gibraltar should be seen to be complying with its obligations under Community Directives especially in an area of Community Directives which is so important to the question of Gibraltar participating in the Single European Market. In principle, therefore, Mr Speaker, we shall be supporting this Bill at this stage. We have only had the Bill for one week and it is a highly complicated complex and lengthy piece of legislation which deserves detailed and careful study. We therefore in expressing our support, in principle, for the Bill fully reserve the right to express views as to the detail at later stages of the Legislative process. Finally, Mr Speaker, I am gratified to hear the reference that the Honourable the Financial and Development Secretary has made to the possibility of a new Consolidated Companies Ordinance. I think that that is now called for and, I think, that it will be well worth the administration's effort and I understand that it would be a great effort, but I think it will be effort well spent in producing a Consolidated Ordinance for, not only the internal users of the Finance Centre, but indeed for potential external users of the Finance Centre who seek access to our Corporate Law and presently has to be given to them in a very hamfisted fashion. The GSD Members will therefore be voting in favour of the Bill at this stage.

MR SPEAKER:

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I simply wish to express thanks for the support of Honourable Members opposite for the principles of this Bill and to note that consideration will obviously be given in detail to the substance of the Bill before Committee Stage and in particular I note the point about the search fee and we will certainly bear this in mind.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at the next Meeting of the House.

THE SUPPLEMENTARY APPROPRIATION (1991/92) (NO.2) ORDINANCE 1991

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, 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 with the 31st day of March 1992 be read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be now read a second time. The Bill is supported by a more detailed statement previously tabled by me and as the purpose of the Bill is clear and well known to Members I will not make any speech on the general principles. However as is customary, detailed questions on individual proposals for the supplementation contained within the Bill will be responded to at the Committee Stage. The only point that I would add, Mr Speaker, is to point out that we have already had a Supplementary Appropriation Bill before the House on the 12th November. It was originally intended to include these proposals in that Bill but since further investigations were being carried out at the time they were left pending for clarification. Nevertheless the Minister for Government Services did point out to the House the likelihood of further Capital of Expenditure in relation to the support required for GBC which is one of the items in question. With that, Sir, I commend the Bill to the House.

MR SPEAKER:

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

There being no debate Mr Speaker then put the question which was resolved in the affirmative and the Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

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

by clause: The Endangered Species (Amendment) Bill, 1991; The Landlord and Tenant (Amendment) Bill, 1991; The Employment (Amendment) (No.2) Bill, 1991; The Pensions (Amendment) Bill, 1991; The Income Tax (Amendment)(No.2) Bill, 1991; and The Supplementary Appropriation (1991/92) (No.2) Bill, 1991.

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

THE ENDANGERED SPECIES (AMENDMENT) BILL, 1991

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 LANDLORD AND TENANT (AMENDMENT) BILL, 1991

HON P R CARUANA:

Mr Chairman, the Hon the Minister for Housing has recently announced outside this House Government's intention to set up a Committee of involved and interested parties to advise the Government on matters arising from the operation of the Landlord and Tenant Ordinance. It seems to us, in those circumstances, that this Bill is premature and should be withdrawn insofar as it attends to the proposals that would presumably emanate from that Committee once it has met and deliberated. It seems that this Bill contains the proposals of one of the points that is to be represented on that Committee and if only for the purposes of even-handedness, the Government ought to consider withdrawing this Bill until such time as it is in a position to produce to this House a Bill to Government's liking but which at least has awaited the results of the Committee that Government itself has convened. For those reasons, Mr Chairman, and if Government does not agree to withdraw the Bill until that time, it will be our intention to abstain on all sections of the proposed Bill.

HON CHIEF MINISTER:

Mr Chairman, we will not withdraw the Bill. Let me say that the decision of the Minister for Housing to invite people with an interest in the relationship between the landlord and tenant to get together and try and see if they are able of reconciling their conflicting interests and putting proposals to the Government which the Government will then decide, if we are the Government or if the Hon Member is the Government, when that happens, it could be a very long time before they are able to reconcile their differences. The Government of the day, we feel, would ultimately have to decide whether those recommendations, once prepared, will be supported politically. Clearly recommendations which involve an input from landlords and an input from people representing tenants are more likely to be ones which are not controversial. The setting up of the Committee is not and will not be an excuse for doing nothing, which is, I think, what the Honourable Member

is asking us to accept. Let me tell the Honourable Member that when I was sitting in the place he now is at the moment, in 1980, the Government of the day brought in legislation to control the rents of properties built in 1980. This controls the rent of property built in 1946, hardly a draconian measure. When landlords organised themselves in order to have that removed from this House it had got to the same stage that this one has. The Committee Stage was not taken because the Government of the day accepted the kind of proposal that the Hon Member is putting, that instead of proceeding with the Bill there should be a Committee to come up with comprehensive legislation. That Committee was a Select Committee of this House involving Members of the Opposition and Members of the Government except myself because I refused to have any part in it. Now that Committee deliberated for many many years and produced nothing which would satisfy all concerned. So, although the Hon Member may, in good faith, have thought that he was coming up with a new idea and may know nothing about the background of the Landlord and Tenant Ordinance, if he cares to do a little bit of research he will find that the proposal that he is putting is a recipe for refusing to face the necessity of tackling a totally unsatisfactory situation. We have only tackled half the problem and we recognise that. We have done it because we gave a commitment in 1988 that we would do it within our four year term and we are honouring that commitment and we have done it in a way which we think is least onerous for property owners because we are talking about a situation where already in 1990, property built in 1945, was 45 years old and therefore rent-controlled. What we are saying is in 1991, the property built in 1946, if there is any, will be subject, not to rent-control as such as the Minister for Housing has already explained but to the assessment of a fair rent. This is a fair measure which goes a very small way to protect tenants of post-war properties. Much more is required. At the same time something is required to protect the owners of pre-war property who might be getting a very poor return on their investment. That is what that Advisory Committee hopefully will be able to advise the Minister of Housing what he ought to do. It is a very difficult thing to try and produce something that will keep both sides happy. This measure is the minimum that should be done and we are not prepared to withdraw it because we think it is overdue and justified.

HON P R CARUANA:

Mr Chairman, it is increasingly the style of the Honourable the Chief Minister to suggest or to suppose that only he is knowledgeable about matters of political history of this community or even legal history. Let me assure him that, at least in my professional capacity, I am intimately familiar with the provisions and history of the Landlord and Tenant Ordinance and its contents and indeed the history of the previous Select Committee of this House that dealt with the latest recommendations. But, Mr Chairman, the fact remains that the Committee that the Honourable the Minister for Housing is now proposing is not being

recommended by the Opposition to try and pull the wool over the Government's eyes, as the Hon Chief Minister has suggested has happened before. This is a Committee proposed and suggested by the Government itself. They, who have spent the last four years lecturing the community about the uselessness of Committees, in which matters simply get buried and lost, they are the ones that now towards the end of their term of Office suggests a Committee. I put it to them as a means of simply killing the issue until after the forthcoming General Election. But the fact remains and that the Honourable the Chief Minister has limited his intervention to commenting on the respective rights of the landlord and of the tenant. And what I said was not addressed to that at all. The Honourable the Chief Minister makes a mistake if he thinks that the point that I was making was in defence of the interest of one party or the other. All that I say is that if the Government, as it appears to have done, has decided that this is a matter in which it cannot exercise its usual stringent style of Government by it deciding what is good for the community and here is a subject on which it has at last decided that it needs the advice of the Committee, then it seems reasonable that it should allow that Committee to deal with the whole area and not only that part of the matter which may be politically unpalatable to the Government, mainly the defence of the landlord's rights which is politically unpalatable whereas the defence of the tenant's rights is not. This is why the latter is alright for them to decide and to bring to the House in the form of a Bill but the latter is best left to be perhaps decided by others and not by the Government themselves. All I say is that if this Committee that the Honourable the Minister for Housing has himself convened, not prompted by anybody on this side of the House, he has decided it all by himself to convene it, it seems only fair that those people should be able to discuss the whole issue and not just that part of the issue that the Honourable Members opposite do not wish to tackle themselves.

HON CHIEF MINISTER:

Mr Chairman, the Honourable Member opposite, I am glad to say has confirmed that everything that I have said with regard to its history is true because he says he is familiar with it and has not disputed the sequence of events that I have given. Therefore the position is that we are not asking anybody in any Committee to give us their views or their advice on whether this should be legislated or not because this is Party policy. We went to an election in 1988, and we committed ourselves in 1988 that within our term of Office we would take some action to do something which had been promised to tenants in 1980. We are doing it in 1991. Eleven years overdue. Independent of that fact, if there are other things that can be done which can be done with the support of representatives of landlords and tenants then we will look at the possibility of doing that at some time in the future but not because we are saying this is what we want to do but because we are giving people an opportunity and the Honourable Member is totally wrong in thinking that this is a unique feature, because,

in fact, we have just had a situation where the House has voted on an amendment to the Companies Ordinance and much of what is in that Companies Ordinance is the result of the advice given to the Financial and Development Secretary by a group of people who are professionals in the areas of Company Law. So this is nothing different from what we are doing with this Committee. A Committee outside the House, a Committee of people within the community who have knowledge of this, and we do this constantly, Mr Chairman. But the position on this particular law is that this represents the policy of the Party and if the Honourable Member thinks that means that the GSLP is biased towards tenants, then I can only suppose that as a corollary of that, they are not supporting it because they are biased in favour of landlords.

HON P R CARUANA:

The corollary is not a correct one, Mr Chairman.

Clauses 1 to 3

On a vote being taken the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

Clauses 1 to 3 stood part of the Bill.

Clause 4

HON J L BALDACHINO:

Mr Chairman, I gave notice on the 28 November, that I would be amending Clause 4 as follows: "That Clause 4 should be amended by omitting all the words and figures after the expression "Section 5 of the Principal Ordinance is amended", and substituting therefor the following:

(a) The words "as follows" and a colon immediately after the words "as amended"; (b) The insertion of the figure "(1)" immediately after the figure "(5)"; (c) The addition of the following new subsection: "(2) The Governor may, by regulation, prescribe fees to be charged, by whom such fees shall be payable, and to whom they shall be paid in respect of any of the several matters which, by virtue of the provisions of this Ordinance may be referred to the Rent Assessor."

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

Clause 4, as amended, stood part of the Bill.

Clauses 5 to 22

On a vote being taken the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

Clauses 5 to 22 stood part of the Bill.

Schedule 6

On a vote being taken the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

Schedule 6 stood part of the Bill.

Schedule 7

HON J L BALDACHINO:

Mr Chairman, as I have already given notice, I would like to amend Schedule 7 of the Bill. It is to incorporate the proposals made by the Opposition spokesman for Housing and therefore I amend the Schedule as follows: (a) In paragraph (a)(3) omit the word "or" and substitute therefor the word "and"; (b) In paragraph (a)(5) insert after the word "armchair" the words "(provided that where the accommodation is let to two persons, there shall be two armchairs); (c) In paragraph (b)(3) omit the word "or" and substitute therefor the word "and"; (d) In paragraph (c)(1) insert after the word "cooker" the words ("Which shall consist of at least two cooking plates and one oven"); (e) By adding in the paragraph (c) a new subparagraph (7) as follows: "(7) One washing machine".

HON K B ANTHONY:

Mr Chairman, I would like to say how grateful I am to the Government for taking in hand the amendments that I suggested to this Ordinance. The object of the amendments that I

raised at Second Reading were simply to prevent any Rachman type landlords, and I hope that there are none in Gibraltar, but those might take advantage of the little letter of the law and I feel that this gives a degree of assistance to any future tenants so that when they go into accommodation they will have a minimum that is acceptable to this side of the House with the exception of my Honourable Members on my side. Thank you Mr Chairman.

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

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

Schedule 7, as amended, stood part of the Bill.

The Long Title

On a vote being taken the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke



The following Hon Members abstained:

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

The Long Title stood part of the Bill.

THE EMPLOYMENT (AMENDMENT) BILL, 1991

Clauses 1 to 8 were agreed to and stood part of the Bill.

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

THE PENSIONS (AMENDMENT) BILL, 1991

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

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

THE INCOME TAX (AMENDMENT) (NO. 2) BILL, 1991

Clause 1

On a vote being taken the following Hon Members voted in favour:

The Hon J L Baldachino  
The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon P R Caruana  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon Dr R G Valarino

Clause 1 stood part of the Bill.

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have given notice of the intention to insert six additional Clauses into this Bill which will become Clauses 2 to 7. With the indulgence of Honourable Members, since I have circulated that material, if I could simply

explain the background to these measures then perhaps I can take the amendments as read. There are really two groups of amendments, the first being an amendment of the new Clause 2 which seeks to insert the provision into the Income Tax in relation to one of Government's own proposals that are currently being developed to broaden the tax base, in this case particularly, with relevance to potential wealthy individuals who may wish to come here to live in Gibraltar and to take up residency. The purpose of this amendment is to change the definition of ordinary residency for tax purposes in such a way that makes it clear that if a person does simply hold property in Gibraltar and does not have a job, for example, in Gibraltar then providing that he does not live here for more than seven months he shall not be deemed to be ordinarily resident for tax purposes in regard to both the Income Tax and Estate Duty. The remaining amendments the new Clauses 3 to 7 deal with Government established policy now of revising any fines and penalties to a standard scale and the purpose in this case is to attack certain remaining fines and penalties in the Income Tax Ordinance to that scale. With that, Mr chairman, perhaps with the indulgence of Members I could take these amendments as read.

HON P R CARUANA:

Mr Chairman, the amendments to Section 2, and as a matter of general principle, have been delivered to the Honourable Members on this side of the House today and I think it is a matter of Parliamentary practice which is not to be encouraged because in effect Members of the Opposition are being required to peruse, analyse for effect, form a view on, formulate argument and present argument, all in thirty five minutes which is the time that these amendments have been in our possession. Although there might be some Members on this side of the House who through their familiarity with the subject matter or for reason of their professional work or whatever are more capable than others of coming to a quick conclusion as to the effect and meaning of these amendments, I think, that it is not fair that amendments to an Ordinance, such as the Income Tax Ordinance, and especially certain of the amendments before the House, should be presented to the Members of the Opposition at such short notice, literally when we arrive at the House for this meeting. Frankly, I do not feel, and I do not suppose that I am necessarily the least qualified Member on this side of the House to form a rapid view on this subject matter yet I simply do not consider that the Members on this side of the House can be expected to do their job properly in circumstances where they have to form a view as to the meaning and effect of amendments under this pressure of time. Accordingly and with the greatest respect to the Honourable the Financial and Development Secretary who is moving the amendments, I do not consider that I am equipped at this moment in time to support or resist his amendments, for the simple reason that I have not had a reasonable opportunity to consider their meaning and purport. For that reason, and that reason only, I really have no alternative but to abstain.

MR CHAIRMAN:

I will explain the procedure which I think that the House should know. These are new amendments and therefore when they are read for the first time it is the same as if one was trying to get it through its second reading. So in fact if the Honourable Member wishes to vote against then he can vote against at this stage. Secondly, another safeguard that the Honourable Member can make use of is the fact that the only amendments that can be made at such stage are to those already included in the Bill. If any Member votes against a new amendment it will have to be left to another day. If the Honourable Member wishes he can take that line although I am not suggesting it.

HON P R CARUANA:

Mr Chairman, the Honourable Member has taken the line that he wishes to take already and it is not a question of voting against. As I have explained in some detail why I wish to abstain and it is not a question of a consideration of the merits but rather a question of the Parliamentary practice of producing complex and consequential amendments to complex and consequential Bills and Ordinances in too short a time order to allow the Members of the House to form a view on it. I am grateful to Mr Speaker for his explanation of the procedures. I however think that the procedure offered to me by my opportunity to intervene at this Committee Stage, gives me every opportunity that I need to make the point that I wish to make and that I have not made.

HON A J CANEPA:

Mr Chairman, the Honourable Mr Caruana is of course perfectly correct. This is a matter which has happened on numerous occasions in the past, particularly with the Income Tax Ordinance. It is a very strong temptation for a Government which has a Bill to amend the Income Tax Ordinance, an Ordinance which has probably been the subject of more amendments than any other Ordinance over any given period. There is a very strong temptation if there is such a Bill before the House and something else crops up in between the Second Reading and Committee Stage for amendments to be moved which are entirely new and which introduce a new matter. As far as principle is concerned all that is really happening is that the Income Tax Ordinance is being further amended. However the nature of the amendment before us, the amendment to Section 2, could well have been the subject of a separate Bill in itself. Now, Mr Speaker, had that been the case, then Members of the Opposition would have had an opportunity to discuss the matter in detail and to formulate a view. I can understand what the amendment is trying to do and perhaps I myself can react on the spot and decide what I feel about it, but the reality is that we have not been given an opportunity, my colleagues and I, to sit down and discuss the upshot of this amendment and formulate a collective view. That is the reality of

the matter. From that point of view I do not think that that is the way that we ought to be legislating. It is however not an isolated incident because it is something that has been happening during the last three or four years and which Honourable Members opposite used to complain about when they were on this side of the House when we used to do something very very similar. It is understandable and of course it should not happen and again if earlier notice had been given of this amendment, if we had received it earlier this week, then it would have given us an opportunity to sit together and discuss it. We met yesterday, Members of the Opposition met yesterday and the day before and we would have had an opportunity to look at it in some detail. What it is proposing to do is to exempt, as I understand it, to exempt wealthy individuals from Income Tax and from Estate Duty where they own property in Gibraltar and where they are resident for less than seven months. This the Government is doing because it is for the good of the economy that we should attract such individuals to purchase property in Gibraltar, a great deal of property, some of it of a luxury type that is being constructed and if we can have individuals to purchase these properties for a variety of reasons that is obviously of direct benefit to the economy. That is the action of it all but it does not give us, as I say, an opportunity to form a collective view. Therefore in the absence of that, purely because of that, though if we had formed a collective view we might be in agreement with the amendment, but purely for that, I think, we have no option but to abstain.

HON CHIEF MINISTER:

The Leader of the Opposition of course is perfectly correct and so is the Member opposite in that it is not good Parliamentary practice to introduce amendments with so little notice and expect people to be able to formulate a view on it on the spot and it is a practice that ought to be avoided. We have gone down this route because, in fact, we have no choice because subsequent to the Bill having been brought to the House, otherwise it would have been in the original Bill from the beginning when it was printed, we had some doubts expressed as to whether technically what we had already announced we were going to do for attracting high net worth individuals, as part of the package which was debated in the previous meeting of the House at Question Time subsequent to that meeting we had already said that we were going to introduce a way of taxing the income and the property of people who would take up residence in Gibraltar in competition with places like Jersey, Guernsey and the Isle of Man but would not be coming to Gibraltar to go into competition with the ordinary resident, either for jobs or for businesses. If we are going to have a special category of individuals and give them special incentives to come to Gibraltar and establish their domicile here for their international tax planning purposes, then as far as we are concerned the power to do that was already in existence in the law. We were already committed to do it as a matter of policy.

We had already reflected that in answer to Questions in the House. Now, Mr Chairman, since we took the First and Second Reading of the Bill and after the matter was raised in the House we had a further look at the situation and although it is not one hundred percent certain a doubt has been raised as to whether such an individual would be caught by the definition in the Ordinance of ordinarily resident, and since it is not the intention that that individual should be caught by the definition of ordinarily resident, because he is not going to be ordinarily resident therefore in order to make sure that we do not find ourselves after this meeting giving a brochure to people in the business community, who are involved in advising their clients, that the rules for high net worth individuals where competitive rules which could give people the same safeguards as they have in Jersey, Guernsey or the Isle of Man, and then find out that somebody challenges that on the basis of that individual being covered by the definition of "Ordinarily Resident" that has been in the Ordinance since 1954. We have brought effectively a change to the definition of "Ordinarily Resident" to make clear that the new category of people of whom we are talking are excluded. Now if we had been satisfied that it was necessary to make that clear three weeks ago then it would have been in the original Bill and we would have explained that under the debate on the general principles of the Bill. Frankly, I am not 100% certain that this change is required but the reason why we have brought it at this late stage is that I would rather not take the risk of having people being told by the Government "Look it is perfectly safe for you to advise a client that instead of going into Jersey where they only allow five millionaires a year to settle". So if they cannot reside there they can come in here and when they come in here they will still be able to operate their international investment portfolios and pay a limited amount of tax in Gibraltar and not suddenly find since these people are in general elderly that if they pass away their world empire suddenly becomes subject to our tax law because they are "Ordinarily Resident" because they spend seven months of the year in Gibraltar and we define anybody that is "Ordinarily Resident" as somebody residing here for six months in the year. Clearly, any self-respecting professional adviser, an Accountant or a Lawyer or whatever would not take the risk of advising a client that he was adequately covered by the new regulations and then find himself being exposed to a negligence claim. If there is one chance in one hundred that that might happen then this removes that risk and that is the reason why we have done it and that is why it has happened so late. That, Mr Chairman, is the truth. There is no other way that we can excuse it or explain it. If we had been made aware that there was this danger or if somebody had thought of it before then it would have been done before. In fact, I can tell Honourable Members that they have had no greater amount of time or notice to look at this amendment one than we have had on this side. We are all in the same boat, but, in fact, this is not introducing any radical change or burden on people. All that it is saying is "It was always the intention that

this new category of wealthy individuals that we want to attract to Gibraltar would be taxed in a particular way and we have made that clear". For the avoidance of doubt, we are saying that that person is not an "Ordinarily Resident" person in Gibraltar like the rest of us are and is not going to be allowed to do what "Ordinarily Resident" people do, which is to take up a job and go into competition with us and get special tax treatment. That is clearly unacceptable. So, apart from that, which is Section 2, in fact, the rest of the Ordinance is simply taking the opportunity to apply the same regime for fines as we have done in all the other laws that have different tiers for different seriousness of fines. The opportunity of tidying that up has been taken. But, I accept, that more time should be given for these things to happen and I regret it has not been possible.

HON P R CARUANA:

Mr Speaker, I am grateful to the Chief Minister for his explanation, although I am not certain that I am now not more worried about what he has told me that he has had as little notice as I have had for the proposal, because one of the tasks, I think, of legislators, is not just to evaluate the proposal on its face value but to consider what implications, not immediately obvious it might also have. That is the process of which we have been deprived. However the shortness of the notice and although if we accept on the assumption that we accept what the Chief Minister has said about the effect and the intention of this amendment it still does not detract from the fact that we are as a House deprived, as legislators, of the opportunity to consider what wider effects it might have in addition to the ones that the Honourable Chief Minister has so elusively explained to us. If, Mr Chairman, the position is that this doubt and this insecurity that the Chief Minister has explained has only arisen this morning it still leaves untouched the point that I have made and that indeed the Honourable the Leader of the Opposition has made that with greater effort perhaps we could have been given at least notice yesterday which would have given us a greater chance and therefore whilst I accept all that the Chief Minister has said about what he thinks the effect of this Section is and the intention, I think it does not affect the points that we have made before although in all fairness to the Honourable the Chief Minister he has recognised it.

HON CHIEF MINISTER:

If I can just clarify something, Mr Chairman. I am not saying that this was brought to our attention this morning what I am saying is that this was brought to our attention subsequent to the previous Meeting of the House when the matter was raised at Questions Time. Once that was raised what we said was we wanted to make sure that we were properly covered in what we were doing and therefore could somebody produce an amendment and different ways of tackling the

problem, looking at the possible amendments of different Sections, and at the end of the day the most efficient way of doing it was by amending the definition of "Ordinarily Resident". The Member may be right in saying perhaps the way that we have amended the definition of "Ordinarily Resident" can have other effects but I put it to him that in fact practically all the legislation that we pass in this House, and this is true whether we are in Government or as I have been for sixteen years on the other side, to some extent unless one is a Lawyer by profession like the Honourable Member is, one tends to look at this and it used to happen to me when I read draft legislation it was on the basis that I was reading the Queen's English and not the Lawyer's English. Quite often I came to conclusions which ordinary competence in the language lead one and Lawyers subsequently told me that that is not what the language said. It still happens to me constantly and therefore I have to say that as a mere linguist I am satisfied that the language of the Section does what I have said and nothing more. The fact that Lawyers may at some future date get to read it as if they were chewing a bone and come up with a totally different solution is something I can not guarantee against or protect myself or this House from.

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

The Hon J L Baldachino  
The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K w Harris  
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon P R Caruana  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon Dr R G Valarino

Clause 2, as amended, stood part of the Bill.

#### New Clauses 3 to 7

On a vote being taken the following Hon Members voted in favour:

The Hon J L Baldachino  
The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon P R Caruana  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon Dr R G Valarino

New Clauses 3 to 7 stood part of the Bill.

#### New Clause 8

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, there is a Clause 8.

HON P R CARUANA:

Mr Chairman, I think the point that the Honourable the Financial and Development Secretary is making is that we have not called the proposed amendment to Clause 8, although we have dealt with the re-numbering. I was going to raise that when that was called, for example, to illustrate my point Mr Chairman, that the proposed amendment to little (a) of Clause 8 which simply reads "By omitting the words "Income Tax" and substituting therefor the word "Principal". I mean unless one has the opportunity now to go to the Principal Ordinance and see what that means we are voting completely and utterly without the remotest idea of what that legislative provision is. If we are going to call that particular amendment, I think, I would be grateful that at least the Honourable the Financial and Development Secretary will just explain to us what the proposed amendments to Clause 8 are in fact.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, if I can clarify the reference in New Clause 8(a). There is no significance to that amendment other than the fact that when this particular Clause was the

first substantive Clause, Clause 2, and it was necessary to mention the Income Tax Ordinance because it was the first time that it was mentioned, now that it has moved to Clause 8, it is simply a question of referring to the Principal Ordinance, it has no other significance than that, Mr Chairman.

HON P R CARUANA:

Mr Chairman, I now know for the first time, and as I am required to vote on it, that the proposed amendment has no significance or has significance or what significance it has and I have only chosen this, perhaps, as an unimportant example to illustrate the point that I was trying to make before.

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

The Hon J L Baldachino  
The Hon J Bossano  
The Hon M A Feetham  
The Hon Miss M I Montegriffo  
The R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

The Hon K B Anthony  
The Hon Lt-Col E M Britto  
The Hon A J Canepa  
The Hon P R Caruana  
The M K Featherstone  
The Hon G Mascarenhas  
The Hon Dr R G Valarino

Clause 8, as amended, stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1991/92) (NO. 2) BILL,  
1991

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

Schedule

Head 104 - Government Support Services

HON P R CARUANA:

Mr Chairman, I would welcome confirmation from the Honourable the Minister for Government Services that the item on the Schedule that appertains to matters for which he takes Ministerial responsibility, ie GBC, relates to the decoders.

I think, he forewarned us at the last meeting. If it does not, and I accept that it is entirely an assumption on my part, I would be grateful to him for clarification as to what it is.

HON J C PEREZ:

Mr Chairman, if the Honourable Member would recall that in the proceedings of the last Meeting of the House, I said that as a result of certain new proposals that had been received there would be the possibility of a creation of a production company which would be producing programmes for GBC and that the need to capitalise for the purposes of equipment to the tune of £400,000 had arisen and that this would be a loan payable back to the Government for a period of ten years free of interest. This is done through GBC and the loan would be extended to GBC and GBC would then pass it on to the company. There would be no direct relationship between the company and the Government, it would be done through GBC and it would be tied up to the contract that the company signs with the Corporation of the production of its programmes.

Head 107 - Industry and Development

HON P R CARUANA:

Mr Chairman, I am obliged to the Honourable Member opposite for that explanation. Moving to the last item on the Schedule under Land Reclamation seeking a new and therefore an additional sum of £4m and it is always difficult, Mr Chairman, to decide whether points of this nature should be made at the Second Reading or at Committee Stage but it does seem odd that there can be additional and unforeseen works on infrastructure projects of £4m. The need for which has arisen in the relatively few months that have passed since the Budget Session of the House. Whilst of course, one accepts and understands that Government can decide to do new things or enter into new projects that it had not counted on at the time of the Budget it however seems odd that this should happen in an amount of this size and I would welcome from the Honourable the Minister for Trade and Industry a detailed explanation of the extent to which the proposed expenditure is for unforeseen works and what the unforeseen works are and the extent to which they are additional infrastructural projects and what those projects are.

HON M A FEETHAM:

Mr Chairman, insofar as dividing the actual breakdown is concerned it is very difficult to give the Hon Member you a detailed explanation off the cuff in this House. The main bulk of the expenditure involves, of course, that as the reclamation itself took effect and as we approved developments arising from there in terms of investments coming in and constructing on the site the original estimate of the infrastructure costs has had to be revised as



developments have taken place. So a bulk of that involves, of course, such things as extensions in terms of sewers, pumping stations and extra road works and matters arising from there. The rest refers to alterations or deviations, around £1.5m if I remember correctly. This involves deviation arising after we had put the infrastructure works into effect, particularly in the area of Queensway. I think that I have already said previously in the House, on a number of occasions, that we have had to face certain situations where what had been identified in terms of services by the Service Departments as to if what was originally expected to be there it has turned out not to be correct and we have found that we have had to deviate by going further underground in order to avoid services that were not supposed to be there. In Queensway as Hon Members know the land on which the buildings have been constructed over a number of years is reclaimed land in itself and the bulk came about as the disposal of boulders and so on from the tunnelling works and, I think, the Airport and below 1½ metres the boulders are lying there. What has happened is that when we reached a situation where we have had to deviate, that is to say, go below 1½ metres, because we have confronted services that were not supposed to be there, primarily because some of them may have been quite a few years old and records have disappeared, particularly in respect of MOD we have had to go well below the expected depth and that has been an expensive exercise in itself. There has been quite an amount of money spent in that respect. Other things like having to shift a pumping station in one particular case, much to my annoyance, because again we found out that we had come up with MOD and Shell pipes that were not supposed to have been there and we have had to spend about £350,000 extra in having to move the pumping station from its original place. All in all, I would say that the expenditure is virtually about 50/50 in terms of new developments and services required and not foreseen and the rest is based on deviation from the original contract.

HON P R CARUANA:

Mr Chairman, it appears from what the Honourable Minister has said, in fact that there are no new infrastructure projects. In other words, that what there are is unforeseen problems in existing infrastructure projects. I mean, that is how I hear him.

HON M A FEETHAM.

Mr Chairman, deviation from the original contract that we have put into place as a result of unforeseen circumstances. Before the contract was put into effect there was quite a lot of site investigations taking place, ie a lot of borings took place all along Queensway and the route and the design was put into place by our Consultants Mott MacDonald. Once work was actually commenced as a result of digging up obstructions and so forth were found that were not expected to have been reasonably foreseen

and therefore that has meant that there has been deviations. As far as the point that the Hon Member is making "new works" well yes they are new works because as developments have taken place we have had to build new roads. Those new roads would not have been built if there had not been an investor prepared to undertake, for example, Europort or Eurotowers and so on. We have had to do quite a lot of work in connection with that sort of thing.

HON P CARUANA:

Mr Chairman, we are discussing what these particular £4m are for and the roads were already there or the new roads, the resurfacing works had been voted.

HON M A FEETHAM:

Not necessarily, Mr Chairman. As developments have come on stream the original work has had to be added to take into account these developments. It is as simple as that. Nothing odd in that.

HON P R CARUANA:

So, Mr Chairman, it appears from what the Honourable Member is saying that this sum appertains substantially to the Queensway project and the Queensway infrastructure.

HON M A FEETHAM:

No, Mr Chairman, it is as a result of land reclamation and the developments that have taken place on this land plus deviations arising of works which had to be put into effect in order to meet obstructions along Queensway which had not been foreseen.

HON P R CARUANA:

My last intervention Mr Chairman, is simply to say this, that whilst I have no doubt that the Government has a need for this money because otherwise it would not be seeking it I would have expected and preferred that if a sum of this size were being requested on this basis that a little bit more specific information as to what it was going to be spent on had been given. Whilst I am grateful to the Honourable Minister for the explanation that he has given I am not able to say £500,000 is being spent on this and £4m is being spent on that. I have been given a general description of the categories and the needs that have arisen and no more.

HON M A FEETHAM:

No, Mr Chairman. I can only give a response in general. The detail of the expenditure, of course, handled by the Infrastructural Engineer who is responsible in my department for advising me and informing me exactly what the requirements are. Of course all the payments that are made are, of course, measured by his support group after

justifying what has been spent and as far as I am concerned if I am told that short of stopping the infrastructural works, which is enormous in itself because we are talking about an enormous project with an awful lot of inherent problems, then short of stopping it and not meeting our commitments I have to, within reason, so long as I am satisfied that my people are satisfied that the expenditure is justified to carry on with the works.

HON P R CARUANA:

If, of course, Mr Chairman, there were a Public Accounts Committee of this House then we could summon the official to which the Minister has just referred and asked him directly the questions about the need and destination of this money. Since there is no Public Accounts Committee, because the Honourable the Chief Minister explained at the last sitting of the House that he and his Ministers would take Ministerial political responsibility, I really have no-one to question except the Minister who heads the Department. It is therefore the Minister who heads the Department, in this case the Honourable the Minister for Trade and Industry, who has the responsibility of explaining to this House in detail the purposes for which he seeks Supplementary Appropriation. What the Hon Minister has given me, and I accept that he has given me all that he is able to give me, is not enough and I would have preferred slightly more detailed information. I am happy to leave it at that, Mr Chairman.

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

The Schedule was agreed to and stood part of the Bill.

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

#### THIRD READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that The Endangered Species (Amendment) Bill, 1991; The Landlord and Tenant (Amendment) Bill, 1991, with amendment; The Employment (Amendment) (No.2) Bill, 1991; The Pensions (Amendment) Bill, 1991; The Income Tax (Amendment) (No.2) Bill, 1991, with amendment; and The Supplementary Appropriation (1991/92) (No.2) Bill, 1991, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Endangered Species (Amendment) Bill, 1991; the Pensions (Amendment) Bill, 1991; and the Supplementary Appropriation (1991/92) (No.2) Bill, 1991, the question was resolved in the affirmative.

On a vote being taken on the Landlord and Tenant (Amendment) Bill, 1991, the Employment (Amendment) (No.2) Bill, 1991; and the Income Tax (Amendment) (No.2) Bill, 1991, the following Hon Members voted in favour:

The Hon K B Anthony  
The Hon J L Baldachino  
The Hon J Bossano  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon M A Feetham  
The Hon G Mascarenhas  
The Hon M I Montegriffo  
The Hon R Mor  
The Hon J L Moss  
The Hon J C Perez  
The Hon J E Pilcher  
The Hon Dr R G Valarino  
The Hon K W Harris  
The Hon P J Brooke

The following Hon Members abstained:

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

The Bills were read a third time and passed.

#### PRIVATE MEMBERS' MOTIONS

HON DR R G VALARINO

Mr Speaker, I beg to move the motion standing in my name that reads as follows:-

"This House reiterates that the External Frontiers Convention should apply to Gibraltar on the same terms as to all other EC countries and urges Her Majesty's Government that:-

- (i) Gibraltar is not excluded from the above Convention;
- (ii) the terms of inclusion should not in any way lessen our present standing within the Community; and
- (iii) requests that Her Majesty's Government takes note of the views of the elected Members of the House and the people of Gibraltar and to act in consonance with these views".

Mr Speaker, all Member States of the European Community have been negotiating in recent years the terms of a Convention which should be completed by 1993 on the process of the free movement of persons within the Community as envisaged in the Treaty of Rome. The Convention would basically define the external borders of the EEC and introduce controls at those borders by implementing a common

visa policy. The framework for the new Convention was agreed in June this year and was ready for signature on the 19th July 1991. Very much at the eleventh hour and against all expectations the Spanish Government stated that it would veto the Convention unless Gibraltar was excluded from its application. Insisting that Gibraltar's own position was a matter for bilateral agreement between Britain and Spain outside the Community umbrella. The Spanish Government is therefore pursuing its territorial claim over Gibraltar, if necessary, at the expense of the process of European integration. Spain has adopted this posture despite the fact that the Convention would make it clear that its application was without prejudice to the respective positions of both Britain and Spain in their bilateral dispute over Gibraltar. We must remember, Mr Speaker, that Gibraltar joined the EC in 1973 by virtue of Article 227(4) of the Treaty of Rome as a dependent territory of the UK. As part of its accession Gibraltar opted to be excluded from the provisions of CAP, CCT and VAT. Spain joined thirteen years later in 1986 in the knowledge that this meant a recognition of Gibraltar's EC status, independent of its longstanding claim to repossess sovereignty over Gibraltar. By then Spain had lifted the blockade of Gibraltar in 1985 and in return, with Gibraltar's agreement, had secured immediate advance implementation of EC rights for Spanish labour, trade and interests in Gibraltar. The Gibraltar Government amended this law in 1985 for this purpose. It must be highlighted that the previous administration, agreed to the advance implementation of EC rights to Spanish nationals but always envisaged that this would only apply until Spain joined formally the Community and after this period normal community procedures had to apply in relation between Gibraltar, Spain and the Community. Gibraltar has complied with its EEC obligations arising from Spain's entry and in particular, the free movement of Spanish labour, freedom of establishment for Spanish traders and the payment by Gibraltar of revalued social security pensions to former Spanish workers. In fact, over 10% of Gibraltar's labour force is now Spanish. Trade with Spain has risen dramatically to over 12% of total imports with Spain, being the second largest exporter to Gibraltar and need I say much about the enormous cost of revalued pensions being paid to former Spanish workers. That cost, as we all know, is over £10 million per annum met from UK funds, a cost which Gibraltar could not afford but had to argue out with Her Majesty's Government in order to comply with EEC obligations. At no stage, have the EC rights of Spain or its people been denied in Gibraltar. Most importantly, Gibraltar has developed its economy within the European framework, notably in recent years in preparation for the Single European Market. Gibraltar no longer seeks overseas aid from UK. It has invested heavily from its own public funds and from the European private sector to build up an infrastructural base to make the economy self sustaining, servicing community markets. This could now be put at risk if Gibraltar were excluded from the External Frontiers Convention. Mr Speaker, Sir, it has been argued in some quarters that since Gibraltar is outside the Customs Union it should therefore be excluded

from the Convention. This argument is flawed. The External Frontiers Convention deals with a greater freedom of movement of persons, not goods. Gibraltar has also accepted that there will have to be internal border arrangements between Gibraltar and the rest of the Community to maintain the necessary Customs controls. This is no different to what has been happening since Gibraltar joined the Community, notably since 1985 when the frontier opened. Press reports abound that Spain is trying to exclude or suspend Gibraltar from a proposed EEC Convention on External Frontiers which will define the external boundaries of the Community. Indeed, the Spanish Cortes has already taken such a stance. This would mean that Gibraltar would be left out of the EC and de facto deprived of its status within a Community which it joined in 1973. Spain has already demonstrated its intention by blocking the Convention solely because of Gibraltar and has threatened to veto its implementation. So far the other eleven Member States have rejected the Spanish Government's position. The British Government has made it clear, quite clear, that it will not agree to Gibraltar's exclusion. The situation at present could very well be compared to that prior to the Airport Agreement and Gibraltar's exclusion to the Air Liberalisation Package. A similar scenario is being observed. The Spanish tactic on this Convention has already been rehearsed. The Spanish Government says "no" at the very last minute and eventually pressure builds up on the other side to concede. At the time of the Air Liberalisation package, British reaction was immediate and strong. The Right Honourable Paul Channon the then Honourable Minister for Transport, supported our inclusion and even more importantly, Sir Geoffrey Howe stated that Gibraltar had a legal right to be included. However, Spain was prepared to veto a package that would include the whole of Europe. Everyone in Gibraltar knows what followed. Moreover, the reality is that Britain agreed to a joint use Airport Agreement in December 1987 against the overwhelming wishes of the Gibraltarians. Her Majesty's Government took the view that this bilateral agreement did not impinge on its sovereignty. Little could they have judged Spain's interpretation of that Agreement. The obvious danger where the present Convention is concerned is that there is a risk that Britain may be forced down the same path i.e. to concede: (a) because they have done so before; and (b) because of the continual pressure for European integration. The people of Gibraltar must be made aware of the fate that could well lie ahead. The Spanish position on this Convention is as previously stated at the beginning of my speech. However, there is paramount importance in the latest information on air liberalisation, the Third De-Regulation Package released this year, which throws the infamous Airport Agreement out of the window because this latest Directive has by itself rendered the Airport Agreement of 1987 as meaningless. It would be ironic, indeed undemocratic, if the Spanish Government were to succeed in isolating Gibraltar by means of a Convention which is, by definition designed to bring about greater freedoms of movement for all citizens of Europe.

The people of Gibraltar have acquired and are committed to those principles. They have invested their future, their economy, their laws and their identity to that ideal. No one has the right to deny or defraud us of those freedoms. Mr Speaker, it is hoped that this motion will be passed unanimously thereby showing the feelings of the people of Gibraltar as represented by their elected representatives, and that the tone and strength of feelings will be transmitted to the British Government by their representatives in Gibraltar. Mr Speaker, Sir, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Hon Dr R G Valarino.

HON P R CARUANA:

Mr Speaker, speaking on behalf of the Gibraltar Social Democrats we have no difficulty in immediately confirming that the mover's wish will come true. As far as we are concerned, and on the assumption that his colleagues and members opposite support the motion, it will be unanimous. We for our part, and I know that the Members opposite for their part, have been alert to the difficulties and to the problems that approach us with the EEC External Frontiers Convention insofar as it affects Gibraltar's rights. We have been highlighting these in public, commenting on this in public, since the problem arose. Insofar as the Honourable Dr Valarino intention of the need for Gibraltar's elected representatives to convey to Her Majesty's Government the tone and strength of their feelings, then I can say, speaking for myself and the Members of this House and the party that I represent that we have been doing that both privately and publicly since long before the summer. Our concern in relation to this matter and our interest in this matter and our identification of the need for Gibraltar to speak up loudly on this matter predates by many many months the date of this motion which is the 4th November 1991. Nevertheless, that does not detract from the fact that, I think, that the motion correctly formulates the position that this House should take in relation to this matter and, as I have said, I and my colleague, the Honourable and Gallant Colonel Britto, will be wholeheartedly and enthusiastically voting in favour of the motion. The Honourable Dr Valarino has referred to the European Community Air Liberalisation Package and indeed to the 1987 Airport Agreement. And seeks to draw parallels between them and what we all know happened. I am not sure that everybody in Gibraltar knows everything that happened. Certainly we all know what happened publicly in relation to the Airport Agreement of 1987. But I think and I am confident that the British Government and specifically the Foreign and Commonwealth Office, I think, has learned its lesson from its experiences in relation to the 1987 Airport Agreement and I am confident that Britain will maintain the position that it has so far adopted in public. I think that Britain is now under no illusion and after the passing of this

motion will be less so if it is, that the consequences in local political constitutional terms of excluding Gibraltar or coming to any form of agreement in relation to the EC External Frontiers Convention that either obviously or by ambiguity has the effect of diluting or casting doubt over the status of Gibraltar within the European Community will be met with a unanimous reaction in Gibraltar and that it will cause a crisis in local political terms which will be far greater than that which ensued the 1987 Airport Agreement. Mr Speaker, the truth of the matter is that the European Community External Frontiers Convention, as we see it, is more important still than the 1987 Airport Agreement because after all the 1987 Airport Agreement resulted in our unfair exclusion from a very specific package, of a very specific regime, relating to air liberalisation and whilst our exclusion was unfair the damage was contained to one subject matter. However for the rest of it, its only downside was the precedent value that it created as we are now seeing in relation to this Convention. The additional dangers in relation to the EC External Frontiers Convention is that although excluding Gibraltar from the External Frontiers Convention would not in any legalistic sense exclude us from the Community in terms of our status under the Treaty of Rome, for practical purposes, it would have much the same result because I think Gibraltar will be hard put to explain and persuade foreign investors and others who are not intimately familiar with the situation, that yes Gibraltar is not within the external boundaries for the purposes of freedom of movement of persons but do not worry we are in the Common Market. The element of precedent value of any deal on the EC External Frontiers Convention of the sort that I have described would be enormous <sup>and</sup> would give Spain a degree of mileage from its strategy in relation to the EC External Frontiers Convention which I think would be used by Spain as a platform for pursuing her case for Gibraltar to other matters where Gibraltar was involved and a breaching of the wall by using the EC for this purpose. I think that what we must hope is that the disastrous, in more ways than one, events surrounding the Air Liberalisation Package was a one-off breach of that and that that breach has now been stopped. It is necessary for Britain's position in relation to EC External Frontiers Convention to be maintained and that that will send a signal to Spain that the European Community is no longer willing to tolerate the using of that institution as a means of progressing her bilateral, in the sense of bilateral affecting only her and the United Kingdom, claim towards an issue which in the context of the European Community and as far as the European Community is concerned, is a small one. For those reasons, Mr Speaker, I and my colleague, the Hon and Gallant Colonel Britto, will be voting in favour of the motion.

HON CHIEF MINISTER

Mr Speaker, I am grateful to Dr Valarino for bringing this motion to the House which will, of course, be supported

by the Government. I think we cannot do too much to make our people aware of just how crucial the decisions that are being considered are for the survival of Gibraltar. As Dr Valarino has pointed out, and indeed the Hon Member Mr Caruana, the United Kingdom is maintaining a position which is entirely consistent with a position of the Government of Gibraltar and of its House on this matter and we expect them to maintain that position come hell or high waters. But we cannot guarantee that. That has to be clearly understood. We have not ever been ourselves, in Government, in a situation where that sort of pressure was being put on the UK and therefore although we were hypercritical, in the Opposition, of the 1987 Airport Agreement before it was signed, when it was first mooted, of the 1984 Brussels Agreement before it was signed and of the 1980 Lisbon Agreement, we have never known to what extent, or if at all, the Government of Gibraltar was driven into a corner by circumstances. Therefore we have to say that it is not happening to us now and we will say more, it will not happen with us. That is to say that if that is a possibility, however remote, and if that were to happen, then the GSLP in Government would not be prepared to defend, because of circumstances, what in conscience it does not believe in. We would therefore go to the people and if it got to that as I said recently in a public meeting in Mackintosh Hall, it would be not to persuade the natives but to lead them. That message is crystal clear in London. I do not know whether it is crystal clear in Madrid, but it is crystal clear in London. Whether that has been the lesson that the Honourable Member thinks the Foreign and Commonwealth Office has learnt or not, I am not sure. But I can tell the Honourable member that although we are perfectly relaxed about the situation we are, as I have said, totally informed indeed of the results of the meetings and consulted before the meetings take place and the position that is adopted at meetings is agreed positions agreed by us. That continues to be the case until yesterday. What I cannot say is it will continue to be the case tomorrow because it is not something over which we have 100% control because, of course, there is an element of foreign affairs in this. Therefore I cannot guarantee that but I have no reason at all to believe that there is any change being contemplated. One thing that we think is important to bear in mind is the pace at which these things move. Although again I cannot complain about the degree of involvement that we are having from Her Majesty's Government because you know I get called three or four times a day by the people who are handling this. The reality of it is that you then switch on the television and there is Senor Corcuera saying on television something that does not seem to fit in with what somebody has told one half an hour ago on the telephone from London. So you say "Is it that something has happened in the last half hour and has not yet reached me?" It is obvious that there is a great deal at stake for the United Kingdom itself. So in a way I think this is not just one of the biggest tests we have to face as a people, it is probably one of the

biggest tests of the United Kingdom's commitment to the people of Gibraltar in defending the interests of the people of Gibraltar in a non-military situation. This is clear. For three hundred years Gibraltar and the UK have been side by side and side by side on a war footing but it is not that kind of situation. This is about the shape of Europe politically in the future. Therefore our political future is going to be dramatically open, if in the shape of that new Europe, there is not a corner which is not a corner which is the Gibraltar corner that belongs to us and where we control the situation. We have a motion passed in the Spanish Parliament to which Dr Valarino referred, Mr Speaker, which I think is worth bringing to the attention of our Parliament. I do not know to what extent the Spanish Government, who is of course not as familiar with Parliaments as we are in Gibraltar because we have had one for much longer than they have, may feel bound by unanimous resolutions as we do. I can tell the House that they can be certain that this resolution introduced by a Member of the Opposition, supported by the Government of Gibraltar, we consider to be a binding statement of policy of the collective views of the people of Gibraltar. That is how we interpret, Mr Speaker, Parliamentary practice in the British Parliamentary system. I am not sure that that is how the Spanish Government interprets the binding nature of motions introduced by the Opposition and carried unanimously but if they do, then there cannot be an External Frontiers Convention signed. It is as simple as that. Because the unanimous resolution that was passed in the Cortes on the 2nd October 1991 requires Spain not to sign if it applies to Gibraltar and we continue to be a colony. That is the resolution passed on the 2nd October unanimously, introduced by Izquierda Unida supported by the Partido Popular, welcomed by the representative of the Socialist Government and in a situation which finishes up after several amendments, they also go in for amending amendments in there and it finished up saying that, in fact, the position of the External Frontiers was that the Spanish signature to that frontier was not acceptable if it perpetuated our current status. Our current status means the status enshrined in our current Constitution. My Spanish is not too hot, Mr Speaker, but I cannot read this any other way. Therefore it seems that there is that and another element which is an element which we do not disagree with them which is that it should not undermine their position in the negotiations for the decolonisation of Gibraltar and its reintegration into national territory. As far as they are concerned the negotiations for Gibraltar's decolonisation and its reintegration into national territory is the Brussels process. That, Mr Speaker, is how they describe the Brussels process and they want to make sure that the External Frontiers Convention will not undermine the prospects of success of the Brussels process and the prospects of them getting Gibraltar decolonised and reintegrated into national territory. We are quite happy with that view that the Spanish Parliament has expressed because as far as we are concerned the Brussels process is as dead as the Dodo and

their prospects of success are zero and you cannot give them less than zero because that would require a minus. You know, we will guarantee them that their prospects of success will not be weakened one iota. In other words zero. That is no problem for us. But of course there is a problem if they want our status changed before they sign the agreement. I can think of ways in which it would have changed our status, for example, we could become independent tomorrow and that would change our status. But I do not think that is what Izquierda Unida had in mind, although it might have been what one might have expected Izquierda Unida to have in mind given its revolutionary role in the past. So on the basis of that being a reflection of the position and, let me say, that this was on the 2nd October, and on 3rd December the line taken by Senor Corcuera after the meeting in The Hague was to say that they still believed a resolution was possible if only the British Government would be as reasonable as they were being in the negotiations. That means that they are being reasonable in wanting to kick us out of the Common Market and the UK are being totally unreasonable in wanting to keep us in when we have been in since 1973. But the position of the Spaniards is that apparently they still have hopes of making them behave reasonably. It might explain, Mr Speaker, why it is that we are so reluctant to become Spanish given that that is what is reasonable behaviour in the eyes of Spain. So we have a position where I can inform the House that there was a proposal put forward by the Dutch Presidency and that that proposal was transmitted to the Government of Gibraltar. We looked at it very carefully in the light of the position that we have taken and we were satisfied that it was a proposal which was in fact taking out, I do not know whether Members are familiar with the texts of the External Frontiers Convention but, of course, the text that applies to us is Article 30 and in many respects since this was vetoed by Spain in June, what we have been doing is rehashing Article 30 so that it is clear that Gibraltar is inside the External Frontiers but does not give offence to Spain. Well that is impossible because every time a proposal comes back if, at the end of the day, however inoffensive it is made to look, the crunch point is "are we in or are we out". If we are out it is not acceptable to us and if we are in it is not acceptable to them. So, you know, okay, we have been going round this buoy now for the last five months.

HON P CARUANA

If the Hon Member will give way. Is the Hon Chief Minister at liberty to disclose to the House what the proposals of the Dutch Presidency were or are those subject to some confidential process?

HON CHIEF MINISTER:

Well, I am not entirely sure whether I am at liberty because I have not asked, but let me say that the Spanish Government seems to have little inhibitions about what it is at liberty

to inform its Parliament about and therefore I do not see why I should withhold information from our Parliament. The Dutch Presidency effectively came up with a new wording removing what was there before, which was about the Convention applying to territories for whose external affairs a member state is responsible. It not only affected strictly speaking Gibraltar's position but that of Jersey, Guernsey, the Isle of Man and everybody else because in fact Article 30 has got different elements in it for different people, and what they did was they scrapped the old one totally and they came up with a new one, which would effectively have read that "the Convention applied to a territory over which a member state had jurisdiction". We came back by Agreement with UK to say we prefer that it should not be "over which a member state has jurisdiction", just in case it occurs to the Spaniards some day in the future to say that they believe they had jurisdiction. So we sent it back saying that apart from that, which is that we do not want any wording which is capable of more than one interpretation, but the amendment went on to say that in respect of the border crossing an agreement would be required between the United Kingdom and Spain and we were quite happy with that because we have always maintained that the border crossing is an internal frontier which, unlike any other internal frontier in the Community, is subject to a special customs regime and we would have to decide how we handle a situation once the external frontiers of the Community come in on the basis that you have a situation where somebody is inside the Community in Gibraltar, inside the Community in La Linea and yet there is a border crossing which is subject to customs searches. Now that would have meant that Gibraltar's frontier with the external world were external frontiers and the Gibraltar/La Linea frontier was not an external frontier, it was a border crossing which was an internal border crossing. That was accepted by us in The Hague the day before yesterday and rejected by Spain. By us meaning the UK on our behalf. The Spanish position continues to be that they cannot accept as has been publicly said subsequent to that meeting, that the external frontiers of the Community are on Gibraltar territory and the responsibility of the Member State the United Kingdom. That is fundamentally what the issue is. Now it is interesting, Mr Speaker, that in June 1987, in a letter to the Presidency on the Air Liberalisation Directive precisely the same point was made in relation to the airport. They said: "we cannot accept that the airport at Gibraltar is a Community regional airport on British soil and we cannot accept that it should be included in the list of British Regional Airports". They said they would "accept that it could be included as a Community airport but on Spanish soil because we claim the isthmus is Spanish". They added that they had been having on-going negotiations with the United Kingdom since 1984 the 1984 Brussels Agreement about the issues, plural, of sovereignty and therefore it is recognised that there is one issue of sovereignty considered under Utrecht and another issue of sovereignty which has been annexed by the United Kingdom which we have never considered". Now to the extent that the airport would become an external frontier, they are



really not putting an argument that is new and that they have not put before and that they have not gained some mileage before. Let us be clear about that although we are not seeking that, and we have made that absolutely clear, we are not seeking to decolonise Gibraltar via the External Frontiers Convention to our advantage. We do not accept that they have the right to seek to do it to their advantage either. But we have to recognise that in some respects we are trying to recover some of the lost ground. It would be dishonest not to say that. Because to some extent if we contain the lost ground to what has already happened in the 1987 Air Liberalisation then if things that happen now include Gibraltar as they ought to, as a normal part of the Community, then the value of the precedent created in 1987 is watered down because we would have subsequent precedent which are in conflict with this. I have said already publicly, Mr Speaker, that one of the interesting side effects of the External Frontiers Convention is that it actually produces an opportunity for unlocking the Airport deadlock. The fact that Spain is blocking the Convention to me is a clear indication that they do not have the remotest interest in unlocking the Airport deadlock. They are interested in winning, not in compromises. Because, in fact, Members will know that one of the issues of the clauses in the Airport Agreement which give cause for serious concern as to the matter of sovereignty is that Spain has argued in the European Court of Justice, and indeed outside, that from the beginning their position on the airport was that the competent authority authorising flights to Gibraltar could not be the Civil Aviation Authority. Because if the Civil Aviation Authority in London is a competent authority then axiomatically the airport is a British Regional Airport on British soil and they claim that that would not be consistent with their historic position on never having recognised British sovereignty over the isthmus. So they say because under Community Law the applicant airline has to send an application somewhere, we cannot accept that the application should be sent to London. We are not saying it should be sent to Madrid. So what the Airport Agreement does is it produces a requirement that that application should be considered by both Civil Aviation Authorities, the British and the Spanish and therefore the competence and the authority and the power to grant permission is being shared by London and Madrid. That is the position of Spain. It is the position of Spain after the agreement, in the Court Case and to be fair to them, it was the position before they signed. Under the External Frontiers Convention, in 1995 airports cease to be external frontiers unless they are receiving flights from outside the European Community. Therefore in that context the airport in Gibraltar would only be an external frontier of the Community if we have flights from Tangier or from Tokyo, or from the United States. However let us be practical, and if we have flights from Tangier it would be an external frontier for the Tangier/Gibraltar flight but every single flight from every other airport in the European Community would be a domestic flight and people would arrive here without having to go through Immigration controls. The quarrel

about whether they go through the Immigration controls in Gibraltar first and in Spain afterwards or in Spain without going through the Gibraltar one disappears because under Community Law there cannot be Immigration control because they are moving into the internal market post-1995 with an External Frontiers Convention which says you cannot be required to have a passport or an ID card to move from anywhere to anywhere in the Community by land, sea or air. So it seems to me that, in fact, if there was genuine goodwill in trying to progress relations with us, this would be a welcome opportunity where one could find ways of developing great utilisation of the airport of Gibraltar without anybody having to lose face. I can understand the difficulty that people can have in Madrid in saying well how can we defend that here when we have an Agreement signed by the British Government and its colony rebels and the British Government says "sorry the natives will not wear it and therefore it cannot be done". I can understand the difficulty of that being swallowed in Madrid but I am demonstrating, I think, to the House that the External Frontiers Convention could have given us an opportunity to move forward and overcome some of the problems of the past, and regrettably instead of that happening we have become more embedded in those problems and therefore our position with Her Majesty's Government has been to say "look we have had to make a stand once and for all otherwise we are going to have this every day on every issue and the amount of stuff coming out of the Community is astronomical and on every one of them Spain is going to be saying I will veto it unless Gibraltar is removed". Let me tell the House that this is not the only occasion where we are facing a Spanish veto. There are a number of other important measures for the development of our financial services industry and for the development of our international business which currently are held up because of Spain's opposition. This is one of the reasons why we are bringing in Community Directives to make sure that nobody can dispute the fact that our companies are community companies. But it is being disputed and, as Dr Valarino was pointing out when he was saying the degree to which Gibraltar has made sure that it has complied with Community law in applying it to Spanish nationals and Spanish businessmen and Spanish workers and Spanish pensioners, well the Spanish Government seems to have no problem at all in deciding that we are part of the European Community when they want something out of us and finds it totally unacceptable to accept that we are part of the Community when they perceive us as getting some benefit out of it. Now that is not an acceptable way for civilised, democratic people to behave in the European Community of which we are both supposed to be members and partners. So I can only tell the House, with regret, that the position continues to be deadlocked. There was and there is a certain amount of desire, a certain amount of pressure to see if it is possible to get this agreed and out of the way before the Maastricht meeting which is just round the corner, in a few days time. I do not rate the prospects of that happening very high. The information that I have is that in fact

if we do not have the External Frontiers Convention agreed before Maastricht, then the pressure is likely to recede for an agreement because then, it can hang around until December 1992. There is a legal view and I am not qualified to pass judgement on it but we are working on the assumption that it is a view which is widely shared, because we have tested it out on a number of independent sources that under Article 8A of the Treaty of Rome which is the Article introduced into the Treaty of Rome in 1987 as the result of the signing of the Single European Act, the creation of the unified market and of the External Frontiers, because it will be a frontierless market, and you cannot have a frontierless market internally unless you have frontiers externally, otherwise you would be frontierless with the whole world, that that is mandatory by 1st January 1993, under the Treaty of Rome, and that therefore if there is no agreed Convention, then the mandatory nature of the Treaty of Rome could well lead to implementation by imposition. That is the view that we have, and we are acting on that assumption, and therefore the assumption leads us to the conclusion that we had better make sure that if anybody is being sat upon it is not us between now and December 1992. Clearly, the fact that we have consistently, I am told although I am not there, but I am told by our negotiators, that we have consistently been supported by the other ten members and that we have in each occasion where wording like the one that I have just described to you has been proposed by third parties, in the process of the last five months, there has been a situation where Spain has rejected everything we have proposed and we rejected everything that they have proposed, but at the same time we have accepted everything everybody else has proposed and they have rejected everything that everybody else has proposed. Now that, I am assured, puts us in a better line with the rest than we have ever been on any other issue because we are seen to be willing, although standing our ground on fundamentals, we are willing to accommodate the views of the Dutch, or the French, or whoever, who says "well, why do we not describe it in this way and maybe this way the Spaniards will not be upset". And we say "yes we agree" and then the Spaniards come and they are upset. Now how long that can carry on, I do not know. What I can tell the House is that we will certainly not just be voting on this motion but in our relationship with the United Kingdom be absolutely crystal clear that nothing at all that is capable of being interpreted as excluding us from the External Frontiers Convention will be acceptable, so that anybody can come in the future and say, "Gibraltar does not form part of the Single Market in 1992". Nothing that is capable of that interpretation however remote or esoteric that interpretation might be is acceptable to the House, to the people of Gibraltar or to the Government of Gibraltar, because in fact we have a tough enough job already restructuring our economy and surviving in the face of a declining MOD expenditure for us to even dream of being successful if we are cut off from the most prosperous market in the world, which is the market of the four hundred million people that make

up the EEC. Unless we are able to do that unchallenged, or unless we are able to do that on the basis that if somebody stops us we can challenge the people who are stopping us and go to Court and win. We are really on a hiding to nothing and if we are going to be on a hiding to nothing we might as well stand our ground and have it out now. So that is the position of one Government, Mr Speaker.

MR SPEAKER

The House will now recess until quarter past three this afternoon.

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

MR SPEAKER

We shall carry on with the motion of the Hon Dr Valarino and I understand that the Leader of the Opposition would like to speak.

HON A J CANEPA

Mr Speaker, early on in his intervention the Hon Mr Caruana made clear that the concern felt in his party about the question of the External Frontiers Convention predated by many months the date of notice of this motion. May I say, that the concern that we felt in the party on this issue also predated by many months the date of notice of the motion and likewise I am sure of Honourable Members opposite with a difference that the Chief Minister himself has probably been dealing with the matter throughout this period virtually on a day-to-day basis. The only difference is that I did not feel it necessary to either write to Mr Garel-Jones about the matter nor to go to London to see him and discuss the matter with him to express to him the views of my party. What was happening throughout the period was that I was being kept fully in the picture by the Chief Minister and I was totally satisfied about the strength of the Government's stand on the matter and therefore I knew that the views that we, as a party, had were being reflected. They reflected the general anxiety felt in Gibraltar and they were being reflected by the representations which the Chief Minister was making on the matter and by the watching brief that he was keeping. Nevertheless, it was right and proper on this issue as has been the practice over the years that the matter should be brought to the House at an appropriate time with a view of the House adopting a unanimous resolution that would enshrine the strongly felt views of the people of Gibraltar as expressed through their elected representatives on this issue. And I think that the motion before the House today, I am glad to see does indeed strongly reflect such unanimity of views. Let me add that we took the decision that at the first meeting of the House after the summer recess

to bring such a motion in an appropriate form depending on the state of play on the question of the discussions amongst EEC members and in particular Britain and Spain over the matter and depending on the state of play so phrase our motion. That was a decision taken and reiterated in October shortly before I left for the UK and I was away in the UK for two weeks and my colleague the Hon Dr Valarino had good reason to think that there was a danger that we were going to be pre-empted in bringing such a motion to the House, so he consulted with my Deputy, Mr George Mascarenhas, who was ill at the time and agreed that Dr Valarino should give notice and introduce this motion on behalf of the opposition. That is the reason why it is Dr Valarino and not myself, who has always brought such motions to the House on matters to do with external affairs, has brought the motion. Dr Valarino acted on my behalf through my Deputy Mr Mascarenhas and if I had not gone to the United Kingdom for a fortnight I would have given notice of the motion and I would be bringing it myself. There is no doubt, Mr Speaker, that over the years we have learnt, elected members have learnt, a number of lessons from what transpired at the time of the Brussels Agreement and subsequently and at the time of the Airport Agreement. If there is some divergence of view or approach on matters touching the Spanish question in Gibraltar, it is perhaps because for a variety of reasons and there are some who forget what has happened in Gibraltar over the years. For many years, from 1963/64 until perhaps 1980 at the time of the Lisbon Declaration the elected representatives of the people of Gibraltar, the political leaders of Gibraltar, succeeded in taking Britain by the hand so that Britain by and large saw things from our point of view and through joint political action we were able, a number of us of various political parties, were able to succeed in getting for the people of Gibraltar many matters that strengthened our ability to resist Spain's economic blockade and her political harassment of Gibraltar. I am referring to the new Constitution, in 1969, which was the result of a great deal of work in which some who are presiding over affairs in the House today were very closely involved. I am referring to the five points that were presented to the British Government and which led to the Constitution. I am referring to the development of the policy of "Support and Sustain" which Britain had no difficulty in associating herself with until 1980 or 1981 or 1982, after the Lisbon Declaration, when it became clear that it was a matter of time before the frontier opened once Spain wished to be accepted amongst the nations of in the democracies of Western Europe. As I say, we succeeded, a number of politicians in Gibraltar and perhaps the most prominent of which was the former leader of the AACR who succeeded in taking Britain by the hand so that Britain saw things from our point of view and defended our aspirations, by and large defended our aspirations. Whenever the British Government itself was not happy to accede to what we wanted we knew where our friends were in the House of Lords and in the House of Commons and British public opinion through the media the British Nationality, for example, and so

on. However things started to change by the middle 1980's and by 1984 or 1985 Britain started to carry us by the hand instead of our carrying them by the hand. That was the result of the Strasbourg process, Lisbon and Brussels. By the time of the Airport Agreement not content with leading us by the hand they tried to lead us by the nose and that is where, of course, they failed. They ultimately failed because of the strength of feeling in Gibraltar over such an issue and if Britain and Spain agreed to the Airport Agreement, as they did and if they entered into such an Agreement then we for our part, and certainly in the short period that I was at the head of affairs, made it perfectly clear that we were not going to bring legislation to this House that would make the way clear for the implementation of the Airport Agreement and Britain knew that if they tried to impose the Airport Agreement by taking the sort of action which Spain thought that Britain would take, could take, and which they urge Britain to take, we made it clear that if they did that there would be trouble and the trouble that that would bring would be a Constitutional crisis. We would also have had with me certainly heading or leading the natives into action. No doubt joined by Honourable Members opposite. An action, Mr Speaker, that would have been somewhat more energetic than the famous demonstration at the time of David Ratford's visit to Gibraltar. Those, Mr Speaker, are the lessons that we have learnt over the years and therefore that is why I am glad to see that the attitude by and large is never again. We Gibraltarians are not going to allow a repetition of such events and if as a result of having to stand firmly for such belief and fight for such rights we are going to be labelled that we are anti-British well then hard luck. Because what we are is more than ever before pro-Gibraltarian. We have been through a hell of a lot, Mr Speaker, in Gibraltar to allow our rights and aspirations be undermined in a way with which we do not agree. I am aware that there is a body of opinion in Gibraltar that would like to see the Airport Agreement implemented because they think that it is good for Gibraltar. They think that it is good for their own pockets! That is all. That it would be good for Gibraltar. Yes. Perhaps there would be economic benefits that would accrue from that and yes there might have been economic benefits that would have accrued from our taking a different stand against Spain during the years that the frontier was closed. However the people of Gibraltar were prepared to sacrifice themselves economically, materially, socially and to suffer real hardship and some of us lost perhaps the best years of our lives and the sort of things that ordinary communities are entitled to. So therefore it is nothing new that we are doing today by resisting on the Airport Agreement and by taking the stand that we are taking on the possibility of our being excluded from the External Frontiers Convention. It is a repetition of that and we are showing that we mean business and that we are prepared to sacrifice ourselves, if necessary, because of what we believe in. There is now a situation in which Britain is no longer supporting and sustaining us, on the contrary they are putting obstacles

in our way and I am very glad to hear about the coincidence of view that there is and the detailed way in which the Chief Minister has described what has been going on in the EEC and the difference that there is that whereas Britain was afraid that the European jury, the other ten would back Spain. It is now clear that they are backing Britain and they are backing us. I am glad to see that that is the case. But the reality is, Mr Speaker, that we cannot afford a situation in which Britain withdraws the Resident Battalion, in which they are going to withdraw the RAF, probably sooner than the vast majority of people in Gibraltar imagine, probably much sooner, so what are we supposed to do, just go along with Britain and see things from their point of view and be accommodating to them? We need to survive as a community and the best way that we can is by trying to fend for ourselves. If the only way that we can do that is by taking advantage of our position within the EEC then so be it. Because we have been at the receiving end for very many years on many matters to do with the EEC and got precious little benefit out of that. Honourable Members will recall that during all the years when I was on that side of the House I was always complaining about the big boys club out of which we got very little. Nevertheless we saw that we could not get out of it and now today the Government has reversed things so that what we are trying to do is to take advantage of our unique position in order to survive as an independent community which values its institutions and which wants to fend for itself and to be allowed to remain in peace not because we are anti-British, or because we are anti-Spanish, but because we are pro-Gibraltarians. We are here, we have developed as a distinct people and we mean to stay here. So I am really glad that the message appears to have got home. I do not know whether Britain would be adopting a different attitude if the other ten were not with her. I do not know. But that is just hypothetical. The reality is that the message has got home and it is important that it should be said that we would not take things lying back if we were to be excluded. We cannot afford that this should happen because otherwise we will not survive economically and Spain would succeed in using her membership of the Community to destroy our economy and to achieve that which they could not achieve in the years in which they were harassing us in a clear overt fashion when the frontier was closed. I have very little more to add to that, Mr speaker, other than to say that we do live in a hostile world, in a world that does not feel that it owes us anything. Britain does not feel that it owes us anything and there are no indications that Britain is prepared to give us anything that could be remotely described as Development Aid. In 1980, they were telling us that that was our last lot and therefore the only way forward is to pursue the independent economic policy that Gibraltar is entitled to pursue in order to defend our rights politically with every ounce of strength that we have and to try to fend for ourselves in this world in which ultimately unless the people of Gibraltar show, as we are showing, that we are grown up, that we can stand on our

own two feet and that we are here to be counted. Unless we do that, Mr Speaker, we are going to finish up in the arms of those who will never, as has been shown, are going to drop their claim to Gibraltar and anyone that does are really kidding themselves. I think that that is living in cuckooland, Mr Speaker, even to a greater extent than to think or to describe Gibraltar as the Thirteenth Member State as the Chief Minister does. Mr Speaker, we wholeheartedly commend this motion to the House so that a strong voice that should come out and for once show that we ought to be speaking with one voice regardless of the events of the by-election.

MR SPEAKER:

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

HON DR R G VALARINO:

Mr Speaker, Sir, there is indeed not much more to say. I am very grateful to the Members of the Government for supporting the motion and also to the Members of the GSD. I think this is one of the most important motions that has been brought to the House of Assembly and indeed, I think, it is the first time, certainly this year, that a motion is supported by all fifteen Members of the House. The last one that was brought earlier on this year and was supported by fourteen Members of the House. So therefore I am glad the support has been forthcoming from that quarter as well and I thank you gentlemen. To people who have not heard me before they probably think that I have been rather strong on this subject but those people who have come with me to Commonwealth Parliamentary Conferences, such as you Mr Speaker, the Chief Minister and the Leader of the Opposition, they all know that I have been very forthright in debating points raging from the Environment to talks on South Africa and when the need is there, I do speak my mind. I must say that I am also reassured by what the Chief Minister said about Regulation 8A of the Treaty of Rome, which will in time, if nothing else happens see us to a happy conclusion. Today certainly is certainly a historic day for the House of Assembly and I welcome it Sir. Thank you.

Mr Speaker then put the question which was resolved in the affirmative and the motion was accordingly passed unanimously.

HON P R CARUANA:

Mr Speaker, I have the honour to propose the motion standing in my name which reads as follows:

"This House deplores the crisis in the Health Service as shown by:

1. the alarming warning sounded by the British Medical Association of Gibraltar that standards of Health Services in Gibraltar could drop to "Third World" levels,
2. the unprecedented low level of morale amongst the medical and nursing staff.
3. the fact that such a dedicated and professional body as the nurses have been provoked into a state of industrial dispute,
4. the continuing failure to appoint a permanent gynaecologist and obstetrician to the obvious and publicly stated concern of women in Gibraltar,

and calls upon the Government to allow the Gibraltar Health Authority to function as a truly autonomous body, free of direct political day to day management and control so that the Health Services may benefit from the input of the experts and professionals as intended by the writers of the Medical Review Team whose 1987 Report the Government fully accepted and undertook to implement."

Mr Speaker, the dictionary definition of the word "crisis", which is an emotive word, as "A crisis is a turning point or a time of danger". We believe that there is mounting evidence, mounting and irrefutable evidence which suggests that that is indeed the state to which the Health Services in Gibraltar have come. An equally suitable word, Mr Speaker, might have been "Lysis" which means the gradual disintegration. Both of these words, Mr Speaker, I think, are apt to describe the situation in the Health Services and I now proceed to justify the use of the words chosen in my motion. There was, Mr Speaker, a time when this community was proud and indeed supremely confident in its Health Service. However four years of political management of the Health Service without taking the advice of the experts and the professionals has, in my view, left the Service demoralised, frustrated and less equipped than ever before to provide the quality of health care that this community needs and wants. These things, Mr Speaker, are reflected by the increasing use of Private Clinics and of medical treatment in Spain, to which increasing numbers of Gibraltarians are having resort. In 1988, Mr Speaker, the Party opposite said that its first priority was caring for the sick and the elderly. They said, and I quote from their 1988 Manifesto: "The GSLP has constantly been making the Government aware of the continuing decline in standards of our Medical and Health Services. We believe that were it not for the dedication of the people who work in them, the Services would hardly be working at all. This analysis is confirmed by a UK Medical Review Team, who produced the Report at the end of 1986, wherein they advised that certain recommendations be implemented as a matter of urgency". A year later, Mr Speaker, they said, in 1988, of the then Government, "a year later this has still not happened and the GSLP is fully committed to the Report." Well, Mr Speaker, four years later many of the

recommendations of the Report have still not been implemented by this Government. That is, four years after they criticised the previous Government for not having implemented them after one year. It is, Mr Speaker, indeed worrying that four years after this Government warned of the continuing decline of standards, the British Medical Association of Gibraltar should now warn that the standards of health care in Gibraltar could fall to Third World levels. This, Mr Speaker, after four years of Government by the Members opposite, whose first social priority was caring for the sick and the elderly. Mr Speaker, the British Medical Association is a professional body of all doctors and consultants in Gibraltar. They are a group of, one must assume, responsible men and women with a vocation for caring for the health of others. Their leadership comprises the most Senior Medical men in Gibraltar. None, as far as I am aware, have any known political motives. The Members opposite giggle, Mr Speaker, and when it comes to the turn of the Honourable Minister to reply, perhaps she would like to translate that laughter into positive allegations to the contrary.

HON J C PEREZ:

The Honourable Dr Valarino is a Member of the BMA and is a Member of the AACR.

HON P R CARUANA:

Well, Mr Speaker, if the Honourable Member opposite were listening more carefully than he obviously has been, he might have known that I spoke of the leadership of the British Medical Association of which I do not believe Dr Valarino forms a part. Well, Mr Speaker, these, of course, are personal allegations which are no skin off my nose. The Honourable the Chief Minister is quite free despite tradition to point fingers at private individuals from this House. We, in the GSD, Mr Speaker, believe that the mere fact that such a body has felt a need to warn that standards of health care in Gibraltar could fall to Third World levels is by itself enough to sustain the central point of my motion, that the Health Services are in crisis. The alternative, Mr Speaker, which appears to be the view preferred by the Government opposite is that these warnings by such people should be disregarded because after all Hon Members opposite know everything even about matters of professional judgement. Mr Speaker, after all, if the Members opposite thought in 1988, that the standards of Health Services were in decline then what have they done about it in the last four years? Certainly, it appears, that they have spent substantial sums of money running, I believe, into several millions of pounds on the painting and refurbishment of some wards, corridors and passages and many areas of the Hospital do indeed look brighter and less rundown and I have had a personal and recent opportunity to witness this for myself in a recent visit to the Hospital. But it is also true to say ...

HON A J CANEPA:

A visit to Maternity?

HON P R CARUANA:

Yes, Mr Speaker, it was indeed to Maternity but the access to the Maternity Ward is so convoluting that one really has to take a small tour of the rest of the Hospital to get there. This is why I saw all these bright corridors. It is also true, Mr Speaker, that very soon after all these sums of money have been spent it appears that the roofs are leaking again! At least this is my information from persons who work at the Hospital. The Honourable Minister will have her opportunity in due course to say whether this is true. It is also true that there appears to be at the Hospital a problem of rat and cockroach infestation. But those things, Mr Speaker, are cosmetic. They are not the things that determine the standards of the Health Service. Presumably, Mr Speaker, when the Members opposite warned in 1988, as they did, as I have read directly from their manifesto, that the standards were then in continuing decline, and presumably, Mr Speaker, they were not referring mainly to the paints on the wall, the linoleum on the floors or the state of the furniture in the Hospital? Presumably, when in 1988, they warned, not as professional men like the BMA, but as laymen in medical terms that the standards of Health Service were then in continuing decline then one presumes that they were not referring to the state of the floors and the walls at St Bernard's Hospital. Presumably, Mr Speaker, what they meant was that the medical standard of the product being delivered to patients was in decline. Mr Speaker, in relation to this, if that is indeed what they meant then the Government has done practically nothing in four years to improve the situation. In fact, certain policies followed in the last four years have positively and visibly accelerated the decline in the quality of health care available to this community, resulting, we believe, in the stark warning from the British Medical Association to which I have referred. It would give me a considerable amount of pleasure and indeed satisfaction as a member of this community if when she comes to reply, the Honourable Minister could disprove the allegations that form the substance of this motion. Mr Speaker, several urgent recommendations of the Review Team Report have still not been implemented, in fact, in some instances and despite accepting the Report, the Government has caused the Gibraltar Health Authority to move in the opposite direction to that recommended by the Review Team. This is especially so in the employment for Consultants, which so obviously affects the quality of the service that can be attracted to Gibraltar, and presumably will form the basis of the defence of the Honourable Minister to the allegations of the BMA. I hasten to add Mr Speaker, that I, as a Member of this House or in any private capacity, am not qualified to judge the truth or falsehood of warnings given by professional men in the field of which I know very little. My duty as an electorate representative sitting on the Opposition benches

of this House is simply to bring the debate to the fore and not to stand here and defend the fact or the reasons for which this professional body has seen fit to make the allegations. The fact remains that they have made it. Mr Speaker, perhaps the principle recommendation of the Medical Review Team was the establishment of the Gibraltar Health Authority itself, as an autonomous body, to be responsible for the overall policy making and planning of the Health Services in Gibraltar. The Report recommended that and I quote "The Government should allocate an annual budget and delegate completely to the Gibraltar Health Authority financial and management responsibilities for planning, organising and running Health Services in Gibraltar". Mr Speaker, in order to implement this recommendation this House enacted, or a precursor of this House, enacted the Medical Gibraltar Health Authority Ordinance of 1987. Section 3, of that Ordinance, establish the Authority and constituted it as follows: "The Minister for Health Services as Chairperson, the Administrative Secretary, the General Manager, two Medical Practitioners, one Gibraltar Trades Council Representative and three independent members, one of whom would be a lawyer. That, Mr Speaker, in the days when lawyers were not the maligned breed of people that they have since become. Section 6 of the Ordinance, Mr Speaker, imposed on the Authority, as a Corporate Body, the responsibility to provide and manage the Health Authority and the Health Service and to establish policy. Mr Speaker, although the Authority does indeed exist in form it does not function as it was intended either by the Medical Review Team who recommended it or the Ordinance which created it and imposed Statutory Duties on it to provide the Medical Services to this community in the manner set out in the Ordinance. The reality of the matter is that the Authority as a whole, as the Body, as a group of individuals, constituted as I have just described neither runs the Service nor makes policy. These things are done on an exclusive day to day basis by the Minister opposite. Senior management although appointed by the Authority take their orders directly from and only from the Minister. Far from running the Health Service and making policy as an autonomous body, the Gibraltar Health Authority, by which I do not mean one or two individual members of it, by which I mean the Gibraltar Health Authority, as a Body Corporate established under the Ordinance, has become nothing more than a little used rubber stamp for the direct political management of the Health Service by the Government through the Minister. Mr Speaker, it is a notorious fact, and I fear the Minister opposite will have difficulty in rebutting when the time comes, that the Gibraltar Health Authority, as a Corporate Body, constituted as I have described, not the body of men and women, in reality neither run the service or make the policy. The fact of the matter is that the Gibraltar Health Authority rarely meets and when it does it is not allowed to discharge the functions for which it was created and which are imposed on it by law. They are I am told, never having been present in one of its meetings.



HON J C PEREZ:

Rumours?

HON P R CARUANA:

Rumour by those who are present are not rumours, they could be facts. ....Are lectured by the Minister and not allowed to play a meaningful role in policy making or management and are basically ignored. Mr Speaker, this in our view has been the principal cause of the unhappiness, the frustration and the disillusionment that presently prevails within the Health Service amongst doctors, nurses and successive managements alike. In relation to management, Mr Speaker, the recommendations of the Review Team, which the Government accepts, that many practices were ignored, were these: That the General Manager would be given complete responsibility for financial and manpower responsibilities for the Health Services; the General Manager would be responsible for drafting policies and plans and for developing an effective management organisation; that the General Manager should enjoy the power and seniority intended by the Report, it recommended that he should be of Consultant status. Well, Mr Speaker, the first appointee, Mr Ralph Murray, who was himself an experienced Hospital Manager by training, met this description but was simply not allowed to run the Hospital. He became as is wellknown little more than the Minister's helper. In fact, Mr Speaker, more than once he is reputed to have commented that he was the highest paid clerk in Government Service. He eventually left. Subsequent appointees that have been appointed have not been accorded the status of Consultant in either terms of remuneration or in terms of seniority and as a result the post has been downgraded and with it its seniority power and influence. In effect, Mr Speaker, what has happened under the GSLP Government is that through it the Minister exercises complete day to day control of all aspects of policy and management and that the Gibraltar Health Authority is nothing more than an impotent shadow. The Gibraltar Health Authority, Mr Speaker, for all practical purposes has become little more than a device whereby the Government escapes the need to bring to this House detailed breakdowns of its financial input and spending on Health Services by claiming that as the Gibraltar Health Authority is now an autonomous body, there is a subvention made to it by Government and Members, of course, will have noticed that all we get now and have had for a few years is a one line figure of subventions. The House therefore cannot monitor how these resources are spent or whether there are cutbacks in one particular service or another until many years later when the Gibraltar Health Authority eventually produces its Accounts, as it has now done for a couple of years ago. Mr Speaker, all of this has led to a drop in morale to unprecedented levels amongst Health Service employees of all grades. There are increasing numbers of credible reports of outright political intimidation of staff in the Health Services. That doctors and consultants complain that they are not consulted and indeed have difficulty gaining access to the Minister to

discuss matters of concern to them. Mr Speaker, the Review Team recognised the importance of Medical opinion in running the Health Service when it recommended and I quote: "The Review Team consider that Medical opinion which is vital in the running of the Health Services is fragmented and uncoordinated and as a result does not have the impact or influence which it should have in the provision of services to patients and the public". To deal with this, Mr Speaker, the Report recommended that a Gibraltar Medical Staff Committee be formed. This was indeed done but in practice we are told by members that it is never consulted and that its advice and recommendations are completely ignored. Its representatives of the Gibraltar Health Authority are no more influential than any other, except the chosen few members of the Gibraltar Health Authority. Indeed, Mr Speaker, the Report spoke of the need to ensure that Medical opinion was sought to bear on management decisions regarding Health Service and this is clearly not happening. Mr Speaker, if the Review Team have said that the input on Medical opinion is vital to the running of the Health Service and that input is not allowed, it follows that the quality of health care will suffer as a result because the recommendation, in very firm terms of the Report, must have been based on the expert knowledge of the members of that Review Team who are all experts in Medical and Health Services. In this respect, Mr Speaker, the matter now is actually worse because there is now no professional, Medical professional Director of Health Services as there used to be, so, what we now have, Mr Speaker, is a situation in which there is no Medical expertise involved in the running of the Health Service or in the policy making of the Health Service in the devising of strategies for the Health Service. In short, what has happened is that the Health Service is now under the complete control of non-Medical people and to boot of non-Medical people who do not take advice because they do not seek it from those best qualified to ensure the provision of the most effective Health Care and Service. The result, Mr Speaker, whether the Members oppose care to admit it or not has been a loss of public confidence in the Health Service and, and this is now a matter of opinion on my part, in the acceleration of that decline in standards of which the GSLP itself complained in 1988, when, of course, it was sitting on this side of the House. I now echo the words of the now Chief Minister, who in 1988, said that were it not for the dedication of the people who work there, the Health Services would hardly be functioning at all and this, despite the fact that the Government has tried and tested the morale and patience of the staff to the point of driving them to ultimate industrial action. It is indeed ironic, Mr Speaker, that the Nursing grades should be driven to industrial action on matters such as, additional unpaid duty allowances and matters connected with day and night shift rotation by a Government, which in 1988, promised to improve manning levels at St Bernard's Hospital. Mr Speaker, unhappy places of work are not conducive to the delivery of the most effective possible product and the Health Service, Mr Speaker, is not presently a happy place

of work. There is, Mr Speaker, mounting evidence of politically motivated intimidation and political power play in the Health Services. I have received reports, Mr Speaker, which I regard as credible and were I not to regard them as credible, I would not bring them to this House. Mr Speaker, there are reports of some members of staff having been threatened unless they leave a particular Trade Union or that their career prospects would be adversely affected. Mr Speaker, Nursing Staff in the Health Service have been effectively divided into two camps along what appears to be politically drawn lines. There appears to be a degree of hostility between these two camps and these, Mr Speaker, are matters of grave concern to those who are interested in the Health Service as no more than a body charged with caring the health of this community and have no other interest of any other kind in that body of people. Mr Speaker, there were other matters urgently recommended in the Review Team Report of 1987 which the Government has not yet addressed. The Report recommended that as part of a ten year new strategic plan, and the ten year strategic plan was itself regarded as urgent, that the Gibraltar Health Authority should get on with producing a ten year strategic plan for health about which nothing has been heard. As part of that strategic plan it was recommended that the Government should give urgency to the need to centralise Hospital services in a single new site and that work should immediately commence on the planning of a new Hospital on the Royal Naval Hospital site. Mr Speaker, nothing has been heard of late in relation to what Government's commitment may be to that project that was recommended as a matter of urgency. Certainly, Mr Speaker, the not inconsiderable sums of money that the Members opposite have spent on refurbishing St Bernard's Hospital does not augur well for the prospects of a new Hospital in the foreseeable future which the Report said was the key to a strong and independent Health Service. Mr Speaker, the Report also recommended that Private Practice by Consultants be allowed on terms that did not impinge on the availability of care and treatment to public patients. Mr Speaker, this recommendation did not presumably reflect, this recommendation by the Review Team incidentally, with all the murmurs that come from across the floor when the Members opposite accepted the Review Team's Report and hailed it as the panacea for the ills of the Health Authority, they did not say: "all of the Report except the recommendations in relation to Private Practice", because those recommendations which came not from anybody on this side of the House and not from anybody that the Members opposite may wish to stigmatize as having private interests on one side of the political spectrum or another, these recommendations came from the experts from the United Kingdom and their recommendation was that if the Gibraltar Health Authority precluded Private Practice on terms that were clearly regulated and were not seen to impinge on the availability of free Medical Services to the general public then that would severely prejudice the quality of Medical Service that the Health Authority could make available - the Honourable Member opposite shakes his head but in

a moment I am going to quote directly from the Report, so perhaps he ought to reserve the shaking of his head for a moment or two - and that the refusal, as has been happening, and as is visible, would affect the quality of care available. What the Report said, Mr Speaker, was "that if its resources, if Medical Practitioners, were not allowed a degree of controlled Private Practice, as they are in the United Kingdom and everywhere else in Europe, the quality of the recruit that a Gibraltar Health Authority, that drafted its contract in those terms, thereby not allowing Private Practice, the quality of the recruit that it would attract to Gibraltar, to then provide the service free of charge to those users of the Public Service would be diminished." Mr Speaker, the Government has indeed adopted a policy of offering new Consultants contracts that preclude those Consultants from undertaking Private Practice, and as I have said, Mr Speaker, the most obvious consequence of this policy is that it lowers the quality of Medical Practitioners that will accept the post. This for reasons, Mr Speaker, that no Consultant that is either a leader in his field or that can reasonably aspire to getting a job on terms that are standard elsewhere will come and work in Gibraltar on the terms of the contract that the Gibraltar Health Authority now offers. Mr Speaker, for those Members opposite that think that this point of view has not been put to the test let us look at the quality of some of the more recent recruits and the difficulty, which presumably must explain the otherwise inexplicable delay in nominating a full-time Gynaecologist, that the Members opposite have had in attracting quality Consultants as this community has been accustomed to enjoy. Gibraltar, Mr Speaker, cannot employ just any doctor that needs the minimum qualifications because unlike the position in the United Kingdom and other large Countries there is not a body of colleagues in Gibraltar to which a Specialist Consultant can refer or with whom he can discuss the problem. The Specialist Consultant in Gibraltar is very much on his own. The Gynaecologist in Gibraltar, whoever the Honourable Member opposite, through her Gibraltar Health Authority, employs as the Gynaecologist in Gibraltar, is very much on his own and it is therefore especially important that persons appointed in Gibraltar to Consultancy posts be well qualified and particularly experienced because he or she has no other support in his field. In short, the buck stops with him or her. If the Hon Member wishes me to give way I will do so with pleasure but he should at least stand up and ask me to do it.

HON J C PEREZ:

Mr Speaker, will the Honourable Member give way? Is the Honourable Member suggesting that those qualified people today in post and recently recruited are not of the calibre that he and Mr Benady of the BMA feel that it ought to be? Is the Hon Member suggesting that those people today are not of a high calibre and that, as the BMA said would put Gibraltar on a Third World rating? Is the Hon Member

suggesting that our Medical Services today are of a Third World level because of the recent recruits? And that the recent recruits are of a calibre below the level that we should be recruiting? Is that what the Hon Member is suggesting without any shred of evidence?

HON P R CARUANA:

I am suggesting precisely that, Mr Speaker. I am suggesting that because of the policy that this Government is pursuing, the quality of the recruit is indeed inferior, and I say it, not on no evidence, as the Minister with responsibility for Government Services states but my evidence, as a layman, is the warning of the British Medical Association.

HON MISS M I MONTEGRIFFO:

That is no evidence, Mr Speaker.

HON P R CARUANA:

Mr Speaker, that may be no evidence. OK, well perhaps what the Honourable Members opposite should say is that what this community must do is listen only to them and ignore the warnings from the professionals. That is precisely what they are doing. Mr Speaker, the Report also said this: "Two courses are open, either the continuation of provision of facilities within the Health Service or the exclusion of Private Practice from the Health Service if the expectation of the facilities will be provided elsewhere in the Private Sector. It is our view that medical resources available would not permit satisfactory functioning of two separate services and that the Health Service would be damaged by the exclusion of Private Practice". Now, Mr Speaker, that statement that the exclusion of Private Practice would damage the Health Service is not made by Mr Benady, Mr Montegriffo or anybody else that the Minister may wish to accuse of wishing to line their own pockets that statement was made by the visiting Review Team from the United Kingdom that was not going to benefit from its recommendations and its views. The Report recognised, as we do Mr Speaker, the widespread public concern that there is and that the provision of Private facilities in the Health Services could and have in the past been abused to the serious detriment of the public users of the Health Service, but, Mr Speaker, the Review Team felt that such abuse could easily be prevented leaving public medicine to benefit from the additional revenue and higher quality specialists that would follow by allowing a measure of controlled Private Practice. If the Government persists in its policy of not allowing new Consultants to have Private Practice on whatever terms of regulation, on whatever conditions of monitoring or supervision that the Government feels is necessary to impose to ensure that it is not abused to the detriment of those of us, in which I include myself, who do not use Private Medical Practice but rely on the Public Service, then the standards of care will fall as a result of the continuing fall in standards of the recruit

that you will attract to look after the health of this community. Mr Speaker, I defend Private Practice in reliance only on the arguments that have been put for Private Practice insofar as Private Practice benefits the Public Service, on the basis recommended by experts bought out from the United Kingdom and contained in the Report which the Members opposite accepted. If they wish to doubt whether or not they accepted it then I have here a copy of their manifesto from which I will gladly quote. Mr Speaker, the medical and physical facilities for Geriatric patients was especially bad in 1987 and nothing has been done by this Government in four years to improve that situation. This is what the Review Team said then in 1987: "The outstanding deficiency we have identified is the provision of care for the elderly. The proportion of the elderly in the population is increasing and the provision of the Services is manifestly unsatisfactory. The appointment of a Physician with interest in Geriatrics and with responsibility for coordination of Hospital Community Services for the elderly and for the establishment of rehabilitation programmes is an urgent requirement". Mr Speaker, absolutely nothing has been done to implement that urgent recommendation based on a finding that the Service was then four years ago manifestly unsatisfactory. We still have the same Mount Alvernia with some of its facilities closed down for lack of resources. We still have the Lady Begg Ward and the Louis Stagnetto Ward with the same beds as thirty years ago notwithstanding that the recommendations of the Report in 1987 described this as the outstanding deficiency and a manifestly unsatisfactory Service. The population growth has been towards an increasing number of elderly members of the community and so the problem now is worse in mathematical terms than it was in 1987 when these uncomplimentary comments were passed by the Review Team. The fact of the matter is, Mr Speaker, that there has been no appointment of a Specialist Physician with interest in Geriatrics. The fact of the matter is, Mr Speaker, that there is no rehabilitation programme for the elderly. The fact of the matter is, Mr Speaker, that there has been no build up of the District Service and therefore, Mr Speaker, it follows as inevitable that that service which was manifestly unsatisfactory in 1987 is now in a state of crisis insofar as it affects the Geriatric facilities. Mr Speaker, the Maternity Ward, which as the House now knows I have on a recent occasion had cause to visit, is inadequate in size and it is inadequate in configuration. It is an old run-down part of the Hospital and it is indeed a credit to our highly dedicated staff, whose dedication, skill and competence I personally vouch, that this difficult service is so expertly provided in those conditions. The inadequacy of the Government's policy, Mr Speaker, on Medical staff recruitment is best illustrated by the fiasco surrounding the appointment of a permanent Gynaecologist and Obstetrician during most of this year. I appreciate, Mr Speaker, that my motion says "The continuing failure" and as far as public announcements are concerned, I think, that remains true. I hear on the grapevine that, in fact, a Consultant may now have been engaged. It really is

nevertheless, Mr Speaker, extraordinary that the Minister has allowed this Service to be provided since April of this year by a succession of locums thereby denying women in Gibraltar the benefits and reassurance of continuity of treatment by the same doctor. Mr Speaker, if the Government wants to say again that this Member does not know what he is talking about, as is their custom and their style, then they can continue to bury their heads in the sand for as long as they like, on as many issues as they like, whenever they like, but the fact of the matter is, that for the first time in the Medical history of this community, women have had to have recourse to the letter pages of local newspapers to bring their serious concerns to the fore. Mr Speaker, if it is the position of the Members opposite that those women that did put pen to paper were simply hysterical, politically motivated, anti GSNP, ignoramuses, then let them say so and take responsibility for the consequences. Mr Speaker, in relation to the question of recruitment there is grave doubt as to who, if anyone, is consulted about new Medical staff recruitment. Certainly, my information is that the body of Medical expertise available to the Gibraltar Health Authority here in Gibraltar is not consulted. It seems incredible that the Minister should not seek this expert advice so readily available to her. This, Mr Speaker, coupled with the terms of employment offered to new recruits is having a direct and adverse impact on the quality of Medical Services in Gibraltar. Mr Speaker, in 1987, the Review Team said that the Health Centre was overcrowded and recommended the opening of a new Health Centre in the South District. This has not been done either and nor as far as the public is aware, are there any plans for one. This, Mr Speaker, coupled with the question of the Group Practice Medical Scheme which is far from being user-friendly means that there is some concern being expressed on the way it is run. GP's appear to be overworked, consultation times are very short and there appeared to be a lack of continuity of care and patients did not feel that they could always identify with one GP as their own doctor with whom they could have a continuing one to one relationship. The reasons for these deficiencies were identified as being the insufficient number of GPs, which certainly the Members opposite have taken some steps to remedy with an increase to eleven or twelve in the number of GPs in the Group Practice Medical Scheme. The second point, the one about people in Gibraltar not feeling that at the Health Centre they have a doctor of their own, is that they have failed to implement a list system of registration where a patient registers with one particular GP. Nothing has been done to remedy this last point with the effect that people do not really have someone that they can call their own doctor. Consultants have nobody to report back to and discuss an individual patient's case with and patients can never be sure to see the same doctor twice even in respect of the same illness. This, Mr Speaker, together with the continuing overcrowded state of the Health Centre makes it very unuser-friendly. Mr Speaker, if I could turn now briefly to the question of Nursing and the Nursing School. What, Mr Speaker, is the

future, as far as the Government is concerned, of the Nursing School? What is the Gibraltar Health Authority's strategy in respect of Nurse recruitment and Nurse training? What is the future in-house training? What is the future of in-house training through the Nursing School? The Nursing School has been transferred to the responsibility of the Deputy Director of Nursing Services. Mr Speaker, the Hill Report recommended the need for an annual student Nurse intake of about 34, 35 or 36, over a couple of years. That is 35 one year and just 36 the next. There are presently 14 to 16 Trainee Nurses in St Bernard's Hospital but none, not one single Nurse has been admitted for the current year commencing in September 1991. Mr Speaker, it appears that Government is increasingly recruiting untrained Nursing Assistants. As trained Nursing staff is lost and not replaced, this will lead, Mr Speaker, to a shortage of local trained Nursing staff at the Hospital. Is there, Mr Speaker, a policy on the part of the Members opposite to change the balance between trained Nurses, in which I include Enrolled and Staff Nurses and Nursing Assistants? Is it the policy to change the balance in favour of Nursing Assistants? Mr Speaker, is this policy of recruiting untrained Nursing Assistants, who cost, I am told about half a trained Nurse, a policy of economy and cheap labour? And what, Mr Speaker, does the Honourable Member opposite think is the impact on health care of such a policy? Mr Speaker, I wish to make some reference to the current industrial dispute but I have no intention of conducting industrial relations across the floor of this House. However, Mr Speaker, as I understand it, the problem areas in the current industrial dispute in the Health Service are these: Government's cancellation of extra duty allowance for new comers who nevertheless are required to continue to perform the extra duties. I know that the extra duty allowance continues to be paid to those that have always been getting it. There is the problem of Members of the Nursing staff who have always been on night-shift and who have organised their life on that basis, who are now apparently being obliged to work day-shifts if called upon to do so and there is also the loss of one post at the School. Mr Speaker, I am told, but I would welcome the Honourable Member's confirmation, because it is not for me, and I express absolutely no opinion on the merits of the dispute, which is a matter between the Gibraltar Health Authority as employer and the Trade Unions involved and it is not, as far as I am concerned, the matter for the political domain. But I am told that the problem which appears to be the most intractable one is the question of night-shift people now being brought onto day-shifts. It involves four individuals and I ask myself if the blacking that the Government is being subjected to of electricity bills not to be sent out and therefore not paid, etc is really worth the aggravation that is being caused to the Health Service and whether these issues could not and should not be solved at the earliest opportunity. I would welcome a statement from the Minister, in her capacity as Chairman of the Gibraltar Health Authority, as to what the problems are. What the issues are and why it appears that they are intractable. Mr Speaker, a criticism of a general

nature that one would levy at the Health Services in Gibraltar, is that there is really no accountability to the patients or to users. The system of appointments is one that I forgot to mention when I mentioned that the system was not user-friendly. There is grave anger and frustration at the system of appointments that requires everybody to arrive at a given time and then you have to wait an hour, two, three, four, until you are called as if people had nothing better to do with their time than kick their heels in some waiting room or another. There is no effective complaints procedure. There is no long-term strategy. Mr Speaker, there are no statistics. I found it extraordinary when I was told and admittedly I did not ask the Management of the Gibraltar Health Authority but I am hoping that when the Honourable Member answers me, she will tell me if I had asked the Management whether they would have been available. I was told by a very Senior source within the Gibraltar Health Authority, for example, that there are no statistics in relation to such things as infant mortality rate. That if I wanted to find out how many people in Gibraltar are dying of this, that or the other, that they are simply not available in statistical form. On a basis of a comprehensive breakdown. I am surprised that everytime that I indicate as I openly do, the source, which is by no means limited to the professional side of the Gibraltar Health Authority, that the Members opposite should snigger as if they said "Ah you see he has been speaking to him", or "Ah he has been speaking to them". That, Mr Speaker, is the source of information to Members of the Opposition in order to do their job or do Honourable Members opposite think that I should come here and criticise the Health Service on the basis of having spoken to nobody involved in it. In summary, Mr Speaker, what we have is a Health Service that is not autonomous from Government in any real sense of that word, where the professionals are not consulted, where the staff at all levels are unhappy and frustrated, where qualified Nurses are increasingly replaced with unqualified Nursing Assistants and the whole Nurse Training system is being run-down and downgraded. Gibraltar is no longer producing a body of qualified Nurses. There is no accountability to its users and is very far from user-friendly. Perhaps, most worryingly of all, there is political power playing going on to the extent that the Nursing staff has been divided into two opposing camps. There is no provision of adequate and dignified care for our elderly. The Health Centre is now too small and overcrowded. The recommended second Health Centre has not been provided. People attending the Health Centre are deprived of a doctor of their own preference. The promised and recommended new Hospital is no nearer to reality. I do not say to the Members opposite that they had any electoral obligation to deliver the new Hospital ready and up running in their first term of office but what I am saying is that it is no nearer to reality. A Health Service where Doctors and Consultants are recruited on terms that are steadily lowering the standards of expertise available to our patients. A Health Service which is struggling along on a day-to-day basis and which has no strategic plan for the future. Mr Speaker, we have

a Government that has not in 1991, done in four years, many of the things that it accused the previous Government, in 1988 of not having done after one year. A Government that throws vast sums of public monies at commercial ventures and penny-pinches on recurrent Medical expenditure. Mr Speaker, I use the words "Recurrent Medical Expenditure" advisedly, because I am conscious of the fact that the Government has invested large sums of money, in my opinion misdirected in part, and which would much better have been invested towards the Capital Cost of rebuilding a Hospital elsewhere. Mr Speaker, as a result of four years of GSLP Government, we have a Health Service which its own professionals accuse of being in danger of falling to Third World standards. Now, Mr Speaker, it seems to me that there are two clear choices here, either the British Medical Association do not know what they are talking about or the Health Services are in crisis or lysis, depending on which of my two opening definitions you prefer. Mr Speaker, it is therefore with regret that I commend this motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Hon P R Caruana.

MR SPEAKER:

I would like to point out that I consider this to be a vote of censure on the Minister for Medical Services and Sport. It is now, I think, an appropriate time for the House to recess for 20 minutes.

The House recessed at 5.00 p.m.

The House resumed at 5.25 p.m.

HON MISS M I MONTEGRIFFO:

Mr Speaker, I will be answering the Hon Mr Caruana on the motion that he has presented to the House except that I have a problem with my knee and I cannot stand. I am grateful, Mr Speaker, for having been given the privilege of being able to answer the Honourable Member, sitting down. I am injured because I happen to be a very active sportsperson, Mr Speaker. I have listened to the Honourable Mr Caruana and I must say that I consider that most of what the Hon Member has said to be completely inaccurate. It in no way reflects that there is a crisis in the Health Services. Even though the Hon Member has presented a motion where he has listed certain points he has spoken in such a way that it is difficult to answer him in the sense that he has digressed from point to another. Therefore, Mr Speaker, as Minister for Health, I think, it is better for me to answer all the points that have been listed. Let me, first of all, Mr Speaker, say that as far as I am concerned, as Minister for Health, we in the Government are absolutely convinced that there is no crisis in the Health Service. Far from it and when the Hon Mr Caruana says that there are alarming warnings being sounded by the British Medical Association of Gibraltar that the standard of our Health Services could drop to Third World levels, I can assure the Honourable Member and this House



that that is not the case and that this will not occur as far as the GSLP is concerned. Another allegation that has been made, Mr Speaker, is that if the Health Authority is to employ Consultants who do not engage in Private Practice then those Consultants will not be of the calibre of the present Consultants. Well I must make it quite clear to the House today that we have already a number of Consultants engaged in the Health Authority that have already accepted contracts without Private Practice. Now, Mr Speaker, the Honourable Member in his contribution said that he favoured Private Practice and I, as Minister for Health, and the Government consider that Private Practice is something which the majority of the people of Gibraltar that have come to me are not in favour of. We do not believe that people should be seen to primarily because they can afford to see a doctor. People should be seen to because of their medical condition and not because they have money to afford to see a doctor. I adhere to that and the people of Gibraltar I am convinced will adhere to that. We therefore have a situation where the Consultants that have been recruited have contracts that do not vary at all from previous contracts except on the question of Private Practice, Mr Speaker. I believe that doctors should take us Ministers as an example of giving a service to the community of Gibraltar by working full time and not engaged in any Private Practice. I think also, Mr Speaker, that it is very unprofessional on the part of the BMA to say that colleagues who already been contracted by the Health Authority could be inferior to them because they happen to have signed a contract whereby it is stipulated that they will not undertake Private Practice. Some may indeed come from the Third World but that does not necessarily follow that if they come from the Third World they are inferior. I am convinced that those Consultants that have been recruited to the Health Authority are those that are up to UK standards and when the BMA say that they are not involved in the selection of those Consultants, again, Mr Speaker, we have a situation whereby we are having the BMA, which is a Union, trying to get involved in selecting candidates. There is a procedure for selecting candidates and the Health Authority does not necessarily have a situation whereby new Consultants are not being recruited without medical input. The medical input is there, Mr Speaker, and we have gone further in recruiting new Consultants because we have engaged the services of Consultants in UK specialised in that particular area. So it is not true for the BMA to say that we could be faced with a situation whereby Consultants coming in to Gibraltar could be those that are inferior to the Consultants already engaged in the Health Authority. I as a Minister for Medical Services subscribe to the fact that if one is a doctor working in the Public Sector and for the community then you should be there to see patients because of the medical diagnosis and not purely and simply because one can afford to see a doctor. Therefore Mr Speaker, if we look at the question of the Consultants that are being employed by the BMA then we have a situation where the Government feels very strongly on this question of Private Practice. We

are on the other hand respecting the contracts of those Consultants within the Health Authority who can continue with their Private Practice. However that does not mean, that as a Government, we have not the right to employ new Consultants with the condition that they do not practise Private Practice. I am completely convinced Mr Speaker, that the alarming warning given by GSD is completely unfounded. We have today a situation, as I said before Mr Speaker, where we have three Consultants within the Health Authority that have signed contracts that do not include Private Practice. Coming now, Mr Speaker, to the second point in the Motion whereby the Honourable Mr Caruana is saying that there is an unprecedented low level of morale amongst the Nursing staff, then I must say, that as a Government, we have been consistent with the policy that we will not be drawn into a public debate on matters relating to industrial disputes. We, on this side of the House who have had experience as Shop Stewards ourselves know that the more that matters are aired in public the more that it will exacerbate the problem. Therefore in keeping with that policy which has been consistent since we came into Government we will not enter into a public debate with the Union. We do not wish to do this because we do not think it is healthy and we do not think it is in the interests of the nursing profession, the Hospital or the patients. I am however prepared on a very confidential basis to meet the Honourable Member and to provide him with all the facts. If, I am obliged to defend our policies against the accusations and allegations that have been made publicly then it would mean that I would have to necessarily attack the Union and I would need to say publicly why we think the Union is right or is wrong. If the Hon Member is interested in the facts, Mr Speaker, and not just trying to score political points, then I am prepared to answer every point that the Honourable Member has made in connection with the dispute on a confidential basis. I hope that the Hon Member will take up my offer. Mr Speaker, we now come to the point of the continuing failure to appoint a permanent Gynaecologist. Let me inform this House that when the administration of the Health Authority came to me and informed me that we required a further Consultant, it made complete and logical sense to me that rather than rely on qualifications and CV's of the Consultants applying we should bring them over as locums and try them out and see in practice how well they suited into our community. We could also rely on the feedback that we would get from the professionals and the other people that would be working with them. Mr Speaker, the Honourable Member has said that the BMA are saying that if these Consultants come to Gibraltar and they have not had an input themselves then it would mean that they are of a Third World class standard. That, Mr Speaker, is nonsense. The Honourable Mr Caruana, said on television that if he got into Government then he would recruit a Consultant in two weeks. Well the policy of the administration of the Health Authority was to select with the advice of an accredited Consultant in that area in UK Consultants that would be suitable to Gibraltar. These



Consultants, Mr Speaker, have come to Gibraltar and they have actually worked for us for a number of months and they have been tried out by the very people that the Honourable Member calls professionals and the staff within the Health Authority. Now, Mr Speaker, let me inform the House that two months ago, the Health Authority contracted the services of a Gynaecologist so the question of the Health Authority not having a permanent Gynaecologist has been blown out of all proportion. When the Honourable Member presented the motion the Health Authority already had a Gynaecologist. However because of his personal commitments he could not start working in Gibraltar until the early weeks of December. As far as we are concerned the Health Authority not only had a suitable Gynaecologist, who happens to be himself a Member of the BMA, but because of his personal commitments he could not start until now. Therefore, Mr Speaker, it seemed very logical to me, as I have said before, that rather than rely purely and simply on the qualifications of the doctors it would be better to bring the Gynaecologist to Gibraltar and to bring those people that had been selected in UK and try them out and to see whether they were suitable. That is what has happened. The Gynaecologist, as I have said before and I think it is important to stress the point, was contracted two months ago before the Hon Mr Caruana came out on television saying that we had failed to appoint a Gynaecologist. We have not failed, the Gynaecologist has already started working for the Health Services. Moving now, Mr Speaker, to the other points made in the motion. The Honourable Member makes reference to rats, cockroaches and leeches that is complete nonsense. We have regular disinfection programmes and although the buildings are old and occasionally there may be one or two it is not what the Hon Member has described. We have a mechanism already in motion for the past three years for the BMA or for other doctors to give recommendations to the Minister or to the Administration and that has not happened up to now, Mr Speaker. I can say quite categorically today that we have within the Health Authority a Medical Advisory Committee. Now, the Medical Advisory Committee is comprised solely of the professionals that the Hon Mr Caruana is talking about and they have only met once since we came into power, Mr Speaker. Once. That is the medical input that the professionals, that the Hon Member is talking about have given to the Health Authority. Once, Mr Speaker. On the question of the Management Board and the Health Authority Board, Mr Speaker, again, we have a situation where the Management Board is comprised of professionals and still today, Mr Speaker, we do not have a Consultant in the Management Board of the Health Authority. So where are those professionals that feel that they have to have an input, Mr Speaker? I want that input from the professionals but I am not getting that input. So what the Honourable Member is saying is utter and complete nonsense, Mr Speaker. If we talk about the Health Authority Board, that the Honourable Member has made such a song and dance about, Mr Speaker, well I am Chairman of that Board, and never have I, as Minister, tried to

overrule any decision taken at that Board. That has never happened Mr Speaker. The Health Authority Board has had meetings and received representations from a wide spectrum of professionals and independent Members of the community and it is however not been a question of the Minister taking decisions and everybody keeping quiet. That is not the case at all, Mr Speaker. So the more that I go into the details and the reasons why the Member has brought this motion to the House, the more I believe that the Hon Member is just trying to make political capital and score political points. When the Hon Member is talking about the Health Services and accusing the Government of just giving a coat of paint to the Medical Institutions and that the Medical Services are run-down that, again that is completely inaccurate. The Hon Member knows that at every Budget Session I have actually bored Members on this side of the House because I have read lists of all the works and all the equipment and the improvements that have taken place in the Medical Services.....

HON DR R G VALARINO:

And bored this side of the House as well!

HON MISS M I MONTEGRIFFO:

Yes, both sides of the House, Mr Speaker. I am now glad that I did that because it is on record. I have put on record all the monies that have been spent, how they have been spent and all the improvements that have taken place in the Medical Services. I am proud to say that in three years, and anybody visiting the Hospital, can verify this, fortunately the Hon Mover has not had to visit the Hospitals, but it has not been a question of giving a lick of paint, as has been said by the GSD, it has been a question of bringing the Hospital up to modern standards and every ward in that Hospital has not only been equipped with modern up-to-date furnishings and equipment but has been renovated. In fact I can say of a lot of Hospitals in UK would envy the standard of our Hospitals. The Hon Member mentioned Mr Ralph Murray, former General Manager of the Health Services, well I have never felt so proud in my life in having a General Manager who is Gibraltarian, who knows about Gibraltar and who cares about his homeland as I care about my homeland and in three years that the Government has been in power we have started with a Budget of £8m and have nearly doubled that amount in three years. When the Member refers to the Report of the Review Team in 1987, well I have looked at that Report and many of the recommendations of that Report have already been implemented, Mr Speaker. I can tell the Honourable Member that when we are talking about extra medical staff, as he chose, Generics, well many of those recommendations have already been implemented. Most if not all of them, Mr Speaker. When the Honourable Member is trying to justify what we have not adhered to, and I have jotted what the Hon Member said, it is basically that we have not built a new Hospital or a second Health Centre. Well there are two answers

to that, Mr Speaker. In 1987, when the Report was accepted by the previous administration and we were in Opposition it was clear that the Hospital was actually falling down and needed a lot of money to be refurbished. We came in, we looked at the alternatives and we saw the results in the first year that we were in Office whereby we had a previous situation that the amounts of money pumped into the Medical Services were in the tune of £2,000 in 1984/85, £50,000 in 1985/86 and £17,000 in 1987/88. We came in and just on refurbishment works we spent nearly £200,000. In fact a ward which we refurbished cost us something like £70,000 to £80,000. Then on maintenance, and as the Honourable Member has made a reference to leaking roofs, we have an on-going programme, a commitment by the GSLP, to improve the fabric of the buildings. So from a new Hospital in 1987 we started to put money in to the Medical Services and saw the results and we realised that we were achieving improvements and the question of a new Hospital was no longer a priority. Nowadays, Mr Speaker, with the equipment and the refurbishment works that have been carried out we have a Hospital that I, and I am sure, most of Gibraltar, is proud of. Therefore, it is false, for the GSD and for the Honourable Member opposite to say publicly that the Minister for Health glories in being associated with charitable organisations. Yes, Mr Speaker, that accusation has been made by the GSD. That I glory in being photographed receiving gifts of very necessary equipment from charitable organisations. That is not correct. That is not true. It is false, Mr Speaker. We spent in our first year in Office nearly £200,000, in important medical equipment and after three years in Office we have not only done away with the backlog of important medical equipment but we can be proud of having really modern up-to-date equipment in nearly all of the departments of the Medical Services. Of course, I glory being photographed with the Organisations. I glory because I am proud of my community and I am proud of the people of Gibraltar being so charitable and participate in caring for the community. It shows how out of touch the GSD is with the Gibraltar community. This is not something new, Mr Speaker, charitable organisations have always been coming to the Health Services and offering money to provide for equipment needed by the Hospital. That in no way means, Mr Speaker, that the Health Authority will cut-back on the amount of money that it has budgeted for important equipment. The Honourable Member might not be aware but I have, in this House, given a list of not only the basic equipment that we have replaced, but also of the important new equipment that the Hospital has purchased. We now have a situation, Mr Speaker, where the wards are completely refurbished to modern day standards but the Honourable Member has the audacity to come here to the House of Assembly and to say that the Health Services are rundown and that there is strike action because the Union have certain grievances. That the doctors are saying that we are going down to Third World, or that we could go down to Third World standards because of the new contracts being entered into. Well the whole of Gibraltar is in favour of doctors not undertaking Private Practice. They

should follow our example, of Ministers on this side of the House, of working full-time for the Public Sector. We will not undertake in any private work and doctors should see patients as a matter of priority because of their medical condition and not because of any other reason. Those Consultants that are being recruited, I can assure the House of Assembly have been recruited because they are qualified and it is completely unprofessional for the BMA to put into doubt the competence of colleagues already working in the Health Services. I am looking at my notes and I think that I have covered his points but looking at the motion and I have realised, Mr Speaker, that the Hon Member is calling upon the Government to allow the Gibraltar Health Authority to function as a truly autonomous body, free of direct political day to day management and control. Well, Mr Speaker, I have been Minister and I as Chairman of the Gibraltar Health Authority, I can assure the Honourable Member that if the GSD is trying to portray me as a Margaret Thatcher then I have no qualms with that. If given the number of votes that Margaret Thatcher was given then I have no problem with that. I can however assure the Honourable Member that I do not get myself involved in any day to day policies that are related to the administration of the Hospitals. My role as Minister is to make sure that I implement broad policy decisions that come directly from the Government. For example, Mr Speaker, without being drawn again on the question of the dispute as perhaps the Honourable Member wants to, but I must say that when we talk about the grievances of the Union and the allegations made by the Union, Mr Speaker, one of the problems highlighted was the internal rotation of the Nurses and I did not take a decision on that. The decision was taken by the professionals. The professionals that the Hon Member says should have an input into the Medical Service. They have that input already because in fact, the internal rotation was advertised even before I was advised about it. I however agree with that policy Mr Speaker. I agree with it because the professionals who introduced that system were those that I cannot in any way question because even I accept, Mr Speaker, that although I am Minister for Medical Services I am not going to question every point and every matter that has to do with health care within the Health Services, Mr Speaker. The internal rotation as introduced by the professionals in order to improve patient care. With regard to the BMA, Mr Speaker, and their allegations, I can assure this House that as Minister for Medical Services I sit in my office every day and have people coming to see me and I defend the position taken by the doctors whenever people come to me with grievances or with requests that they wish to be seen by a specialist or they wish to be sent to UK. My only intervention in that field is to tell the doctors that they have a blank cheque from the Government of Gibraltar and if at any time the doctors feel that someone should be sent to UK for any reason at all then the GSLP administration will give them the financial backing. I have said this before in this House of Assembly and have defended, in my office, the position of the doctors when they, as the professionals, feel that they should not send someone to the UK and that they should be seen to in

Gibraltar. So how can the allegations being made by the BMA be justified, Mr Speaker. They have the avenue for the medical input and it is completely false, Mr Speaker, when I read the allegations made by the GSD that I, as Minister, have not agreed to meet them to hear representations on matters of concern. That is completely false, Mr Speaker. That is inaccurate. I have never ever said no to anyone wanting to come and see me. Therefore when I read the motion and the accusations being made by the unofficial Opposition on the Health Services I can only come to one conclusion that they are not trying to come up with concrete recommendations as we did when we were in the Opposition, they are only trying to make political capital. Coming again to the Medical Review Team and to the second Health Centre, of course we are aware that the facilities at the Health Centre need to be upgraded. In fact, Mr Speaker, I can give a commitment to the House that our plans are to upgrade them. However the Report of the Review Team was done at a time when the population of Gibraltar was scattered in such a way that in order to be able to identify the priorities of the medical requirements, the Medical Review Team at the time were looking at a completely different scenario. The scenario then was that the proportion of the population in Gibraltar could well be distributed between the South and the North. When we came into power as a result of my colleague, Mr Feetham, having instigated his huge reclamation programme that no longer was the case and a second Health Centre in the South was not needed. So we had to readjust and look at the new elements of Westside I, Westside II, and GIB 5. Now, Mr Speaker, we have come to the conclusion and we are in a better position to plan for a new Health Centre and the commitment of this Government is to have a new Health Centre but, a new Health Centre conscious of the requirements of the distribution of the population of Gibraltar as it stands today and that commitment I will give to the House today. A new Health Centre is being planned and it will take into account the structure of the population within Gibraltar as it will be as a result of the reclamation and not when the 1987 Report of the Review Team was presented. Again, Mr Speaker, at the end of his contribution the Honourable Member made certain allegations as far as the Nurses were concerned but I will not, and I am being completely consistent with the policy of my Government, enter into a public debate which we know will only exacerbate the situation between us and the Union. We are here to try and solve industrial disputes, Mr Speaker, and that is why we have not come out in public. We know that if that is the case we will not be able to reverse the situation and will only help to aggravate matters more, so in the light of the information that I have given the Honourable Member if he will take up my offer we will get the facts. I will then be able to brief him on the facts of the dispute rather than come out publicly attacking the Union which will not serve any other purpose than to make things more difficult. I wish to resolve the problem and not to aggravate it. Therefore in ending my contribution I will say that the Hon Member has described the situation

in the Health Services as a "crisis" and that is far from the real situation because the Health Services in the three years that we have been in Government have progressed to such an extent that any Gibraltarian visiting the our Institutions can be proud of what they see and, in fact, it is one of the departments within the Government that has seen more money poured in than any other. The Management functions without political interference from me or the Government. So it is completely erroneous and completely false what the Hon Member opposite has said. I meet the Management of the Health Authority and they come to me with a list of priorities for the Health Services and as a Government what we do is approve the funds. We do not question those priorities. The only time that we intervene as a Government is where important broad policy decisions need to be taken like on the question of private practice. I think on that particular question we have the whole of Gibraltar on our side, Mr Speaker. Therefore in concluding, Mr Speaker, I wish that the Honourable Member would not only accept my invitation to brief him on the question of the Nurses dispute but also to come and visit our Health Services, look at the buildings, the new equipment, in fact, to look at everything and perhaps he will agree that the Health Services have never been in a better state. I therefore completely reject the motion because it is inaccurate and it is not in line with the real situation within the Medical Services.

HON DR R G VALARINO:

Mr Speaker, Sir, to start with, I am sorry to hear that the Minister's knee is troubling her again. I think that if she tries to get a public appointment at the Hospital for the problem with her knee she will probably find out that she will be seen sometime in March. However if she goes privately she will be seen tomorrow. Mr Speaker, there is a place for private health care in Gibraltar but not at St Bernard's Hospital. Fifty per cent of the problems that arise at St Bernard's Hospital are directly or somewhat associated with private practice. That is the root of all evil in the Hospital. Now to those sage words, Mr Speaker. I notice that the motion is one of no confidence in the Minister. However let me reassure her that the last motion that I faced on that side of the House was one of no confidence in me and the result was the then Opposition party swept out of the House of Assembly and I came fourth at that General Election! So a motion of no confidence certainly does not do the Hon Minister any injustice and she will probably do better at the next election. "The alarming warning", as the first paragraph states "scouted by the British Medical Association of Gibraltar". Now, Mr Speaker, all doctors and dentists in Gibraltar are Members of the British Medical Association. I am also an Associate Member of the Royal College of General Practice and if as the Hon Minister says the Medical Advisory Committee has not met in a year then let me tell her that the British Medical Association has not met in ten years! So whatever words and advice is being received by Hon Members on my left from the British Medical Association certainly

comes from individuals who have a grudge to bear. I certainly know who those individuals are. But I do not think we ought to name names at this present time. It is said "that standards of Health Service in Gibraltar could well drop to third world levels". Funny but I have never heard about second world levels. Do they not exist? Or is it that one drops from the first to the third? What is certain is that the Gibraltar BMA certainly, as a Body, has practically ceased to exist. The Chief Minister may remember when I was Secretary of the BMA and we had regular meetings and, in fact, one of the Presidents at the time was Roger Dogerty. When we had those meetings we used to negotiate doctors pay at the time and we used to have our regular meetings with the Union. Since then I am afraid that the BMA has practically dropped out of all significant life in Gibraltar. Now headlines like "the unprecedented low level of morale amongst the Medical and Nursing staff". Well that does not help anyone at all. I have not met any unprecedented low level of morale amongst Nursing staff. The only unprecedented low level of morale amongst the Medical staff could be associated with the ones in the private practice who are getting less patients now and therefore less money. That probably accounts for their low level of morale. Especially with Christmas coming. They probably want to buy all kinds of things and they do not know where they are going to get the money from. Mr Speaker, let me move now to the third point. The fact that such "a dedicated and professional body as the Nurses that have been provoked into a state of industrial dispute". I have met with many Nurses and talked this over and I have come to realise that this is an internal dispute between two sections of the Nursing Staff. Now, I do not think that this House through a motion should be the place where this point should be discussed and I am not prepared to comment any further on that one. Certainly on the first three points and on the crisis element the Leader of the GSD, has not convinced me at all and more especially about Private Medical practice at the Hospital. The fourth point about the continuing failure to appoint the permanent Gynaecologist and Obstetrician, there I tend to agree somewhat more with the Honourable Member on my left. I have, as you know, asked for over a year what was the position of the Consultant Gynaecologist at St Bernard's Hospital. Whether one had been appointed and if not, how long would it take. I also asked the Minister for her thoughts on the matter and certainly at the time there was no clear indication as to what would happen. It has been explained today that the Government would rather try a Gynaecologist first to see how that person fitted into the pattern of Gibraltar's life rather than appoint one for two years and then find out that the person appointed was not suitable. That, Mr Speaker, to me makes some sense but it does not exactly answer all the queries that have been made from this side. There has been too long a gap in the provision of those Services and therefore I have some reservations on that point. The rest of the motion talks about various other things like the 1987 Medical Review, the Autonomous Body etc which the Government fully undertook to implement. As far as I know, most of the

points of the Hill Report have been implemented. So I do not see where this arises. There was another point mentioned about the "Gynaecologist being very much on his own". The Hon Member on my left explained that he would be unable to talk about problems of a Gynaecological nature with some other colleagues. Well, I am glad to say that reading the Chronicle this morning I saw that the GNP seemed to have a blue print for the future because they are saying that the GNP believe that the appointment of a Registrar at the Hospital would relieve the Consultant from the pressures of work and would also provide certain medical advice and support for the Consultant.

HON MISS M I MONTEGRIFFO:

Mr Speaker, if the Honourable Member will give way.

HON DR R G VALARINO:

Certainly.

HON MISS M I MONTEGRIFFO:

Nothing to do with his contribution, Mr Speaker. I have inadvertently forgotten to say that as part of the recommendations of the Review Team, one of the suggestions made by the Review Team which we have taken up, as a Government, and implemented is that we have moved from five Senior House Officers to seven. That answers one of the allegations made by the Honourable Mr Caruana. The extra two now have a commitment into Geriatrics and into Gynaecology. Also, Mr Speaker, something which is new because apart from the recommendation of the Review Team, we have also implemented other things which were not suggested by the Review Team and these improvements Mr Speaker, are within the Health Services and that is that we have started involving the GPs into specialising in different areas and introducing new clinics like the Well Woman Clinic, Post Natal Clinics which will all provide input into the Hospital and alleviating and helping the Consultants within the Hospital.

HON DR R G VALARINO:

Mr Speaker, that has answered my question. Except that House Officers at times do not have the experience that a Registrar could well have to take over from the Consultant when need be. This however is something which obviously the GHA must bear in mind and must take on board. Talking professionally a Senior House Officer needs just a little bit above the minor qualifications where a Registrar usually has either a Membership or a Fellowship. So he is of a higher calibre, a high category and would come into a great deal of use. But at least here we have a blue print. I do not believe that the GNP have any sort of blue print. Calls about the Government allowing the Gibraltar Health Authority to function as a truly autonomous body free of direct political day to day management and control. Well

I have personally been active within the Hospital and I have never encountered, when talking to any of the administration, about there being any political control. So that to me does not hold water. Finally I would like just to read a little comment from the British Journal of Medical Practice which says at the end, if I can get these documents, "Two important documents have been published recently which consider the future management of Nurses working in the community. The International Health Service Management Executive Report on Nursing in the Community describes possible models of organisation and it is intended to stimulate discussion. The Kingston Institute and Nuffield Provincial Hospitals Trust are providing a document which amongst other things looks at the management of Nursing with the development of family Health Care as a whole. The outcome of the debate will affect all General Practitioners and Nurses working in primary care and could radically affect the concept of the primary Health Care team". Now obviously as far as we are talking about the primary Health Care Team, we are then talking about the Health Centre, not about the Hospital which is obviously the Consultant stage of the Organisation. All in all I must say that I have not been impressed by the Mover of the motion. I have my own ideas on the subject but two things have predominantly been put across by the mover of the motion. One is the great BMA, the great strength and I can honestly say that that is a fallacy and the second point is Private Practice. As I have said before there is a place for Private Health Care in Gibraltar but that place is not St Bernard's Hospital. Thank you.

HON CHIEF MINISTER:

Mr Speaker, I am not going to be dealing with the aspects of the motion that have already been dealt with by the Minister. What the Hon Minister did not deal with, I think, the Honourable Dr Valarino has drawn attention to and, of course, I share with him an experience over many many years in this House and therefore it might be that the mover of the motion has brought this motion simply on information that he has been fed and which he has accepted at face value, and not having been in this business long enough, understood that people present things with half-truths to suit their own ends. That might well be, Mr Speaker. I however do not think that that is the explanation. I think, the explanation is that the GSD, notwithstanding the fact that I was glad to hear the mover say that he does not intend to try and make the House of Assembly the forum for discussing industrial relations and union claims, is trying to make political capital out of it. That is the view of the Government and it was the view that I had when I was in the Opposition and in the Union. Because the more public accusations that are bandied about the more difficult it subsequently becomes to find a resolution of the conflict and I have many years of experience of that in the Trade Union Movement and therefore the policy of our Government from 1988 has been to work closely with our friends in our Union, to which we all

still belong, the Transport and General Workers Union, and indeed with colleagues in the other Unions in the Trade Union Movement in Gibraltar to resolve differences. For that reason, as the Minister said, the Government has deliberately abstained from replying to a variety of public statements that have been appearing over the last three months and from which presumably the statement about the low morale comes. The statement was made about the low morale sometime back, attributed to Mr Michael Netto in the Chronicle, and that is as far as I know the only source of the supposed low morale to which the Hon Member refers in his motion. I have not heard anybody else talk about morale, before, during or since that particular point. It is of course a perfectly legitimate strategy for any Trade Union representative, whether that Union is the BMA or the TGWU, to try and engineer political opinion to suit the aspirations that it is defending. It is up to those who have the responsibility for governing Gibraltar not to take the bait. That, Mr Speaker, is something we do. I can however assure the House that all those statements that have appeared in public have been answered in private. That is to say they have been answered by the Government's Personnel Manager and are on record which is where we think they ought to be. At each meeting the Personnel Manager has been making a statement saying, "Although this has appeared in public and has not been answered in public and we are not answering it in public because the policy of the Government is not to exacerbate industrial relations. But, of course, if that was all that was behind the motion and if that was all that had motivated the Member opposite, then one could put it to the learning curve that he is engaged in since he got elected to this House. However, he is the Leader of the Party and therefore, he is responsible for the utterances of other Members of his Party, both in public meetings and in the press. The comments of Mr Peter Cumming, described as a Trade Unionist although he actually was kicked out of the Trade Union and a former Senior Nurse, he was also actually kicked out of the Health Service, and those two things were omitted from the Report. Ok, Mr Speaker, fair enough. What Peter Cumming must understand is that people in glass houses cannot throw stones. That is a golden rule, Mr Speaker. Mr Peter Cumming came out congratulating the newly elected Committee and I do not think it is a matter for the GSD or Mr Peter Cumming to congratulate or denigrate or pass judgement on the quality of Shop Stewards in the Hospital or anywhere else. It is a matter for the Membership to select those who represent them and whether those who represent them are more or less militant that is entirely a matter for the Membership to decide. Of course, the same Membership that elected the recent Members of the Committee have also elected every previous Committee. The Committees of the Hospital or indeed of any other Section of ACTS or the Transport and General Workers Union have never been appointed by either the Government or the Executive of the GSLP and therefore in freely elected democratic Committees and Shop Stewards inside the Union, the people elect whoever they feel will represent them better and protect them better and fight for them better.



They are perfectly entitled to do that because we are a democracy. Of course, I can tell the Members opposite that I happen to vote as well because I happen to be a paid-up Member of the Union and I am entitled to vote for whoever, I think, will be best for the Union, like I will be doing when we have our elections shortly for our new Branch Officer. I can still have situations where I may quarrel with that Branch Officer but we belong to the same family and no attempt by Mr Peter Cumming or anybody else in the GSD is going to break up that family. So they are, I am afraid on the wrong wicket there. Let me say that, I think, it is scandalous for Mr Peter Cumming to talk about a situation where the people are disillusioned with my Socialist Workers Paradise and that the situation is that the Union was muffled by the GSLP and people were not free to defend their interests. So that is totally inaccurate but it is, of course, the kind of remarks that Peter does tend to make and I have probably known him better than Mr Caruana does over many more years. Of course, I do not know whether Mr Cumming's sudden conversion to Social Democracy or to defending the new Members of the Committee has anything to do with his own recent relationships with me. However since he chooses to put himself in the firing line he is about to get shot. I have to say to the House because this is relevant to the motion, and to the concern of Mr Caruana, that we should not have political interference in management decisions in the Health Authority and what better proof could I give the Honourable Member opposite about our consistency in not interfering politically than the history of Mr Cumming who is on his Executive and who will be able to verify what I am saying to him. Mr Cumming was the Senior Tutor in the School and shortly after we came into Government the decision taken by Mr Cumming was that he would not allow a Student to resume his training. That decision, Mr Speaker, was contested by the Transport and General Workers Union who had, in fact, a written commitment from Mr Cumming's predecessor, Mr Durrell, that this person would be allowed to resume his training. Therefore the Health Authority when this was brought to their attention instructed Mr Cumming to have the student concerned back in the School of Nursing. Mr Cumming defied the instructions of the Health Authority and closed the school down and the Health Authority said they did not want him there anymore. Mr Cumming approached me and asked me to overrule the Health Authority, and I said "Look I cannot interfere politically because I cannot say to Mr Ralph Murray that he must have you there. We do not interfere politically. The Honourable Member can ask Mr Cumming if this is true and he can find that, in fact, there is evidence of one very clear incident where I was asked to interfere politically and I did not do so. Mr Cumming, of course, would then have had to go through a Disciplinary Procedure, as a Civil Servant, and we retained him and found him other work in preparing the intake of pre-nursing students and we paid him his wages 'Personal to Holder'. He was not happy doing that work and he made representations on a number of occasions about being given abolition of office, which would mean a vast cash payment and, in fact, a very

substantial pension at a very early age and in the circumstances the Government agreed to this. I can tell the House that he then wrote me a letter where he thanked me for this but went on to ask me to re-employ him after having just been given abolition of office and a very substantial gratuity. I can tell the House that it is a very nice pension at a relatively early age. In the letter he said "Dear Joe, I want to thank you for letting me have early retirement. Your positive response encourages me to ask for one more favour. "Please let me have a job in Mount Alvernia." Well, again because we do not interfere politically the answer that he received was that notwithstanding the fact that the Government does provide a subsidy to Mount Alvernia, the Government does not tell Mount Alvernia who to employ and who not to employ. It was also pointed out to him that if he had not sort to leave on abolition of office terms it might have been possible to say "Well I would like to transfer Mr Cumming to Mount Alvernia and one might have been able to persuade Mount Alvernia to give him the option because he was already on the payroll of the Government and was already being paid out of public funds". Now I have said this, of course, because presumably the passion of Mr Cumming subsequent to that, must have been because I said no to his request because I had said 'no' to exercising political patronage. This is in essence what we are being accused of doing by Mr Caruana. That people are being intimidated politically. What are we being told that people get promoted if they belong to the GSLP and not otherwise? That people get overtime if they belong to the GSLP but not otherwise? That people get sacked if they do not belong to the GSLP? Well, I can tell the Honourable Member that if Mr Cumming is an example of how we ill-treat those who do not belong to the GSLP then he is laughing all the way to the bank.

HON J C PEREZ:

I am resigning tomorrow, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, so much therefore for the accusation that there were fears of political infiltration and of manipulations of workers for the achievement of personal power. It takes a certain kind of hard face to say things like that after having written to me a month ago in the way that I have described to the House. So I look forward to the General Election and to facing Mr Cumming across a television screen if he is still going to be there. The Member opposite has said people have been driven to industrial action by unpaid allowances and the night and day rosters. That indicates, of course, how superficial a knowledge he has of the grievances that the Nurses had and which were brought to my attention. As the House knows, because it has been in the media, the meetings have been with me, not with the Minister, for the simple reason that all industrial relation matters are dealt with by the Personnel Manager and not by the Minister with responsibility for a particular department. Our position is that if there is a problem



that affects a Clerical Officer in the Education Department then it is not a matter of Education. The same if it affects a Clerical Officer in the Medical Department it is not a matter of Health, unless they are sick or ignorant, in which case it would be Education or Health. But if it is a question of pay then it is a matter of industrial relations. So, there has to be a consistent Industrial Relations policy for which the Government takes political responsibility and that Industrial Relations policy is not driving people to industrial action because one would need to be insane to want to drive people to industrial action. It is, in fact, to seek to avoid industrial conflict but not to buy industrial peace at the expense of principle. Therefore, I can assure the House that it has been a painful experience for me. I have been the Branch Officer of the Union for fourteen years and I have been a Trade Unionist all my life. I continue to be a paid-up Member of my Union and proud of it even if they choose to attack me in public. There are certain principles, Mr Speaker, that certain people uphold that do not change whatever side of the House one is sitting. It would have been a relatively easy thing when the Union brought the matter up to me in July, before any action was taken, to have said: "I will order the Director of Nursing Services not to move a particular Nurse from a particular shift to a particular shift". I have been at pains to explain to the Union that if I did that then I would be politically interfering in a professional area and that that was the wrong thing to do. This is precisely the opposite of what the Hon Member opposite is censuring us for have done! It is, Mr Speaker, what we refused to do and it brought the industrial action. That is why we had the dispute because I refused to do that and it was very painful for me to say no because I did not want to say no. But I had a situation where the Director of Nursing Services, as the Minister has explained, thought, without seeking political clearance, not a very good situation to be in when you find yourself in a dispute and you then have to discover how it started, because it was not a political decision. He thought that in the light of changes that were taking place in the United Kingdom that it would be better for the quality of patient care, and these are caring dedicated Nurses that we are talking about, that there should not be the same person always on nights and someone else always on days. That, in fact, keeping people four months on nights and eight months on days would improve the quality of patient care. Having thought that, he discussed this, not with the Minister, not with the Board, not with the Chief Minister, not with the Council of Ministers but with the Senior Nurses in the Hospital, with all the Senior Nursing Staff, and having discussed it with them, without telling us, it was decided a year ago to introduce this system on trial and see how it worked. It meant that during the course of last year people were moving into this rota system until some person came along and said "I will not move". Then lo and behold who should that person be but the same person that Mr Cumming did not want to carry on with his training in the school. What a coincidence. Because in fact when Mr Cumming left

the Service that person did go back into the school and actually qualified and is now in the ward and doing a very good job. However he, of course, now belongs to the Section that is getting so much praise from Mr Cumming. We took the line that the Management and the Union had to find a way out of this problem. Management then came along and said "Well, instead of making it four months in the year on nights we will make it eight months in the year on nights" and this person accepted. However there is another person who said no. It is a very difficult situation because the Government can only resolve it by going along to the the Director of Nursing Services and saying to him: "You must run the Hospital by having a referendum or an opinion poll and asking people what they want to do and let them do it". At least that is how the Senior Management see it. We frankly might be tempted to do that for the sake of peace and for the sake of avoiding a conflict with the Union because it is not a pleasant situation for us and we might even be tempted to do that in a place which is not as sensitive as the Hospital. However at the end of the day none of us are prepared to have on our conscience interfering with the views of the most qualified and most highly paid and most senior people in the Hospital for the sake of avoiding a conflict with the Union and for the sake of avoiding other people jumping on the bandwagon, like the GSD has done and the BMA has done. It is certain that if the Union had not come out in July saying "There is a crisis" there would be no motion here today. If there is a crisis today the crisis has been there since 1988 according to the Member opposite. It however never occurred to the Hon Member to say that there was one. We do not say that there is one now or that there was one before. What I am saying is that the arguments that the Member has used are all related to what we have failed to do since 1988. But it is only because the Union came out saying "there is a crisis" and the BMA came out saying "there is a crisis" that some people said "well now if I have a situation where there is a wedge between the Union and the GSLP, now is our chance to get a foot in the door". Of course the door can shut and catch your foot and that is what has happened to Mr Cumming. So, is it true that there are no personality issues involved and that there are genuine problems here which are the result of the Government penny-pinching? Well the Hon Member does not even bother to read the Accounts that are presented to the House because otherwise he would know that Recurrent Expenditure has gone up by 60% in three years. It is there, Mr Speaker. It was tabled at the last Meeting of the House. I can tell Hon Members that the payroll in the Hospital has gone up by 57% in three years. I can tell Members that not only is it not true that we are replacing qualified Nurses by unqualified, but that the opposite is true. We have been replacing unqualified by qualified. I can tell the Member that the recommendations of the "Hill Report" for increased staffing levels was that there should be a substantial increase in additional posts at the level of qualified Nurses, ie Staff Nurses. It recommended that the additional posts identified should be introduced in

a planned programme over five to seven years. We have not been here seven years. We have been three and a half years and we have completed the programme and gone past it. According to the recommendations of the expert in the UK, improved upon by the Director of Nursing Services because the Director of Nursing Services actually recommended that we should go further than the expert brought in 1987 by the Members opposite had recommended. We politically accepted the recommendation and provided the funding. But we did more than that. We actually said because of the need to have our qualifications accepted in the UK because there was this study called the Snee Report looking at Nurse Training and Nurse Qualifications and the Member has asked what is the future of the school well I will tell him, Mr Speaker, what the problem of the school is, because I am sure nobody has told him. The problem is that when we came into office in 1988 we had this Report from the UK which said "In order to get Gibraltar qualifications recognised in the European Community and recognised by the UK CC", which was something that I had been fighting for as Branch Officer for fifteen years and not getting anywhere, "you must stop training people in the way you do in Gibraltar because otherwise you will not get recognition". Now what is wrong with the system in Gibraltar is that in Gibraltar somebody comes in as a Nursing Auxiliary and can do a number of years to get to Enrolled Nurse and then they can stop training because they get married and they have children and whatever and then ten years later they can continue the training. That is a system which has always been used in Gibraltar which I happen to think personally is better because it provides more mature Nurses and provides better qualified Nurses. It provides a combination of experienced and academic standards which is better than the way the UK does it. But whether we think it is better or not the fact of the matter is that nobody recognises that system. So we were told "You have to scrap your system and people have to come in as Students and do the training in three years and they cannot interrupt it". We then negotiated with them to protect all our existing Nursing Staff so that they would be allowed between 1988 and 1989 and 1990 to go on a crash course to complete their training and then after that the system would have to be the same as in UK. This is the one, in fact, that we introduced in 1988 for new entrants. We were surprised by two things, Mr Speaker. We were surprised by the number of people who took up the option, this was, of course, negotiated, discussed and agreed with the Union at the time, but we were surprised by the numbers who volunteered to go on this crash course and we were surprised by the numbers who were successful. The consequence of having given everybody this opportunity to complete their training is that whereas according to the complement we are supposed to now have fifty eight Staff Nurses and we have seventy nine. Twenty one over. Twenty one supernumerary posts. We have agreed that they should be paid at that level notwithstanding the fact that the vacancies do not exist. If there is one accusation that is easy to rebuff then it is the accusation that we are replacing qualified by unqualified staff. In fact,

we have qualified staff in unqualified positions because we gave an unlimited opportunity and many more people took it up than we thought would take it up and many more people passed than we thought would pass. That has then created a problem for the intakes in the School; which is what the Member was saying "What is happening about the future intakes in the School?" Well, the future intakes in the School were based, not on a situation where we would have seventy-nine Staff Nurses already qualified, but where we would have fifty-eight and the programme of training new Nurses would be to increase from the fifty-eight. We have already gone past that programme that was supposed to take seven years. So, in fact, what we are looking at now is using the School more for in-service training on the basis of upgrading their skills. However this will not lead to more pay because people are already being paid at the grade of Staff Nurse in the UK even though they may not be occupying such a post. It has meant that the intake of students has been discontinued because we cannot go on taking students in every year when you have a situation where you have already 21 over the complement. We have, let me tell the House, over and above this 21 over the complement other groups completing their studies this month. If they qualify, because of the commitment of the Government, will have to be paid notwithstanding the fact that there are no jobs for them. Mr Speaker, this is not an issue which worries us because in fact we are totally committed to the Health Services in terms of the difficulties of our Budget which Members of the House are fully aware of. The one area which has never had its Budget cut, the one area where the numbers employed are up on what it was in 1988, instead of being down like they are everywhere else, and I do not hide it, is in the Health Service. Those local allowances, Mr Speaker, have not been stopped or discontinued. So the Hon Member is misinformed. The position is that the local allowances were introduced in 1978 and there is a list of duties linked to those allowances. There is a payment for those duties and that payment is reviewed periodically and is in the process of being reviewed and being negotiated and the Government from day one accepted that there had to be a negotiation to increase those allowances. There is a situation where the Union came along this year and said "We want to introduce local allowances for other people". We pointed out that in fact the other people were not being given any extra duties to do and it is not a question that somebody comes along and says "I have been doing something for the last twenty years but as from tomorrow I do not think it should be my job to do it and I now want an allowance for doing it". We cannot accept that principle, because, of course, that is a principle that anybody can use anywhere and we know that in fact in looking at the range of the local allowances there is a list and we have made absolutely clear that we do not expect people who are not getting paid the allowance to do anything on that list. What we cannot do is that somebody should decide without warning that tomorrow what they have always done and have always accepted and agreed between the Union and the Employer, in fact, agreed when I was a Union Official with me, to

be part of their job, suddenly they say well as from tomorrow it is not part of my job and for doing it I want to be paid extra. We are quite happy and we said to the Union that we were quite happy to look at any factual evidence if we had got it wrong anywhere, because at the end of the day the last thing that we want to do is to have a quarrel with our own comrades in the Union and the last thing we want to do is to portray the Nursing Staff as anything other than totally dedicated to their job. Part of the friction that has been created within the Health Service, which we very much regret, has been because as a result of the industrial action that developed some people felt professionally that in the Hospital there had never been a situation where people took industrial action. It has never happened before, other than a token ten minute walk out or whatever. This was something that professionally they could not do when it affected patient care. Therefore the confidence that we have in the morale of the people in the Hospital is the confidence that we have in knowing them personally and knowing the dedication and the commitment that the vast majority of them have. Not all of them but the vast majority of them. Therefore we know who are the ones that are committed to their job and who are the ones that are not committed to their job. We know them by face, we know them by name, we know them when they come in and we know them because I have been their Branch Officer for fourteen years. For all of them, including Mr Cumming. So I can assure the Hon Member opposite that in simply echoing things that have been said by others he has been echoing things that are untrue. If he is simply echoing them because he genuinely believed it to be true, and I am always prepared to give him the benefit of the doubt as new Member to this House until I learn that it is otherwise, it is certainly not true of others as I have demonstrated, Mr Speaker. So I would hope that not just in this issue but generally in relation to the role that he and his Party will play in Gibraltar in the future he should impress upon colleagues in his Party that what he has said here today of not wanting to make this a forum for arguing on industrial relations will be reflected in the stand that he takes in any other issue because frankly it is not a route we want to go down. But, if the challenge is issued the Member will not find me running away from it. I can assure the Hon Member, Mr Cumming and anybody else that wants to get into the boxing ring, that I have been a street fighter too long and I am now too long in the tooth to be worried by the consequences. I however do not think that it is a good thing for politics in Gibraltar, for this House or for the prosperity and the future of our people to try and stoke up fires and try and make political mileage out of it. That, Mr Speaker, is precisely the interpretation that has to be put on this motion if it is not genuinely one where the Member opposite has been misled. If it is one where he has been genuinely misled, then I suggest the best thing that he can do is withdraw it. Thank you, Mr Speaker.

MR SPEAKER:

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

HON P R CARUANA:

Mr Speaker, if I can deal with the contributions from the other Members in reverse order and start with that by the Chief Minister because what he has said is freshest in my mind. Mr Speaker, the points that I would wish to make in reply to what the Chief Minister has said are short, but I hope sharp and succinct. In the first place, I am impressed by the ease and ability with which he is now, that he sits on that side of the House, able to distinguish between the role of Trade Unionism and the role of Opposition politics. Because it is notorious in this community that when he was sitting on this side of the House, before 1988, he had neither the inclination nor the ability to distinguish between those two roles. As for the BMA's allegation, this is not an allegation that has been made to me or even to the Gibraltar Chronicle. This arose in an interview given by a leading Consultant in Gibraltar and a spokesman for the BMA on GBC Television and as a member of the community I take note of what people who are well placed and know what they are talking about say. The Chief Minister says that there is no baffling by the GSLP, no political power play in the Health Service. What then, I would ask the Chief Minister rhetorically since I have the last word here, although I am happy to give way to him if he asks, prompted the recent friction and ruction in the Unions in the Hospital, and I am not here to hold the brief of the Trade Unions or of the BMA or anything of the sort, but I am going to reply to the Chief Minister's points. Does he deny that those ructions were along Party Political lines promoted and motivated by persons close to the Party opposite?

HON CHIEF MINISTER:

Mr Speaker, if he wants me to answer will he give way? Mr Speaker, I deny entirely and I can assure the Member that there are GSLP members and GSLP non-members on both sides of the divide. It is not a Party Political issue because, in fact, there is only one Party, my Party and there are people in my Party fighting each other.

HON P R CARUANA:

Mr Speaker, when I said on Party Political lines, I was hoping that the Members opposite would be able to read between the lines and know what I was saying.

HON CHIEF MINISTER:

No, Mr Speaker, I am saying that the divisions that took place which led to industrial action being taken is that in the Committee there are people who were in favour of more militant action and people who were against more militant action. The division between the two points of view was not a division based on political affiliation. It might have been a division based on who is more militant or less militant, more left-wing or less left-wing. It

might have been the left-wing of our Party or the right-wing of our Party. It was not that there was AACR supporters against the GSLP supporters or GSD supporters. I am saying to the Member that he will find that there are people who are committed Trade Unionists and committed supporters of the GSLP in both camps.

HON P R CARUANA:

Mr Speaker, a specific allegation that has been put to me straight from the horses mouth, and now I ask the Chief Minister to allow me to get on, is that there has been political intimidation. That there has been political intimidation against members of the Union to leave the Union if they did not wish to upset the Government. Now, I am not going to fall into the temptation into which the Chief Minister has fallen to conduct industrial relations across the floor of this House! Because having said that he agreed with me that it should not take place it seems to me that he has spent much of the last half hour doing exactly that. The second point that I would like to say to the Chief Minister is that I consider what he has done to Mr Peter Cumming, in this House, this evening to be a scandalous, outrageous and cowardly abuse of the procedure of this House. That he has aimed by his own words, his gun, at somebody that is not present here to defend himself and that he shot him. That is what the Hon Member has done. I consider that if the Chief Minister considers that this House exists for him to advocate personal grievances that he might have against individuals by name specifically and at length then I say to the Chief Minister that I consider that that attack formed no part of the motion and that he was referring to what Mr Peter Cumming had said in a publication. It formed no part of the motion before the House. It was therefore an abuse of the process of this House when engaged, as it is now, in discussing the motion that I have presented. I have presented arguments in favour without reference to anything that Mr Peter Cumming might have said outside this House. Mr Speaker, I will continue, notwithstanding severe provocation from the Chief Minister, to leave personalities out of this debate. It suffices to say that my allegations of political interference in the Health Services extend to prepotent forces at work in the Health Services who form neither part of the political team opposite nor indeed of the Management infrastructure of the Gibraltar Health Authority. Those are notorious facts which the Members opposite may wish to giggle away but which everybody knows is the case. The Honourable the Chief Minister argued that the plan to introduce or to cancel the exclusive night-shift working was for caring reasons, to give them breaks and to give them shifts. If that is so and if he says that it is so, I have no reason to doubt him.

HON CHIEF MINISTER:

No, I have not said that.

HON P R CARUANA:

I will give him the opportunity to clarify my misunderstanding on what he said.

HON CHIEF MINISTER:

I have said, Mr Speaker, that the Director of Nursing Services following the introduction of a new practice in the United Kingdom, a year ago, introduced a system in Gibraltar in order to improve patient care on the basis that the latest view in the UK was that patient care was improved if the person that was regularly seeing a patient that night saw also his behaviour during the day. That this view by the Director of Nursing Services was discussed at length, not with me, not with the Minister, not with the Health Authority but with the Clinical Managers, the Charge Nurses and the Sisters. They agreed to introduce it and we only discovered it was introduced when the first person said I will not move. We did not know it had been going on for a year. There was no political clearance and no political decision. I do not know if it is true that it is better for patient care because I am not a patient. The people who are running the Hospital assure me that this is something that is being done in the UK and that it has been tried in Gibraltar and that the results of the experiment in the last twelve months are evident for all to see and I am accepting their professional advice because I am not qualified to question it.

HON P R CARUANA:

Mr Speaker, I accept the clarification. I had misunderstood. I thought that the Chief Minister had said that he was doing it for caring reasons of the Nursing Staff. The Chief Minister said also that they do not say, that is the Members opposite, that there is a crisis now nor that there was one in 1988. But with respect that is not true. Alright it is true that they did not use the word "crisis" but this is not an exercise in semantics. In 1988, they accused the Government, then formed by the Members of the House sitting alongside me, of allowing the Medical standards in Gibraltar to go into continuing decline. That, is by any definition a crisis. So there was a crisis in their opinion in 1988. A crisis which I say they have done little to alleviate except to spend money on the physical fabric of the Hospital. All that I can say in reply to what the Chief Minister has said on the Nurses and the Nursing School is that it is what the Chief Minister has said that is not consistent with the information that I have, not only from the doctors, but from other sectors of the Health Service. Mr Speaker, I hope that the Honourable Dr Valarinc is listening in the adjoining room because otherwise I might fall foul of what I have just accused the Chief Minister of in relation to Mr Cumming.

MR SPEAKER:

May I tell the Honourable Member that he is free to speak about anybody in this House. That is the privilege of the Member. Now, how it is expressed, of course, is a matter for other Members, perhaps, to criticise or comment on. But there is nothing wrong in a Member of the House referring to any person in this House except for certain exceptions of which there is Standing Rules, but I will not go into that now.

HON P R CARUANA:

I am grateful for Mr Speaker's clarification of a position of which I was aware. The Honourable Dr Valarino spoke of not being impressed by the Mover of the motion. I have not sought to impress the Honourable Member or anybody else. Nor, am I particularly impressed with the contribution of the Honourable Member. I fully accept and understand that it is possible, proper even, that the Members alongside me on this bench of the House do not agree with the motion that I have put before the House and do not agree with the reasons that I have given in an attempt to establish that motion and that therefore, they should vote one way or the other. It is not true, as far as my information is concerned, that the British Medical Association is dead and has not met for ten years. I do not know how the British Medical Association works. What I do know is that the day before they met me they had a Committee meeting to discuss their meeting me. Now, that might be the first meeting that they have had in ten years. That might be true. But, I think that to say that they have not met in ten years is to my knowledge inaccurate. The British Medical Association spoke to a sub-committee of the Executive of the Party that I lead, as a Body. It was not an individual who came to express views. They came as spokesmen for the British Medical Association. I do not know if they had been dead for the ten years before that and suddenly, like the Learned Dr Valarino, sprang to life for a specific purpose. I ask myself whether Dr Valarino's contribution to this House on this issue today reflects the fact that he thinks that everything in the Health Authority is fine by him and his Party or whether it reflects that strong opposition which he has recently advocated in the pages of the local press. Because frankly from where I was sitting, he might just as easily apply to join the Members opposite if they will have him. The Honourable the Chief Minister opened his contribution by commenting that what the Honourable the Minister for Medical and Health Services had not dealt with the Honourable Dr Valarino had dealt with and I think that that is correct. The fact of the matter is that as we, in my Party, understand the role of Opposition politics, and certainly others may have a different view, is that if there are matters of public concern, of public importance, and are brought to our attention, not by casual passers-by but by more than one sector involved in the particular area, in this case the Medical Health Authority, it is our duty to collate as much of that information and as many of those allegations as we consider are reasonably sustainable. Not all the allegations and all the stories that are blown into one's

ear and our duty is to bring those allegations to the fore for debate and discussion in this House which is what I have sought to do here today. I take note that the Honourable Dr Valarino considers that the Health Service is operating today entirely as it should and that presumably nothing of what I have said is of validity and of accuracy, except the question of the Gynaecologist which is where he said he tended to agree with me. He said that as far as he was aware most of the recommendations of the Hill Report had been implemented. Well, I have not spoken of the Hill Report. The review of the Medical and Health Services conducted in January 1987 is not the Hill Report. There is nobody called Hill involved with it. There is another document called the Hill Report but it deals with something slightly different and not with this. That the Honourable Dr Valarino should say that as far as he is aware most of the recommendations of this Report, which is the one that I have based my address on, have been implemented, is surprising indeed. Because it is not for me to defend the AACR back in 1988. But in 1988, the Honourable Members opposite were severely critical of the then Government for not having implemented the recommendations of this Report and since then they have implemented no new ones.

HON DR R G VALARINO:

Mr Speaker, if the Honourable Member will give way? The Member mentioned the Hill Report. I certainly do not remember mentioning anything about that Report. So if he is quoting me on what I have said on that Report then I cannot recollect that I did say anything particularly on that Report.

HON P R CARUANA:

Well, this is the Report of the recommendations of which I have spent three quarters of an hour in my opening address. I have not said anything about the Hill Report. I do not know what the Hill Report says. I've been discussing the UK Medical Review Report of 1987 and although, I think, that he has simply confused the Report, my understanding was that he was commenting on the implementation and non-implementation. Perhaps, he would like another opportunity which I will now give him by sitting down and giving way to him, to comment on what I was commenting because it seems to me that it is now clear that he is not agreeing with the fact put by the Members opposite that most of the recommendations of this Medical Review Team have been implemented. The fact of the matter is, and I will say to the Honourable Dr Valarino, that his Government were slated, severely attacked by the Members opposite in 1988, for not implementing after only one year in Office the Report, this was in 1986. Now you came into office after the 1988 General Election and four years later I stand up and say "you still have not done most of the things that they had not done". And the Hon Dr Valarino stands up and says that as far as he is concerned most of the

recommendations have been implemented. It strikes me as extraordinary, as quite extraordinary, to suggest that most of the recommendations have been implemented. This is simply not true. I will deal with this when I come to the principal area of my reply which is to deal with the contribution of the Honourable Minister for Medical and Health Services.

HON DR R G VALARINO:

If the Hon Member will give way. I was talking at the time, if I remember rightly, about the Nursing Services. Now we are talking about the Hill Report. I did not say anything at all about that Report. I did not quote that Report at all. So I cannot see how the Honourable Member can quote that Report now. I did not want to interrupt the Hon Member because otherwise we are going to be here half an hour longer, but I thought I had the obligation to put you right.

HON P R CARUANA:

Can we agree on this basis, Mr Speaker, the Honourable Member and myself, that he has not spoken and he has not addressed this House, this afternoon, on the recommendations of the Medical Review Team that I have based my motion on, because I have not mentioned the Hill Report and I have not mentioned the recommendations of the Hill Report, I have only mentioned the recommendations of this Report and now by his own admission he has not even addressed his mind to those recommendations. The address and contribution is, with the greatest of respect to her, simply not a reply to the points that I have put. It is as far as I am concerned, a rhetorical emotional appeal to public sentiment which simply does not address the points that I have read. She has limited herself to addressing the points that appear printed on the motion as she is at liberty to do. She has not addressed the arguments that I have relied on and called upon in support of the general proposition. The Member opposite has quite predictably tried to focus the debate onto Private Practice for or against and who agrees with Private Practice and who does not and why she does not agree with Private Practice. That is one small area of the Report with which I dealt and it has to be said, that when she says that they do not believe that people should be seen because they have money, I agree. When they say that Consultants are being recruited with new contracts and they accept that they do not have to do Private Practice well that is a matter for the Gibraltar Health Authority. What I say, is that the recommendations of the Review Team which they accepted do not agree with that view. They, not I, I hold no brief on this matter, they are the ones who say that the Public Medical Services will suffer as a result of not allowing Private Medical Practice. This is not some ideological principle, which I expand in defence of my own preferences on the matter. Yes they do, and I quoted from it and if the Honourable Minister does not remember I will read the passage to her again. "The Honourable Minister has said

that it is very unprofessional of the British Medical Association to cast aspersions on their colleagues". Well, again, it is not for me to defend the rebuffs of the British Medical Association and it is not for me to be the arbiter on Medical technical grounds as to whether what the British Medical Association have said is right, wrong, justified or unjustified. My concern is based on the fact that they have said it. She has said that the British Medical Association is acting as a Union. This is not my impression of what that Body is, but again, there is the assumption on her part that the warnings of the British Medical Association are necessarily limited to and based upon only this business of Private Practice. That is an assumption on her part. She dismisses the wide-ranging warnings of concern of these professional men on the basis and assumption on her part that they are simply looking after their own personal pockets. She is responsible for the provision of Medical Services in Gibraltar and if she considers that that attitude is proper that is the position for her to defend. I personally do not agree with that view. She says that doctors should be there to see only public patients. That, let it be said, is an ideological policy on her part to which, as the Government of the day, she is quite entitled. All that I say is that is not the view of the Medical Review Team that reported in 1987. That is all that I say. A Report that you at the time accepted and now apparently have changed your mind in that respect. Because the Labour Party in the United Kingdom, who are presumably no less Socialists than the Members opposite, do not appear to have this difficulty with Private Practice. I therefore, do not accept, attractive as it is, for the Members opposite to argue the contrary. I do not accept that this is the political ideological issue that they now try to make it out to be. This is an issue, which as far as I am interested in it, is limited only to the effect that it has on the quality of the Public Medical Services in Gibraltar. My concern is only therefore, Mr Speaker, on the effects that Government policies have on the quality of the Medical product available through the Public Medical system in Gibraltar. She has invited me to accept confidentially an invitation to hear from her the facts. Well, I will be delighted to meet with the Minister and I am grateful to her for her invitation to hear confidentially whatever facts she wants to put to me.

HON MISS M I MONTEGRIFFO:

Mr Speaker, I was referring to the Nurses dispute and their grievances. On which I was not prepared to enter into a debate publicly and I gave the reasons why. Everything else, Mr Speaker, I think I have explained fully in the House.

HON P R CARUANA:

The Honourable Members opposite accuse me of simply trying to make political capital. Well, if all that they say is true, I am on a hiding to nothing. It is not for either



them or for us on this side, this end of this side, to judge that. That is a matter for others. I repeat that this motion reflects and is based upon serious concerns expressed to us by persons who are users, workers and professionals within the Medical Services. If the Minister does not agree with those views, that will be naturally reflected in the votes from the Members opposite at the end of this debate. The Minister has said that the justification of the eight months work of locums is that in Gynaecology and generally these potential recruits are then subjected to a valuation locally and I ask rhetorically perhaps, unless she wants to answer it, who makes the assessments locally?

HON MISS M I MONTEGRIFFO:

If the Honourable Member will give way. I said that in my contribution. They were recommended already, short-listed by accredited Consultants in UK, Mr Speaker, together with the system that has already been in existence in Gibraltar for many years. The only reason why the Gynaecologist could not take up the job when it was offered to him was because of his personal commitments, Mr Speaker. When the Honourable Member was on GBC saying that we did not have a permanent Gynaecologist, we already had one, Mr Speaker. The Gynaecologist, signed the contract with the Health Authority months ago, and again in my contribution I said that I was not able to say that because unfortunately the Member saw fit to bring the motion and I was not going to prejudice the position of the Government on the Health Authority to give the reasons why the Gynaecologist, Mr Speaker, or the Health Authority had not said publicly that they already had a Gynaecologist already contracted. I have already said that.

HON P R CARUANA:

Mr Speaker, if there persists in Gibraltar for a period of seven or eight months a position in which there is not a permanent Gynaecologist and the Government secretly, as it is their style, sign a contract with the Gynaecologist and do not, after seven or eight months of anxious waiting by the public, publicise the fact that they have signed a contract with the Gynaecologist it can hardly come as a crashing surprise to them that members of the public do not know what they have done. If they have not told the public what they have done then we do not know. Mr Speaker, it is not months ago it was in October. My information is that a contract was signed with the Gynaecologist and the fact remains that whether he could not come because he was on holiday or had other commitments in Dubai or for whatever personal reasons, the fact still remains that from April to date, as we speak, there is still no permanent Gynaecologist in service at St Bernard's Hospital. There is no permanent Gynaecologist. You might have signed a piece of paper with an individual elsewhere but there is still, as we speak today, no permanent Gynaecologist at St Bernard's Hospital. The Minister denies

that there are rats and cockroaches at St Bernard's Hospital. Well if that is the position then it is not my information. My information is that areas of the Hospital are infested with rodents and that this is notorious. However if the Minister says that that is not so then that is the Minister's position. She says that there is a mechanism to consult with the doctors and that she has never refused to meet with the doctors. Well, Mr Speaker, my information which now is not a matter of being confused or misconceived, but which would be a complete lie now on the part of those that have told me, and I can tell you that they are Senior people, is that in the case of the Pathologist, Dr Wi Singhe, there was great concern on the part of the doctors and they sought a meeting with the Hon Minister on the matter and that the Honourable Member opposite refused. Now this is pure fabrication!

HON MISS M I MONTEGRIFFO:

That is not true at all, Mr Speaker. I am an honest person and the whole of Gibraltar knows that and I am telling the Member that that is not the case.

HON P R CARUANA:

Mr Speaker, I have no doubt that the Honourable Member opposite is an honest person and nothing that I intend to say is intended to suggest the contrary. The point is that it follows from what the Minister has said that these other people who are also honourable men of integrity are lying to me. So I am now in the invidious position of having to choose between two apparently honest people. One of them is not telling me the truth. As I said before, Mr Speaker, the information has come to me in such clear and categorical terms that it is not possible that there should be a break-down of communications. "Why", she says, "do the doctors' Committee not meet and seek input?" What they say to me, but again, if the Honourable Member says that this is rubbish and not true and it is that they have given up, bored, that they have given up. Now that is not true either. That also is a fabrication on the part of these men. Well, so be it. Complete and utter fabrication. All my sources of information are fabricated. The same explains why there is no Consultant on the Management Board. They tell me, again invention, fabrication on their part, that they have given up going to meetings in which they simply get told what is going to be done. They do not get consulted and just sit there to lend credibility to this infrastructure, that is, the Gibraltar Health Authority. But, I do not insist on the point. That too is fabrication from my dead grapevine. What they say is that the Honourable Minister, who says that she does not impose or overrule, comes to these meetings and simply informs them of fait accompli. That also is untrue and fabrication on their part. Mr Speaker, I too, in reference to Mr Ralph Murray, am proud and I have tired of saying publicly that what we must work at in Gibraltar is a situation where we the Gibraltarians fill the Senior posts. Be it in the Finance Centre, in Banks, in Constitutional

Offices, in the Health Service and everywhere else. I too, like the Minister, am proud of having locals in the field. What I am not proud of is to reduce the status of an office by taking it down from an expatriate and giving it to a local on terms that are less senior, less well remunerated and less influential than the expatriate. That is not what the Hon Minister and I are proud of. That is the reverse of what we should be proud of. That is what has happened in the case of Mr Murray or otherwise would the Honourable Minister tell me, I will sit down to give way to her, whether the present incumbent in the office of General Manager earns the same as what Mr Murray used to earn? My information is that he does not and therefore that is asking a Gibraltarian to do a job on terms which are inferior to that which you were quite happy to pay an expatriate to do.

HON CHIEF MINISTER:

No, no. I can give the Member an answer. He is talking complete nonsense on this one as he has done on everything.

HON P R CARUANA:

I will give way when he asks for it.

HON CHIEF MINISTER:

I have said I will give him an answer as he wanted.

HON P R CARUANA:

That is not asking to give way.

HON CHIEF MINISTER:

If the Hon Member will give way. If the Member is talking nonsense and he wants me to tell him then I have to tell him but he may not like it. The position is that the grading of Mr Ralph Murray, which he negotiated for himself when he came, put him not on a status consistent with his position, but put him above the Governor of Gibraltar. When he was replaced by a local man, the local man was put on a par with the Housing Manager, with the Accountant General, with the Principal Auditor and with all the other Heads of Departments. So it is not that we have reduced.

HON A J CANEPA:

But we still do not have a local man as Governor, Mr Speaker.

HON CHIEF MINISTER:

No we still have no local man as Governor. If and when that happens, that will be reduced also, Mr Speaker.

HON P R CARUANA:

The Honourable Member opposite said that many of the recommendations of the 1987 Medical Review Team Report

had been implemented. I put it to her that that is simply not the case. That most of the important ones have not been implemented. Which of them have they implemented since 1987? They have certainly done absolutely nothing about the recommendations in relation to Geriatric Medicine, in relation to the remarks that the outstanding deficiencies of the Health Service back in 1987 was the Geriatric facilities, in the description of those facilities as wholly inadequate, in the recommendation that this community urgently needs a Geriatric Physician. None of those things have been addressed. There is no new Hospital or plans for one.

HON MISS M I MONTEGRIFFO:

I have answered that, Mr Speaker.

HON P R CARUANA:

Mr Speaker, yes you have answered them. But I am telling you that those are the list of things that have not been implemented and the most important one and that I do not accept, notwithstanding the explanations that the Honourable Member opposite has given me. The most important one is that the Gibraltar Health Authority should be an Autonomous Body. I do not accept that the Gibraltar Health Authority operates as an Autonomous Body. It appears from the comments of the Honourable the Minister for Health that the Government appears to be inclined to shelve the proposal, also described as urgent, in the 1987 Report for a new Hospital. The planning of that new Hospital was an urgent recommendation. Now either it is being done in great secret or that plan does not yet exist. It is not true that I have said that the Minister glories in being associated with Charities. That is simply.....

HON MISS M I MONTEGRIFFO:

Mr Speaker, will the Honourable Member give way?

HON P R CARUANA:

No you cannot. The Honourable Member will not give way simply for you to add one confusion on another. What I have said was precisely what it says there. Not that you are ashamed to be associated with Charities, what it says is that you glory in being photographed receiving gifts from Charities in relation to equipment that in this over-taxed community, Government should be providing for itself. That is not a suggestion or a statement that you are ashamed to be associated with Charities as if Charities were some leprosy body. I am sorry but if the Hon Minister is going to hold my words to me, then she has to hold me to the right words.

HON MISS M I MONTEGRIFFO:

And I did, Mr Speaker.

HON P R CARUANA:

No she did not, Mr Speaker. What I have said in that publication to which the Honourable Minister refers is that whilst there is always a role for Charities to make specific gifts of special equipment, it happens everywhere in the world, we have not discovered sliced bread in Gibraltar on that issue, but that the Hospital appears to rely for equipment that is quite basic from donations from Charities and I do not think that that is proper. I think that this community pays enough tax to provide the equipment for the Hospital.

HON MISS M I MONTEGRIFFO:

Mr Speaker, if the Honourable Member will give way on a point of order. I will read Mr Speaker, what his Party has said in public: "The Minister glories in being photographed receiving gifts...."

MR SPEAKER:

Did you give way?

HON MISS M I MONTEGRIFFO:

He sat down, Mr Speaker.

HON P R CARUANA:

I am very happy to give way.

HON MISS M I MONTEGRIFFO:

On a point of order, Mr Speaker. On a point of fact, I will quote: "The Minister glories in being photographed receiving the gifts of very necessary equipment from Charitable Organisations when she should be ashamed that in our modern overtaxed community, Charity has to provide what her Government fails to do". I have answered that point, Mr Speaker, in my contribution and have said that I glory in being associated with Charitable Organisations whenever they come and say "We want to give this to the Hospital". As Minister for Health I am not going to tell Charitable Organisations that I do not want the equipment, Mr Speaker. What I said in the House is not a question of being ashamed of being associated. We do not ask for it but if we get it we are proud of the community that we have in Gibraltar. But that does not mean in any way, Mr Speaker, that the Health Authority reduces its Budget for equipment. What it does is that it tells the Charitable Organisation "How much do you want to contribute". And then the Health Authority receives that gift and the money that the Health Authority had earmarked for that specific equipment is redirected for other equipment and it stays completely in the Budget. The money for equipment is not reduced at all, Mr Speaker.

HON P R CARUANA:

Mr Speaker, I think my recollection without the benefit of having the document in front of me of what is said there is admirable, because what the Honourable Minister has just read out is what I recall reciting to this House two minutes ago. The only point that I make is that those words do not imply that the Honourable Member should be ashamed of being associated with Charities. That is the point. It is not the association with Charity which is the subject matter of the shame, it is the fact that the Gibraltar Health Authority should, to the extent that it does, rely on Charitable contributions.

HON J C PEREZ:

If the Honourable Member will give way.

HON P R CARUANA:

No, I want to carry on. The Honourable Member opposite denies that there is hands on political management at the Health Authority. This is not a matter that we can establish here and now with scientific fact. I simply say to the Honourable Minister that it is notorious on this community how, by whom, and on what basis the Gibraltar Health Authority is administered. I do not accept the explanation given by the Honourable Minister for the apparent change of policy in not providing a second Health Centre geographically distant from the first, which is the words from the Report, not that there should be one in the South District. But that there should be a second Health Centre geographically distant from the existing one which we all, with our geographical knowledge of Gibraltar assumed would be in the South District. The fact of the matter is that since the date of that recommendation, if anything, there are more people living in the South District than there were then, with developments such as Rosia Dale and Vineyards coming on stream. It is true that in the future there will also be more people living on the Westside Reclamation. But the principle of the recommendation was that there should be two Health Centres. The fact of the matter is that if in 1987, the residents of the South District were badly served by the existence of only one Health Centre in Casemates Square, the increased number of residents in the South District now, are worst served by a Health Centre, whether it is located in Casemates Square or on the Westside Reclamation. Mr Speaker, the points to which the Honourable Member has not replied are many. I do not propose to go through my speech at the outset again. She has dealt in broad terms and in terms which others will have to answer if they consider it appropriate, the question of the British Medical Association warning. In relation to the Report's recommendations, it is clear that there are issues which I raised that she has not addressed, such as the provision for Geriatric Medicine. She does not accept and has not commented at great length on the question

of low morale. She does not accept that there is problems of consultation and it follows from what the Minister has said, they have not either implemented the new Hospital, the Health Centre, the recommendations on Private Medicine, the recommendation on Geriatrics. These are not things that she has addressed in details and of course it follows from the position of the Members opposite that they reject outright my arguments in the motion. I knew that before I formulated the arguments. She has not addressed my arguments on the Health Centre and the Group Practice Medical Scheme and the criticisms of it that were identified in relation thereto in the Report. Mr Speaker, whilst I would have been very happy indeed to have formed the view that the Minister has given me adequate answers to the arguments that I have raised because that would mean that none of the problems that I have highlighted in my opening address exists, I however regret to say that she has not succeeded in doing so. I therefore do not withdraw the motion.

MR SPEAKER:

Before I put the question to the House I must remind the House that this is a motion of censure and that the ex-officio Members are not allowed to vote.

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

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

The following Hon Members voted against:

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

The following Hon Members abstained:

The Hon K B Anthony  
The Hon A J Canepa  
The Hon M K Featherstone  
The Hon G Mascarenhas  
The Hon Dr R G Valarino

The motion was accordingly defeated.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn sine die and since that means, of course, that

unless we bump into each other in some Christmas Party or other, we shall not be meeting again before Christmas, notwithstanding the fact that the Honourable Member has attempted and failed to censure us, I would like to wish all Members of the House opposite and yourself, the Clerk and the rest of the Staff the seasons greetings and that we will continue to work together in the future for the good of Gibraltar for all our sakes.

HON A J CANEPA:

On behalf of the Members of the Opposition I would like to associate myself with those remarks of the Chief Minister, particularly to you yourself, Sir, and the staff of the House, in wishing you all a very Happy Christmas and to reciprocate the hope that we will, in fact, have the opportunity to meet at some parties associated with the Christmas festivities.

HON P R CARUANA:

Mr Speaker, I and the Party that I lead, endorse and reciprocate the expressions of wishes both in reply to the Honourable the Chief Minister and indeed to yourself and the Clerk.

MR SPEAKER:

May I also express my best wishes to all Members, hard working staff and all those who outside this House are connected in one way or another with this House. A very Happy Christmas and a peaceful New Year.

Mr Speaker put the question which was resolved in the affirmative and the House was adjourned sine die.

The adjournment of the House sine die was taken at 8.05 pm on Wednesday the 4th December, 1991.