

HOUSE OF ASSEMBLY

HANSARD  
OF MEETING

HELD ON 17 MAY 1977

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Fifth Meeting of the First House of Assembly held in the Assembly Chamber on Tuesday the 17th May, 1977, at the hour of 10.30 o'clock in the forenoon.

PRESENT:

Mr Speaker .....(In the Chair)  
(The Hon A J Vasquez, CBE, MA)

GOVERNMENT:

The Hon Sir Joshua Hassan, CBE, MVO, QC, JP - Chief Minister  
The Hon A J Canepa - Minister for Labour and Social Security  
The Hon H J Zammit - Minister for Housing and Sport  
The Hon A P Montegriffo, OBE - Minister for Medical and Health Services  
The Hon Major F J Dellipiani, ED - Minister for Municipal Services  
The Hon I Abecasis - Minister for Postal Services  
The Hon A W Serfaty, OBE, JP - Minister for Tourism, Trade & Economic Development  
The Hon M K Featherstone - Minister for Education and Public Works  
The Hon J K Havers, OBE, QC - Attorney General  
The Hon A Collings - Financial and Development Secretary

OPPOSITION:

The Hon J Bossano - Leader of the Opposition  
The Hon Dr R G Valarino  
The Hon J B Perez  
The Hon G T Restano

INDEPENDENT MEMBERS:

The Hon M Xiberras  
The Hon P J Isola, OBE  
The Hon Major R J Peliza

IN ATTENDANCE:

P A Garbarino, Esq, ED - Clerk of the House of Assembly.

PRAYER.

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES.

The Minutes of the Meeting held on the 8th March, 1977, having been previously circulated, were taken as read and confirmed.

## DOCUMENTS LAID.

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

The Employment Survey Report - October 1976.

Ordered to lie.

The Hon the Minister for Housing and Sport laid on the table the following documents:

- (1) The Traffic (Omnibus Fares) Regulations, 1977.
- (2) The Landlord and Tenant (Communal Services Tenements) Notice, 1977.
- (3) The Traffic (Parking and Waiting) (Amendment) Order, 1977.

Ordered to lie.

The Hon the Minister for Medical and Health Services laid on the table the following documents:

- (1) The Food Hygiene Regulations, 1977.
- (2) The Group Medical Scheme (Amendment) Regulations, 1977.

Ordered to lie.

The Hon the Minister for Municipal Services laid on the table the following document:

The City Fire Brigade (Discipline) Regulations, 1977.

Ordered to lie.

The Hon the Minister for Tourism, Trade and Economic Development laid on the table the following documents:

- (1) The Port (Amendment) Rules, 1977.
- (2) The Port (Amendment) (No.2) Rules, 1977.
- (3) Gibraltar Registrar of Building Societies - Annual Report 1976.

Ordered to lie.

The Hon the Attorney-General laid on the table the following documents:

- (1) The Fugitive Offenders (Designated Commonwealth Countries) Order, 1977.
- (2) The Fugitive Offenders (United Kingdom Dependencies) Order, 1977.
- (3) The Copyright (International Conventions) (Amendment No.3) Order, 1976.
- (4) The Copyright (International Conventions) (Amendment) Order, 1977.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the table the following document

- (1) Statement of Virement Warrants approved by the Financial and Development Secretary 1976/77.
- (2) The Public Health (Exemption from Rates) Order, 1977.

Ordered to lie.

ANSWERS TO QUESTIONS.

MR SPEAKER:

The Hon the Minister for Tourism, Trade and Economic Development has given notice that he wishes to make a statement. I will therefore call on the Minister for Tourism, Trade and Economic Development.

HON A W SERFATY:

Sir, during the course of the Budget debate the Hon the Chief Minister promised that more details would be available to the House on the nature of the equipment that was proposed to be installed in the Air Terminal and for which the sum of £10,000 was voted. The present equipment was installed at the Air Terminal in 1959 and it is believed it was previously used at the old Air Terminal in the late 1940s and 1950s. The equipment is obsolete and no spares are being manufactured thus making it very difficult indeed to carry out proper maintenance. Bearing in mind that the Air Terminal might have to be extended the Company which in the past years has serviced and maintained the equipment submitted a quotation for a public address system for the existing Air Terminal complex of such specifications that would enable the system to be extended. Copies of plans of the proposed extension and an outline of a possible new building were furnished to the company now servicing the present equipment as well as to another reputable organisation which also submitted a quotation. Basically, both undertakings submitted quotations for the following equipment. One master station containing call keys, microphones, etc. One identical secondary announcing station, one control rack containing amplifiers and monitor units and ready tune background music, 40/46 loudspeakers. As the two quotations are now being considered by the Tender Board I believe it would be improper to give a breakdown of costs. Both quotations are approximately around £8,000 including installation charges.

HON MAJOR R J PELIZA:

I thought the tender had already been accepted, obviously it is under consideration at the moment.

HON A W SERFATY:

By the Tender Board.

HON MAJOR R J PELIZA:

Is there any reason why a project estimated to cost about £10,000 should not have gone out to open tender?

HON A W SERFATY:

The whole thing started, as I said in my statement, because no spares are available for the present system and the company that installed the original equipment, as it has others in St Michael's Cave and even here in the House of Assembly, suggested that it was time we considered the possibility of installing new equipment. They have the facilities, etc., and another company also with facilities were consulted and the Tender Board are now considering the two tenders. It did not go out to open tender.

HON MAJOR R J PELIZA:

Isn't that rather contrary to the spirit of what was stated earlier by the Financial Secretary that items above a certain sum usually go out to tender and wouldn't it have been wiser, I should say, even if eventually you select the firm that can give you the service which obviously would have to be taken into consideration, wouldn't it have been wiser to have opened the tender to many more bidders and perhaps in that way created the right competition, possibly even bring down the price? Is there any good reason why Government didn't do that?

HON A W SERFATY:

I would have thought, and I know a little about this business myself, that this is rather specialised equipment which needs specialised technicians. I am not going to say that there are not others in Gibraltar, I am in that kind of trade myself and I am not one of the two companies. I don't want to pre-judge the issue but one of the advantages of selecting one of the type of equipment will be that the spare parts and the equipment from other parts, from the Cave and even from here can match the equipment at a pinch and the equipment could be used at the Air Terminal and vice versa. That is all I can say. Whether it should have gone out to tender or not, I am not convinced that it was in the public interest really to have done so.

HON M XIBERRAS:

Would the Minister not say that the statement was promised by the Chief Minister in view of the size of the vote which was apportioned to this particular end compared to the size of the amount of money which we paid for this installation here in the House.

HON A W SERFATY:

That is not the reason.

HON M XIBERRAS:

Mr Speaker, am I not right in saying that the reason why the Chief Minister promised the statement which we have now heard from the Minister was in fact the disproportionate amount which Hon Members on this side thought was being voted in respect of this particular exercise at the Air Terminal in comparison with the amount of money that was being voted for our present installations here. Am I not right in saying that?

HON A W SERFATY:

I can recall that the promise of the Chief Minister was because I was not in a position to give details of the equipment and if I may add something, the equipment at the Air Terminal is a much more powerful equipment, it covers a much bigger area than that required for this House.

HON M XIBERRAS:

Mr Speaker, I thought that the original purpose of this statement was to tell Hon Members, which I think has been fulfilled in part if I may say so, but am I right in saying that the original purpose was to show why £10,000 had been voted for that particular exercise at the Air Terminal, as opposed to £6,500 which was the cost of installation of the electrical equipment here. Does the Hon Member still feel that the vote of £10,000 is a reasonable amount to have set aside even before the Tender Board considers tenders? Is it not an indication to the Tender Board and to tenderers as to what the Government might consider a reasonable charge?

HON A W SERFATY:

If the Hon Member is asking my opinion, as I said before considering that the area to be covered is much higher, I did not consider then and I don't consider now, that the provision of £10,000 was excessive.

HON M XIBERRAS:

You don't think it is excessive?

HON A W SERFATY:

No.

HON M XIBERRAS:

Then am I right in saying that the Hon Member does not think he might have encouraged higher bidding by the tenderers in view of this sum of money which at the time I think most people in the House thought rather high. By sticking to that isn't the Hon Member encouraging a high tender?

HON A W SERFATY:

No, because we have already had two competitive tenders. The competition is there between two firms.

HON M XIBERRAS:

Yes, but isn't the general level of this being kept somewhat high in view of the fact that this sum, which I was hoping to see corrected here, should remain, this sum of £10,000.

HON A W SERFATY:

No, I don't think so. I don't honestly think so.

HON M XIBERRAS:

The Hon Member sees no reason for revising the sum downwards?

HON CHIEF MINISTER:

It will be revised somewhat. The fact is that the estimates are about £8,000.

HON MAJOR R J PELIZA:

It is rather strange that we should know the cost of this estimate and we don't know the others because the others are subject to tender but this doesn't seem to be subject to tender at the moment when you know this being the cost already. I remember the Chief Minister saying earlier, that he could not divulge how much because they haven't been opened by the Tender Board but now, apparently, a decision has been taken already.

HON A W SERFATY:

This is only an approximate sum and the matter is in the hands of the Treasury and the Tender Board.

HON MAJOR R J PELIZA:

Therefore, the Minister had an inclination of the approximate sum even before it went to the Tender Board. But coming back to the system of tendering wouldn't it be better, as I said earlier, to make it an open tender and then bring in the factor.....

MR SPEAKER:

We are not going to go into the system of tendering. If you wish you can ask any question on the way that this particular tender has been dealt.

HON MAJOR R J PELIZA:

Well, it is related to this tender, Mr Speaker, and this is of course what I was referring, although I didn't prefix it by that, but in relation to this tender wouldn't it have been, I think, in the interest of Government and certainly of the taxpayer to have made it an open tender and then on deciding which of them was to be selected all the factors that the Minister <sup>said</sup> should be taken into account would have been taken into account. That I think would have been fairer and certainly appear anyway to the public that it was fairer.

HON A W SERFATY:

I have already described the situation as it has happened, that is all I have done.

#### MOTIONS.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, with your permission and the indulgence of the House, may I be forgiven if I do not read out in detail this motion but merely move the motion which stands in my name on the Order Paper.

MR SPEAKER:

If Hon Members look at the Agenda they will see that there is a motion in the name of the Hon the Financial and Development Secretary dealing with, I think the rateable value of premises in different parts of Gibraltar. It is a lengthy motion and you have had plenty of notice and unless you insist, I don't think we should put the Financial and Development Secretary through the ordeal of having to read it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Then, Mr Speaker, Sir, I beg to move the motion standing in my name on the Order Paper. Sir, in June of last year this House enacted as Ordinance No.20 of 1976 the Public Health (Amendment) Ordinance and I think it is right to say that the primary object of that legislation was to provide some fiscal discouragement to people holding land as unoccupied land or under-developed land. It was to try and ensure by means of fiscal persuasion that land in Gibraltar is put to the best possible use and to deter people from holding land in the hope that at some future time they could turn a pretty penny on it, in other words, to hold it for purely speculative purposes. Now, Sir, until that Ordinance was enacted the formula which was used

for arriving at the rates payable on land was that in the case of a hereditament other than a dwelling house there should be estimated the rent at which that hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and bear the cost of repairs, insurance, etc. Where the hereditament was a dwelling house there shall be, in addition to that, estimated by comparison with the rents at which dwelling houses owned by the Government are let to the members of the public on short notice. Applying that formula to land which is unoccupied or land which is only partially occupied relatively under-developed quite obviously land which was fully developed was rated higher than the land which was not. For example, supposing we take a hypothetical case of two plots of land, they are the same size, they lie right next door to each other. On the one of them there is a block of flats and on the other there is no building at all. I think it is quite obvious from the formula the definition which I have read out, of the way those two contiguous plots would be rated. The plot on which the flats are built will command a high rent, whereas the value of the one next door which has nothing on it at all will be minimal. Before the Public Health (Amendment) Ordinance of last year was enacted that was the only way in which land could be valued for rating purposes and consequently if the land was unoccupied it could only be rated as unoccupied land. There was no way in which the rating formula could be used to encourage the development of such properties or, conversely, to discourage people from leaving them as they were undeveloped or developed only to a minimum extent. The Ordinance therefore introduced an alternative method of valuing property for rating purposes by making provision that this House could fix a sum per square metre of land by reference to different localities in Gibraltar. This, Mr Speaker, is the purpose of this motion. It asks the House to fix in respect of the various areas set out in the resolution the respective sums shown against each and if the House approves these sums will be used for the purpose of computing the net annual value of property in those areas which is unoccupied. It might be of interest to the House that if one applies this alternative formula to areas and indeed to properties which already developed, the alternative formula by and large gives very much the same result and this indeed has been the Government's objective in fixing the particular sums per square metre which the House is now asked to agree to, in other words, that if a property which is reasonably developed now is rated by either of the two methods the results will be very close. If one selects, let us say from I think it is described here as zone A, if one selects a number of properties along Main Street, we can see in reference to the particular properties, that the two methods do give a very comparable net annual value. For example, 137 Main Street which is built-up property the existing assessment is £925 the alternative formula would give £765. On the other hand, 295 Main Street, where the existing formula gives £1129 the new formula would give £1339. So that the whole object of these figures is to try as far as it is possible to arrive at what the net annual value would have been or would be if that property were reasonably developed. I wish to stress that there is no intention of using the alternative method of valuing property except to those hereditaments which are unoccupied or quite insufficiently developed. Mr Speaker, Sir, I beg to move and I think I better now read out the details. I beg to move that the rates per square metre be as follows; in zone A district the properties fronting Main Street sum per square metre £4.50; Zone B Properties fronting streets leading off Main Street and streets immediately parallel to Main Street within the City Walls, namely, Town Range, Governor's Parade, Governor's Street, Cornwall's Parade, Engineer Lane, Turnbull's Lane, Casemates Square on the east and Irish Town, John Mackintosh Square, Bomb House Lane, Governor's Lane and Secretary's Lane, sum per square metre £3. Zone C properties fronting other streets within the City Walls £1.50. Zone D properties in the south district, ie, south of Charles V Wall £2. Zone E properties in the north district, Catalan Bay and along the east coast £2. Zone F elsewhere outside the City Walls £2. Mr Speaker Sir, I beg so to move.

Mr Speaker proposed the question in the terms of the motion moved by the Financial and Development Secretary.



HON P J ISOLA:

Mr Speaker, I would like some clarification on this motion. Am I right in thinking that these values will not be applied in respect of properties in respect of which rent is being paid and occupied. The Financial and Development Secretary has mentioned two examples of the difference between the present valuation form and the alternative sought and it seems to me that it is unfair in respect of occupied property if it would be open to the Valuation Officer to value the premises not by reference to market rental which is the normal test in valuation but by reference to the alternative form of valuation if that is more beneficial to his revenue collecting habits. I think this should be most unfair on people who know roughly what rates they will pay when they pay market value in rent and then find that although they may have done a good deal with their landlord on the rent the Valuation Officer still rates them higher than he would be justified. I would certainly like clarification that this is neither the intention nor a possibility because as we know it can be said "this is what we will do" but then the other method can creep in, that is point one. The other point is on the question of valuation of unoccupied properties. I hope that this power to rate unoccupied properties will be used with discretion, that the Valuation Officer is not going to go around every single empty room and rate it if there are good reasons why that place is empty, for example the landlord's inability to effect repairs in order to enable it to be let, the fact that it has been an expensive building and he has got no takers for that rent and probably a developer is losing money on it and if on top of that you put on a rates valuation all you are doing is frightening away development which we all agree is necessary in Gibraltar and things like that. Certainly I would like to know when this valuation of unoccupied property takes place it takes place after considering carefully all the circumstances of the tenant looked at from the Valuation Officer's point of view and we don't get arbitrary valuation in respect of all empty premises because the revenue would be good for the Government.

HON M XIBERRAS:

Mr Speaker, my comment when we were considering this earlier at another meeting of this House was that this would be generally a welcome step to take and at the same time a far reaching and my Hon and Learned friend Mr Isola has, in fact, I think pointed out some of the difficulties that could arise in the application of the terms of the motion. I would add one further, the question of under use of premises. I want to talk of peppercorn rents and I want to talk of the deliberate under use of premises to avoid the higher valuation in the same way as one could talk about the extraordinary rates becoming the mean in the Valuation Officer's application of the terms of the motion. My other concern which I think I voiced at the time was the actual division into areas of Gibraltar which might have an effect on the future market value of the property themselves if there was any suspicion in the mind of would be buyers that the extraordinary rate might become the mean and these considerations I think are so fine that it is difficult to determine now what the general effect will be later. Certainly the effect of this would seem to be that we are dividing the areas of Gibraltar into more desirable, not dividing them because they are divided already by and large I think by the net annual value which exists already, but we are emphasising this division into areas by the terms of the motion. Another consideration which I think needs to be borne in mind is that although present mean is being taken in order to arrive at the punitive extraordinary rate and that the eventual net annual value which is set on the extraordinary scale if I may call it that, is based on the practice of occupied or used premises or used areas, it is I think for consideration as to what exactly is going to be the effect of the actual figures put down by the Financial and Development Secretary. I am not too sure on my own mind what the effect is going to be and whether the divisions are going to achieve the required stimulus for development. I am not too sure about this and I was wondering even though there are arguments against it, whether some sort of provision could be made that this would be reviewable at the end of a specific length of time, I don't

know, a year or two years. I wonder if the Financial and Development Secretary could reassure the House on both matters. As I say I mustn't be too critical of it because, in principle, I agree to the provisions and to the general purpose of the motion.

HON MAJOR R J PELIZA:

Mr Speaker, I think the purpose of this motion if we are not careful can do quite a lot of harm to lots of people quite unintentionally. I think it is certainly a move in the right direction but on the other hand there are perhaps genuine cases in Gibraltar where due to financial circumstances to do with the change of times where the building has grown old, the owner has the building under mortgage and the building is really completely or very nearly unoccupied and perhaps the landlord very anxious to get rid of one or two occupants still left behind he still cannot do it because the law doesn't allow him to do so, if this were to be applied to those cases then I think this would be an injustice and I don't believe it is the intention of the House or the Government that it should apply in those cases. However, I think Mr Speaker that this thing cannot be left to an official to decide. I would have thought that perhaps we should have some kind of a committee, perhaps the Planning Commission, which could look at the case very thoroughly before applying the penalty to try and move the prospective developer to do something about what he in fact has already undertaken to do. I feel the Government should give some consideration to this so that really no one is penalised if the circumstances that I have explained apply.

HON ATTORNEY GENERAL:

Mr Speaker, I think there has been perhaps a certain amount of misunderstanding amongst the Honourable Members on the other side of the House, one learned, one Gallant. Before we introduced the legislation last year no rates were payable on unoccupied property. Unoccupied property could be an open plot of land, it could be a plot on which a block of flats had been erected but in which nobody lived. For the purposes of rating that was still unoccupied property. The first thing we did by our legislation last year was to say that in certain circumstances property which was technically unoccupied was to be treated as occupied. We gave certain safeguards to the owner, if I may put it that way, thus even though the property wasn't occupied, it would not be treated as occupied if building was going on and the Financial and Development Secretary was satisfied that all proper steps would be made to get the building completed. It was not to be treated as occupied if the owner had tried to let it and hadn't succeeded, again a safeguard for the owner. It was not to be treated as occupied if for some reason it was not fit for habitation. That was the first point of last year's legislation to provide in certain circumstances property should be treated as occupied which was not in fact occupied but we built in the safeguards in the law. Then we came to the point where, and this only applies really to undeveloped or underdeveloped land, because even though it was treated as occupied the method of assessing rates would produce a derisory amount and for that reason we introduced the principle of the alternative method of valuation so it would only apply to undeveloped or underdeveloped

land. In theory, I accept that the resolution which we intend to pass will apply of course to all properties in Gibraltar but it would be entirely impossible to write into the law the circumstances in which the new method of valuation should apply in some circumstances but not in others.

HON MAJOR R J PELIZA:

I don't see the understanding any more. I think I fully understood the situation. I think the Attorney General is saying the problems I saw and foresaw and this is why I say that since we know what the objective is and it is very difficult to define it in law to apply to all the cases which we would like would it be better, having stated the objective, to have some sort of a tribunal or committee within the Commission which would decide when a case arises of under-developed or not developed land. This is the point I was trying to make.

HON ATTORNEY GENERAL:

It is the Valuation Officer, of course, who decides when this particular alternative method is going to be used. If it should be felt that he should not, and of course, he is responsible to the Financial and Development Secretary and the Council of Ministers, if it is felt that he should not have the discretion to decide whether this particular method should be used for one property, then the answer is for legislation to be introduced providing that every case shall be referred to a particular committee. But I do think that Hon Members opposite have got to accord to Government, however much they may dislike it, a certain amount of common sense and fairness and to accept that the alternative method is not going to be used to increase the rates on a property which is already developed. I think I can fairly say that this alternative method will not be used except in cases of clear undevelopment or under-development. Quite clearly if a person is aggrieved he, knowing the interest which this House has taken, will come to an Hon Member opposite and say: "Look, I am hard done by. I was paying rates of £1,500, they have now revalued on the alternative method and I am paying £1,200. I can imagine the Hon Members opposite like a pack of hungry wolves tearing or trying to tear at the heels of Government. I do...."

HON P J ISOLA:

That's to no effect, Mr Speaker, this is our problem.

HON ATTORNEY GENERAL:

No, I think the Hon and Learned Member opposite does less than justice to the effect which a concerted attack which is justified from members of the Opposition might have. But I do ask you to accept this. If it should prove in practice that things are not working out then I am quite sure that Government might consider an amendment of the legislation and say there should be a small committee but I can see no reason why this resolution based on an amendment which we have already passed to the Public Health Ordinance will not achieve the result which all of us want for Gibraltar.

HON CHIEF MINISTER:

I think I should like to make it quite clear and if indeed after passing this resolution it could be corrected or we could find a means of making this statutory to the extent that as far as I am concerned this is purely required because there is no method of rating empty or unoccupied premises. First of all, I here solemnly say that the policy of the Government is not to get more rates in this round about way in respect of the rents because rating is an equity. The point is that it is all to be equalised in such a way to obtain the rates that are required so that if you affect one you benefit the others. In fact, it is like income tax in a way and it is not the intention.....

HON MAJOR R J PELIZA:

If the Hon Member will give way. We are not legislating here for this Particular Government we are legislating for the future and whilst now we have an undertaking of this Chief Minister we just do not know what another Chief Minister or another Government is likely to do and in any case we have seen already in the case of the parking tickets where an undertaking was given and it is very difficult now to make the Government understand that this undertaking was given.

HON CHIEF MINISTER:

The question of the parking tickets is completely different and there the exercise of the powers are general and it was said how it was going to be done. Here I was going to say that the matter could be reviewed every year at Estimates time, the resolution could be brought here if necessary for review and that certainly can be the subject of an undertaking. The other thing, of course, is that it is intended that the Valuation Officer has got his method of valuing and he cannot depart from that because he will never be able to get a yardstick as he has now for general occupied premises. This is to cover up precisely the spirit of the law which was passed with the approval of every Member so that if that is the case first of all there is an appeal to the Valuation Officer on rating, secondly, from the Valuation Officer after the Valuation Lists have been published there is an appeal to the Supreme Court on rating and therefore it is not an absolute act and I suggest that we consider this matter at Budget time next year again and see how the thing has worked. I, for myself, have only understood this to mean and to mean only that it is a method to substitute the absence of occupation which is the other method that is used normally in order to arrive at a fair way of rating unoccupied or under-occupied property.

HON P J ISOLA:

If the Chief Minister will give way for a moment. Isn't the position really that if the Valuation Officer uses this method there will be no appeal to anybody because it is authorised by the House so that anybody who is rated under this method will have no appeal to anybody at all. This is the problem that we have.

HON ATTORNEY-GENERAL:

He cannot appeal against the method of rating, that I accept.

MR SPEAKER:

Unless the Chief Minister stands up now we are in trouble because the Chief Minister has given way to Mr Isola and Mr Isola has given way to the Attorney-General. I will call on the mover to reply if there are no other contributors.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, first of all I should like to say that I appreciate the detailed exposition given by my Learned colleague on my right.

MR SPEAKER:

If I may interrupt. I take it that this would apply exclusively to what we call "open" sites. The undertaking that has been given by the Government is that it will be used for that purpose. I am asking this for clarification.

HON CHIEF MINISTER:

far as  
That is what I said. As I am concerned this is purely for the purposes of those properties. Before they are not fully occupied they cannot be equitably rated because they are not occupied. In respect of those properties which with the safeguard of the provisions of the Ordinance are deemed to be under-occupied.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I must say that I am a little astonished at the general sense of Hon Members' remarks opposite because the principles as I recollect it of this amendment were thrashed out in this House nearly twelve months' ago. All that we have in front of us today is to put into effect what the House then decided, in principle, should be done, that is all. I would like to stress a number of things. First and foremost this is not a revenue measure, it was never designed as a revenue measure, it was never conceived as a revenue measure. But as the Chief Minister has said there is at the present moment absolutely no equitable way in imposing some fiscal incentive on some person who is sitting on a piece of land and doing absolutely nothing with it when something useful could be done with it. After all, in Gibraltar, whatever else is scarce land is scarcer still and consequently it does not seem to me to make any kind of sense at all that we do not encourage - we will use the tactful expression - we do not encourage people to develop the land that they have. That is the first thing. The other thing is, and I wish to disabuse any ideas of this, it is certainly not going to be used as a punitive measure, it is not. This is not just in the Government's thinking at all. It is an encouragement to develop. One other point I would like to make and that is that appeals have been made from Hon Members on the other side that this should be implemented by some body or some committee and should not be left to the Valuation Officer. As the law stands it is left to the Valuation Officer and I would only remind the House that the Valuation Officer is, one might almost say, in a quasi judicial capacity. Valuation lists can be appealed from. Finally, we will certainly....

HON P J ISOLA:

If the Hon Member will give way. It seems that under this system there is no appeal to anybody. This is the reality. If the Valuation Officer seeks to rate somebody under this provision he could rate a dwelling house if he wished, a rent-restricted dwelling house, any dwelling house. There is no appeal to anybody.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I think the point that has been made on that side has now been taken and we undertake to bend our great powers of concentration and thought to bear upon it. Mr Speaker, Sir, I have nothing more to add to what has already been said.

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

HON MAJOR R J PELIZA:

I would be grateful if you would allow me just to say two words which I think will give a lot of pleasure to this House and that is to congratulate the Gibraltar Hockey Team for their brilliant performance last Saturday and also I would say one or two members in this House who played a leading part in bringing this about.

The House recessed at 7.30 p.m.

WEDNESDAY THE 18TH MAY, 1977.

The House resumed at 10.50 a.m.

### BILLS

#### FIRST AND SECOND READINGS

The Social Insurance (Amendment) Ordinance, 1977.

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Social Insurance Ordinance (Cap 145) be read a first time.

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

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Sir, this Bill is intended to amend the Social Insurance Ordinance in several ways but by far the most important of its objects is the one that I shall deal with first and which was an electoral commitment which the GLP/AACR entered into and which was clearly laid down in our Electoral Manifesto last September. This was that at the earliest possible opportunity a formula would be built into the Social Insurance Ordinance linking old age pension to average earnings so that a married couple entitled to the standard rate of pension should receive one half of average earnings and a single person one third. Now, Sir, this was a matter which we had been considering in the Department of Labour and Social Security for some time and when the proposal was put to representatives of the Pensioners Section of the Transport and General Workers' Union at a meeting which we held a few weeks before the General Election and at which the new Hon Leader of the Opposition was present in his trade union capacity, the proposal was welcomed by them. Indeed, at

that meeting the Hon Mr Bossano suggested that once this formula, as we like to call it, was enshrined in the law, its implementation should be by way of a subsidiary instrument rather than by the more cumbersome method of having to take a Bill through all its various stages in this House as is the case at present. The suggestion of the Hon Member was well received by my colleagues and by myself although it was felt that in a matter of such general importance as the fixing of social security rates of contributions and benefits even within the statutory formula, this House should have the opportunity to discuss and reach agreement as far as possible. This point, that is, that the approval of the House of Assembly should continue to be sought was particularly made by the Social Insurance Advisory Committee to whom the proposals contained in this Bill were referred. Clause 13 of the Bill therefore provides for yearly reviews of pension rates which must be not less than the percentage of average earnings which I have already mentioned and for these to be prescribed by Orders requiring the approval of this House by resolution. This new procedure, Mr Speaker, is repeated in the other two Bills which I am bringing to the House today except that the formula does not appear in them and I shall therefore not be repeating what I have said when we come to them. With regard to the application of the formula itself this must, of course, depend on the availability of employment survey data which reflects the latest movement in average earnings but because of the relatively long period of at least five or six months which must elapse between the time when a decision is taken on the new rates of pensions and contributions and its actual implementation so that all the administrative work may be done in time, for instance, the need to print new value stamps, to re-rate several thousand pensions and to prepare new order books and so on, the latest available figures of earnings would inevitably be those of the preceding April and in arriving at the revised rates some account, at least, would have to be taken of probable further increases in average earnings between April and the following January, particularly, Mr Speaker, since we are committed to annual reviews of wages and salaries in October. This is the difficulty to which it has not been possible to find a solution and the new Section 52 which is in Clause 13 of the Bill now before the House therefore provides that the rates of pension should be based on the prescribed percentages applied to the figure of average weekly earnings of weekly paid full time male adult employees as shown in the latest available Employment Survey. But subsection 2, Mr Speaker, is intended to allow flexibility whereby a projection of possibly higher earnings may be made and taken into account when deciding on the new rates. The extent to which this will be done, Mr Speaker, will be a matter for judgement of whoever may be the incumbent as Minister of Labour and Social Security at the time. That I don't think is going to be an easy exercise. The other major innovation which is introduced by this Bill is the concept of a new widower's benefit. This would be the same as the present widow's pension except that it would be payable only to a man who on his wife's death has been permanently incapable of self-support for not less than ten years and who has been wholly or mainly maintained by his wife during that time. This new pension is intended, as I have explained, Sir, for the permanent invalid and it follows therefore that the contributions which would create entitlement to the benefit would be those that have been paid by the wife. Lastly, Sir, I would mention clauses 3 and 4 of the Bill which arise from a question put by the Hon Mr Xiberras in the last House of Assembly in June 1976. This referred to the three year marriage test for a woman applying for old age pension if she has married after reaching pensionable age and also to the five year test for women under pensionable age claiming widow's benefit. I undertook at the time, Sir, to look into his suggestion that these marriage tests should be abolished and, as I expected, the provisions in our legislation has been based on those which existed in the comparable laws of the United Kingdom. On further study, and after seeking the views of the pertinent United Kingdom authorities we have come to the conclusion that these marriage tests could give rise to considerable hardship in the odd individual case that could arise. But we have also reluctantly come to the conclusion that their total abolition could give rise to abuse particularly from certain sectors of our insured labour force although I would rather not be more explicit about this sector. Clauses 3 and 4, Mr Speaker, therefore, reduce the marriage test for widows' benefit from five years to one year and in so far as the three year test for old age pension is concerned this I should inform the House at present appears in the Social Insurance

Benefit Regulations and they will therefore have to be amended at the same time as this Bill is enacted but in this case we are abolishing the three year test except that there will be a provision for the Director of Labour and Social Security at his discretion to cancel entitlement to the pension if the marriage has lasted for less than one year at the time of the husband's death. This is intended, Mr Speaker, to avoid the possibility of what are termed deathbed marriages. Other matters covered by this Bill are really of a minor or consequential nature and I will be referring to them, if necessary, Mr Speaker, at the Committee Stage. Sir, I commend the Bill to the House.

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

HON J BOSSANO:

Mr Speaker, I want to welcome the Bill and to say that it has our wholehearted support. It is, in fact, in my estimation, one of the most progressive pieces of legislation that has ever come up in the House of Assembly and it will lay the foundation for securing the standard of living of our senior citizens in a way that is bettered in very few places. The Bill meets completely the aspirations of the trade union movement. It is something that trade unionists have been fighting for for a long time and I think it is a privilege to be in the House when the time comes to vote in favour of this measure. I congratulate the Hon Member on bringing it.

HON MAJOR R J PELIZA:

Mr Speaker, I would just like to associate myself with the words spoken by my Hon Friend the Leader of the Opposition.

HON M XIBERRAS:

I would also like to welcome the Bill and congratulate the Minister for the general principles of the Bill before the House and with particular thanks for the point which he mentioned I had raised earlier in the House about the insurance for people who are remarrying, widowers and so forth.

HON A J CANEPA:

I wish to say, Mr Speaker, that I am very grateful for those kind remarks and say that if it has fallen to me as the present incumbent as Minister of Labour and Social Security to bring this piece of legislation to the House, nevertheless, I do feel that a great deal of credit should redound to the House as a whole because I have no doubt that both the last and the present House of Assembly holds matters that are associated with social security very, very close to heart and I think that the general tenor in this House is a progressive one and has been conducive to the enactment of this legislation.

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

The Hon the Minister for Labour and Social Security gave notice that the Committee Stage and Third Reading of the Bill should be taken at a subsequent meeting of the House.



## THE EMPLOYMENT INJURIES INSURANCE (AMENDMENT) ORDINANCE, 1977.

HON A J CANEPA:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Employment Injuries Insurance Ordinance (Cap 49) be read a first time.

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

HON A J CANEPA:

Mr Speaker, I have the honour to move that this Bill be now read a second time. One of the two main objects of this Bill is to place men and women on an equal footing for all purposes under the Employment Injuries Insurance Ordinance. In other words, Sir, men and women will, in future, have exactly the same rights and obligations. When answering Hon Members' questions in this House in the past regarding the removal of inequalities based on sex, I have tried to explain the very considerable difficulties which prevent bringing men and women into line on all matters, especially with regard to the lowering of pensionable age for men. But looking at the Employment Injuries Insurance Ordinance in isolation, and let me add that this was a recommendation made in 1975 by the Social Insurance Advisory Committee and for which I am very grateful, it was found that full equality could be achieved without much difficulty of finance or administration. This, in effect, Sir, is what Clauses 2, 5, 6 and 7 of the Bill will do except that whereas the female rate of benefits will be the same as that for men as soon as the Bill is passed, for reasons of administrative convenience the slight increase, which is 4p altogether, in the female contribution will not become effective until January next year when the new contribution year commences so we are proceeding immediately, Mr Speaker, to upgrade the level of benefits to bring about full equality in the level of benefits but we are postponing the increase in the contributions until January next year because the impact of the former can well be absorbed by the fund for the remaining six months of this insurance year. One interesting outcome from these changes, Sir, is that in future a man will be entitled to death benefits if his wife dies as a result of an industrial accident, irrespective of whether he was dependent on her or not. But, of course, because of the nature of the work in which women are normally employed in Gibraltar there is, hopefully, so very little likelihood of such a situation arising that the change is almost academic. The other major change brought about by this Bill is, as in the case of the Social Insurance Ordinance about which I have already spoken at some length, that the rates of contributions and benefits will in future be prescribed by order requiring the prior approval by resolution of this House and not by Bill as is the case at present. One or two other provisions of this Bill are also of a minor nature, I don't propose to touch upon them at this stage, Mr Speaker, but if there is a need I shall of course be glad to explain when the Bill is studied clause by clause at the Committee Stage. Sir, I commend the Bill to the House.

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

HON MAJOR R J PELIZA:

Mr Speaker, I am sure I am expressing perhaps the feelings of every Member of this House in saying that here is another instance where the Minister is again showing the interest and consideration that he shows for the aged people of Gibraltar which is very commendable.

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

HON A J CANEPA:

Sir, I beg to give notice that it is intended to take Committee Stage and Third Reading of this Bill at the next meeting of the House.

The Non-Contributory Social Insurance Benefit and Unemployment Insurance (Amendment) Ordinance 1977.

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance (Cap 113) be read a first time.

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

HON A J CANEPA:

Mr Speaker, I have the honour to move that this Bill be now read a second time. Sir, this Bill follows from the other two immediately preceding Bills which we have dealt with this morning. I don't think I need take up the valuable time of the House in repeating much of what I have already said and which really applies to clause 4 of the Bill now before the House which is a clause dealing with a method by which rates of contributions and benefits are to be prescribed in future. Clause 5, Mr Speaker, provides for equality in the rates of unemployment benefit payable to men and women and the other amendments which I propose in clauses 2 and 3 and which are both with retrospective effect are intended merely to regularise certain anomalies which, if necessary, I shall be glad to enlarge upon at the Committee Stage. Sir, I commend the Bill to the House.

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

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

HON A J CANEPA:

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

The Trade Licensing (Amendment) Ordinance 1977.

HON A W SEREATY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Trade Licensing Ordinance 1972 (No 22 of 1972) be read a first time.

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

HON A W SERTAFY:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, this is not the first time that I come to this House to ask the House to extend the Trade Licensing Ordinance but as the House is well aware a Select Committee of this House was for over two years studying what to do with the legislation that we passed at the end of 1972. The Select Committee duly reported, though not all the recommendations were unanimous, and I have been discussing with the Attorney-General - I haven't taken this matter yet to the Council of Ministers - on the different suggestions we could make to the Government. There have been difficulties. One of them is that it is only two days ago that I heard that the Foreign and Commonwealth Office for the second time had said, because we were in difficulties again with the Foreign and Commonwealth Office as regards the EEC regulations, but I am happy to say that we have now heard from the FCO only a couple of days ago giving the green light, so to speak, on the part of the experts of the Foreign and Commonwealth Office to this kind of legislation. There are of course several matters not yet decided upon. I know that the Hon Mr Restano and other members of the Chamber of Commerce went to see the Hon the Chief Minister on a number of points one of them being the suggestion that the control of business premises should be exercised by resolution in this House as suggested by the Select Committee. Another one is the composition of the Trade Licensing Committee. As far as I am aware there is no agreement as yet between Government and the Opposition on the composition of the proposed Trade Licensing Committee and there is likewise no agreement among the Opposition themselves, one sector and the other, on the composition of the Trade Licensing Committee. These are the difficulties which I am facing apart from administrative and legal difficulties on the composition of the Trade Licensing Committee as suggested by a majority of the Select Committee. And now I find when I sat here this morning a proposal from the Hon Mr Restano to amend the present Bill. I haven't discussed this matter with my colleagues of the Government but my reaction to these suggestions which I have only read once are that it might be premature at this stage to alter the present legislation and that what we should do is to come here at a subsequent meeting of the House with a new proposal and a new Bill replacing the existing Bill. This is what I think we should do instead of starting to alter the present legislation. I commend the Bill to this House.

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

HON G T RESTANO:

Mr Speaker, I don't agree with the Hon Minister that the amendments proposed by me should be carried to a later stage when new proposals for the whole Bill could be put forward. I think there are loopholes in the law as it stands. I think originally it was a very quickly devised law and not sufficient thought was given to drafting it and it has left itself open to a lot of loopholes which unfortunately some people are using to get round the law and the amendments down in my name at least would block some of those loopholes. The first one is that section 6(1) of the principal Ordinance.....

MR SPEAKER:

I think we are speaking on the general principles and I think you are completely and utterly correct in saying that you are not prepared to defer the amendments to a later stage when there has been consultation but I think the details of the actual amendments can be discussed when we get to the Committee Stage. You are, however most certainly entitled now to explain the principles involved on your amendment.

HON G T RESTANO:

Mr Speaker, the fact that the amendments have been put forward is because on many occasions the Government has been approached by either members of this side of the House or other entities in Gibraltar to have the law changed and the reply is always that they

will look into it and it never materialises and therefore it has been necessary to put forward certain amendments in order to, as I said, block those loopholes which exist already. There are three amendments and I will speak generally on them. One I have already said is on the transfer of licences which at the moment is automatic and we consider that if there are provisions in the Ordinance to restrict any licences because those particular trades are sufficiently catered for in Gibraltar then the same section should apply to any transfer of licence. The Minister has mentioned the composition of the Committee and we feel that that composition should be changed. We suggest that the entities mostly involved, that is the trade and the trade union movement should have equal representation on that Committee and there is no need to have any further representation and, lastly, the fact that we consider that commission agents should also be included in the Schedule.

HON J BOSSANO:

Mr Speaker, the Hon the Minister for Trade has in fact said that this is not the first time he comes to the House with a Bill extending the life of this Ordinance. This time he is doing it for a year which has the advantage that he will not have to do it so often as he has done in the past but that is about the only advantage it has and although the Government may be preparing or may be thinking of preparing quite different legislation I don't think that in fact we should miss the opportunity if we are pre-supposing that the Bill is going to continue unchanged for the next twelve months, I don't think we should miss the opportunity to improve it at least for the anticipated twelve months on the assumption that in twelve months' time we are not going to be extending it again. So, on that basis I would ask the Hon Member to reconsider since he is in fact asking the House to vote for an extension of twelve months which means that he is asking the House to assume that this Bill is going to be there for another year. If the Hon Member is not thinking of keeping the Bill unchanged for twelve months then he shouldn't extend it for twelve months he should extend it for the period that he thinks he is going to need and make the period less than twelve months and then perhaps there might be an argument for not amending at this stage. If we knew that the Bill was going to be there on the Statute Book for three months we might agree to leaving it unchanged for three months but at the moment he is asking the House to leave the Bill as it is for a year and therefore we consider that if it is going to be there for another year something should be done to improve the existing machinery otherwise a lot of changes can take place in a year and obviously once those changes have taken place it is very difficult to legislate retrospectively and undo what has already taken place. On the question of the composition of the Committee which the Hon Member has said there are different views I can tell him that certainly the view of the trade union movement has always been that they should have representation of half of the Committee and the Chamber of Commerce should have the other half of the Committee because as two constituted bodies the trade union movement and the Chamber of Commerce represent everybody involved in trade, either employers or employees. Mr Speaker, if we want the consumer to be represented then of course we should specifically ask representatives of consumers who are known to be representatives of consumers and to my knowledge the law does not in fact provide for representatives of consumers. I think the trade union movement in fact represents 90% of consumers as well as representing 90% of workers so I think they are very adequately covered but in fact if we wanted to have specifically representatives of consumers since in fact consumers organisations are dominated by trade unionists I have got no objection, Mr Speaker, to having representatives of consumers specifically stated in the legislation if Members would like to see that. That would give us two thirds instead of half. On the other issue of the amendments that my Hon colleague is proposing to section 6(1) the point there is that we feel that the requirements that are applied to a new applicant to a trade licence should be applied to the transfer of a licence because in fact otherwise we have a situation where, and this is happening, where a particular firm applies for a licence, that licence is refused on one of the grounds laid down under section 14 of the principal Ordinance and then all the firm has to do to get round the law is in fact to buy somebody else's licence notwithstanding the fact that the circumstances which led to the original denial of the licence would apply equally on the transfer. But the law does not provide in fact for a transfer to be

refused other than in the case of somebody under 18, that is, if the licence is refused originally because the applicant is under 18 the transfer can be refused but that is the only reason for which the transfer can be refused. We feel that it should be possible for the committee to refuse the transfer for the reasons that the licence can be refused and we cannot see how a failure to close this loophole can make in fact the operation of section 14 of the Ordinance practical when in fact all that is needed is to buy somebody else's licence to get round it. Mr Speaker, I therefore consider that the Government should look seriously at the possibility of introducing some improvement at this stage rather than missing this opportunity.

HON P J ISOLA:

Mr Speaker, I have never seen an attempt to make substantial changes in the law in this rather quiet and over simplified way and also an attempt to override completely the recommendations of the Select Committee of this House. I know, as Hon Friend the Leader of the Opposition has said, I know that his union dominates Gibraltar and has 90% of the members and that what his union says goes, so we are told, but there is still a House of Assembly in Gibraltar and the House of Assembly is supposed to represent, as I understand the position, the whole of Gibraltar. Who represents whom? I don't want to get involved in questions of representation. Perhaps my Hon Friend in fact represents the whole of Gibraltar. I don't know. He only got 5,000 votes or so but it may be that he does, I am not going to get into argument about that but one very important principle that this House has to consider when looking at the Trade Licensing Ordinance is that this House put a Select Committee during the life of the last legislature to look into the question of the Trade Licensing Ordinance and that my Hon Friend the Leader of the Opposition was a member of that Committee and subscribed to its report one of the main recommendations of which was what we shouldn't interfere with the right of people to transfer their business to others. If I remember rightly, the only recommendation which wasn't unanimous and in which the Hon Leader of the Opposition reserved his position and did not agree, was the recommendation that we should reconstruct entirely the Trade Licensing Committee and that the representatives on the Committee should not be the representatives of trade and the union. This is one of the recommendations in the Committee which I know is causing difficulties and problems and I recognise it but that was one of the recommendations of the committee, to do away with representatives of the Chamber of Commerce and of the union in so far as the Chamber of Commerce was concerned because it would be making them judges in their own cause. Because you would have representatives there of a particular section of trade deciding whether somebody who wanted to open up a business in the same trade should be given a licence or not and this seemed to be wrong in principle to the Select Committee. And equally a union possibly using the Trade Licensing Committee for the purposes of punishing business people or employers whom they considered to be bad employers or whatever other reasons of policy and so forth. There seems to be something wrong with the constitution of that Committee. The suggestion that is now being made which conflicts entirely with the Select Committee report and the recommendation of the Select Committee is to strengthen further the position of the Chamber of Commerce and the union. In other words to split up the cake between them. Well, I don't think we have got to that stage in Gibraltar where sections of the community split up the cakes between them and I don't know whether we want it. It may be we want it. Well, if we want it we will give it to them but it wasn't the recommendations, Mr Speaker, of the Select Committee of the House on the Trade Licensing Ordinance and there were very good reasons for the Select Committee making these recommendations. The other major point that is now being introduced, the question of the transfer of licences. The way it is being sort of slipped in saying the same principle of section 14(1) should apply. But the principle of section 14(1), for example, that the needs of the community are already adequately catered for has already been applied in so far

as a licence for a particular premises has already been granted in accordance with that section and in accordance with the principle which, I am sure, all members of the House agree with is that rights already acquired by businesses at the date of the passing of the Ordinance should be maintained and what this proposed section does is to, in fact, take away the right of a person who has worked all his life to build up a business, the right to sell his business and retire. What is wrong with that? When a working man finishes his working life he is entitled to a pension and a gratuity. Well, a businessman who has got a small business, and I have known cases, finishes his working life, what is wrong with him wanting to sell the business? What is he going to go to a member of the Chamber of Commerce, the trading committee, and ask them permission to sell his business to a possible rival of them. He will be told that the needs of the community are already adequately catered for and that is it. So you either stick with your business or you just close the door, have a sale and sell it to all the sharks who are waiting to take advantage of your position and that's it, and bad luck old boy. My Hon Friend Mr Bossano might well say another capitalist out of the way. But somebody else would follow because somebody else would open a business in those premises so it would only be a pyrrhic victim. Mr Speaker, to make these fundamental changes without the House considering the Select Committee report which it has done and, incidentally, has approved, would mean that we might as well give up being members of the House of Assembly and just hand over to people and let them decide what they do and let them govern ad hoc in accordance with the particular views of any particular section at any particular time. So in my view, Mr Speaker, the House should not accept amendments to the Trade Licensing Ordinance of this nature and of this enormity without having a proper Bill of the House that incorporates the recommendations of the Trade Licensing Committee, such recommendations as the Government feel it can advise the House to accept and then we can discuss all these matters in that context including this. But let us not have divisions of the cake, let us not have those divisions of the cake with a rubber stamp of approval of the House of Assembly of Gibraltar. Mr Speaker, I think, frankly, that would be bad for the legislative process of Gibraltar. The other amendment that is being asked for is the addition of commission agents. I know this has been a very, very sore point with the Chamber of Commerce and to a certain extent I concede that there has been some justification in this in so far as there have been people who perhaps should not have been trading as commission agents trading as commission agents from Government houses, from Government accommodation and so forth and I agree that this is something that should be locked at. But, again, Mr Speaker, the business of commission agents by its very nature is a very difficult business to control. Because the commission agent is a person who goes out to find new lines of business, new lines of goods and he is constantly changing the goods that he imports and doesn't import.....

MR SPEAKER:

Mr Isola, you are falling into the temptation of doing the sort of thing that I tried to prevent Mr Restano from doing. You are going into the actual merits of the amendments and not the general principle.

HON P J ISOLA:

Yes, Mr Speaker, the bill itself is just seeking the Trade Licensing Ordinance to be continued for a year. I agree and I think that the question of licensing of trades, Mr Speaker, is a very, very complicated and difficult subject and it is

better to adjourn for a year the Bill than have to have it back every six months. Because, I think, even when a Bill is brought to the House, and I hope when it is, Members will have plenty of time to look at it before the First and Second Reading is taken. I think major issues of principle involving the liberty of the individual, the liberty of the subject, the rights of traders, the rights of trade unionists and so forth are all involved in this Trade Licensing Ordinance and I think it is much better to await a proper Bill from the House than to agree to amend pro temp in this way especially in the very substantial way that is being suggested by my Hon Friend on my left and I would certainly recommend to him that he reconsiders these amendments before he actually asks the House to discuss them.

HON M XIBERRAS:

Mr Speaker, I tend to agree with the substance of the last speaker's remarks. In the first place I would like to say in relation to the stated substance of the Bill that I think that there is a point in curtailing the extension of the Bill and to have it, for, let us say, six months rather than a year and therefore I would intend to move in that sense an amendment because there is already, the Minister has said, some sort of agreement or green light from the Foreign and Commonwealth Office on this issue. It is only proper, I think, Mr Speaker, that in considering any kind of amendment to this most unsatisfactory Bill as drafted, that the House should have the benefit of those Members who have been involved in the work of modifying the bill over a long period of time and that the deliberations should not be hurried and should follow the pattern it has followed up till now, namely, the Select Committee should consider whatever amendments the Minister has now got approval for from the Foreign and Commonwealth Office. Mr Speaker, I am always reluctant to vote an extension to this Bill but I would vote in favour even if my amendment of six months instead of a year were not to be accepted and a good reason were given for this. As regards the substance the Bill would acquire if the amendments were tabled, at a subsequent stage as notice has been given, I must say that these amendments do not in any sense deal with the immediate interest of the workers of Gibraltar in the sense that the workers of Gibraltar are going to be directly affected. They deal rather more directly especially the second one, the one about representation in this Committee, they feel with the rights of individuals as has already been said and of the rights of certain persons or organisations to decide, to make decisions or even recommendations, in respect of those rights. Therefore, the issue before the House, Mr Speaker, at the Committee Stage, would be as to who are entitled to decide these important matters on behalf of the community. If the House is unable to decide these matters then certainly one should not go for a black and white representation on the Committee which excludes all shades of grey and all attempts at balance. I see it as rather a strange alliance this combination of Chamber of Commerce and trade unions and I do not think it is in the interests of this House to set up the precedent of allowing these two, not antagonistic bodies, but bodies that often have opposite interests now coalescing in this particular committee in such a way as to exclude independent representation. One could go very far the other way and make the committee unwieldy by providing too broad a representation as perhaps happened at the time of the Price Control Committee and so forth. But certainly to allow these two powerful and much respected interests in the community to decide these matters of judicial important and which could become of constitutional importance, would be an abdication of responsibility by other members of the community and I think the House would be most unwise to accept this. The same in respect of constitutional rights applies to the question of non-transferability of licences in certain conditions. This would not be a new phenomenon at all. We have it

already in respect of some of our professions where there are limitations on the number of licences which are issued and the Bill as a whole in fact is fraught with the possibility of this danger arising, namely, that the licence itself will command a fee at a subsequent stage. I have no doubt that loopholes would be found if this amendment preventing transfer in certain cases were accepted, loopholes would be found by the clever and to the advantage of a few but I do not think that it would be fair on the bona fide businessman who does not have to be a very big capitalist, who may very well be a chap holding a small tobacconist or a newspaper stall or something of the kind and the Committee would have the power to decide for reasons itself explainable only to itself would have the power to decide against this particular businessman selling his business and as has been said, what does he do with it if he has to sell. Does he lock up and dispose of his goods or does he try to traffic in this licence or in his premises under cover, as it were, and this would not at all be conducive to a fair situation. The question of commission agents I do not know very much about. I know that there has been some talk about limiting the activities of commission agents. I will bow to Members of the Select Committee who have carried out their investigations to say whether there is a need or there isn't a need for inclusion of the commission agents on the Schedule. It is not an objection which I have on principle and I do not object to it at all provided that those members who have been involved in the work of modifying this Ordinance approve it with their recommendation. It may be that the Hon Member who has given notice that he would move these amendments was acting rather in desperation of giving some sort of final shape to the Ordinance rather than in a surreptitious manner to slip in these amendments and I entirely accept his good faith in doing so but I ask him to consider that considerations of this importance should not be introduced to the House on a matter which has been the subject of consideration by a Select Committee and on which a lot of work apparently has been done with the cooperation of members from this side of the House and on which there was a fair measure, of unanimity. To break this unanimity and to break new ground now at this stage would be not only unwise but unfair to other members who have sat on the Committee. Mr Speaker, I would like to see a reaction from the other side as regards the limitation of the time schedule in the sense that if the Hon Mr Restano has moved this hoping that at least he would try to bring some sort of finality in the deliberations about the amendments to this Bill he would be comforted and reassured that it is not the intention of Hon Members opposite to carry on the provisions of this Bill for a further year but only for as little time as it is necessary to do so. Therefore, Mr Speaker, I would, in general, have to support the principles of the Bill and in general terms have to oppose the proposed amendments which would become, in fact, the substance of the Bill if accepted.

HON MAJOR R J PELIZA:

Mr Speaker, after listening to the Chief Minister in this House for about nine years now I think I have learnt one or two tricks from him and perhaps I would speak in the terms that might be he would be speaking on this occasion. I am not happy with the Bill but I am not unhappy which means that I don't know where I am. The reason is that one has to analyse and look at the reason why the Bill was ever brought to this House. The idea of this was to protect Gibraltar really from an invasion of powerful entrepreneurs who might literally take over businesses in Gibraltar, as I see it. At least I thought that was the intention. In attempting to do that we find great difficulties and I sympathise with the Minister of Trade and the Select Committee of trying to find a solution because no sooner do you start moving in one direction that you are trampling on somebody's rights and the moment you start going into another direction you start injuring somebody else and you wonder which way to go I attribute no ill motives whatsoever either to our trade union colleague in this House or to our Chamber of Commerce colleague in this House. I think what has happened is that they feel as frustrated in trying to achieve this as anybody else and they have come out with amendments which they consider might better the situation but I have been looking at the amendment and unfortunately I think that they face the same difficulties as all the other solutions that I am sure must have gone through the minds of those sitting in the Select



Committee. What I would have liked to have heard from the Minister responsible and perhaps we can still hear about it, if not now at the Committee Stage is to find out how this has worked up to now. How many, for instance, applications have gone there? How many have been accepted? How many have been rejected? I know the Minister may not know but it might be possible to find out and then I think we shall know from statistics, which perhaps is the only way of finding out, to what extent the Bill has been serving its purpose. And if it has then perhaps the extension of its life is commendable and this is why I am reserving my view until I hear more about it, and in the same process as soon as the Minister can find better solutions that we have now again the Bill can be amended and adjusted to find a solution in the most satisfactory manner. There are, however, certain principles which I, as a liberal man, would like to see adhered to and which unfortunately I think some of the amendments suggested would go right against it. I find myself in difficulty on this although perhaps I would not declare my hand until I hear more about it when they will be discussed in detail at the committee stage. But on the question of transfer I think it is going to be very, very difficult for an individual who probably has spent his entire life trying to produce a business which by the time he is <sup>of</sup> retiring age is working well and he wants to get his money back, to find that he cannot transfer it. I think this is the difficulty that the Chamber of Commerce must necessarily accept and I wonder whether the members of the Chamber would agree with the suggestion because they are in the same boat as any other businessman and they would see themselves completely locked in, unable to recover their gain because the Ordinance doesn't allow it and the man getting nearer and nearer the grave and no possibility of doing anything with his business. Well, obviously, I think unless some other way can be found from here to then of producing the answer it is going to be difficult. I would like to hear perhaps what the member suggesting the amendment has to say on this point at the right stage. On the question of the Trade Licensing Committee I think that certainly a member of the Chamber of Commerce should be there and I believe that a member of the trade union should be there. One from one organisation and one from the other. I believe too that there certainly should be one member of the Consumer Association, someone who might in the view of the Government represent that attitude. We do have perhaps a housewife who is a little more outspoken than others and the image shows that she would look after the interests of the consumer, and perhaps too a number of independents. I think that the Committee should be as wide as possible because the bigger it is the smaller the chances of any feather bedding which is very possible and which I think is not in the interest of anybody at all that this should happen in our community. Therefore I think this is the only way. As to, as it were, completely closing the door for any newcomer, any man with initiative into business I again would be against. With one of the amendments a small businessman who wanted to start a business would find it completely impossible I would say with little capital if he were not able to start from his own home. I believe even big organisations like Liptons started frying eggs somewhere in Picadilly Circus. This is the only way in my view that you are likely to start. Perhaps by finding a little corner in your own small house and building up a little stock there and then going out and then finding more money and going into a bigger place that we shall have three generations of our businesses in Gibraltar which I believe is most important. As one sees the process of movement we always find that it is the little man who started before who grew up, who started competition with all the others, brought new ideas and completely rejuvenated the whole society. I would be against any idea of preventing that process even if I have a vested interest as you all know in business but I still feel that it is in my own interest that there should be competition and I think we should allow as much competition as possible because that is the thing that is going to bring down the cost of living, that is the thing that is going to bring better service. But at the same time, and this is where the conflict comes

along, at the same time I want to protect Gibraltar and here is the difficulty and this is why I said at the beginning that I sympathise with the Minister and I would go along with his proposal to prolong this Ordinance for as long as necessary provided that we can see from the figures that I hope he will be able to produce that there is in fact a reason for keeping it. If there is no reason for keeping it then I would do away with it completely. If it is serving a purpose then we should do it and then I think in a pragmatic manner as we are doing now, going along stage by stage, finding where there are loopholes and trying to close them without interfering with the rights of the individual. That is my position. I think my mind is very open to see what happens at the Committee Stage but that is the way I see it and I hope the House generally, even the gentlemen who are making the proposals of these amendments will see it in the same light. I think we are all trying to get the same answer. The trouble is that the formula is very difficult to find.

HON CHIEF MINISTER:

Mr Speaker, I am very honoured to feel that after nine years or eight years the Hon and Gallant Member has learned something from me if only to say yes and no at the same time. Of all the legislation we had to pass in a hurry in order to comply with the requirements of our entering into EEC of which we now hear so much and so importantly, this is perhaps the worst of the legacies that has remained of necessary legislation and it was in order to substitute the old Trade Restriction Ordinance which was repugnant to the terms of the Treaty of Rome and let it also be said that apart from that the situation with regard to trading in Gibraltar was not ideal even then because though there were discriminatory legislation protecting local people there were fronts all round and there were continuous complaints from the Chamber....

HON MAJOR R J PELIZA:

If the Hon Member will give way. I think it should be pointed out that this was not demanded from EEC, in fact, the difficulty is trying to harmonise our law with that of the EEC.

HON CHIEF MINISTER:

That is right but we had to seek some kind of local protection which was consistent with our obligations under the EEC and that is the legacy that we have had and in this respect one of the things that the Hon mover has made clear this morning is that even this which is considered so unsatisfactory was at one time considered by the experts on EEC regulations to be contrary to the spirit of the EEC, though we have now had it confirmed that this question of the trade being sufficiently supplied is the standard which is applicable to everybody and therefore not repugnant to the principles of the EEC. But this, of course, is a legacy of the change required - I didn't mean a legacy of EEC - because we were very much afraid about all sorts of other legislation, land, influx of labour and so on, 200,000,000 people rushing to Gibraltar to get employed because we were giving a free pass to all members of the EEC and so on. That has really had no effect but this one has left it. First of all an attempt was made to provide a compromise between the old protectionist law which was not very satisfactory anyhow and something that met the requirement of Gibraltar and was not repugnant to the EEC and that is the result. Following on that of course there was the Select Committee which sat for a very long time and the recommendations of which have not yet really been gone into for the main reason that from the beginning there were objections to parts of it by the Chamber of Commerce. I would like to put things in their proper place. I do not regard that the proposed mover, the Hon Mr Restano, in moving this motion is standing nor does he say, nor

does he pretend, I am sure that he is speaking for the Chamber of Commerce because he is here as a member of the Gibraltar Democratic Movement, nor, if I may say so, with respect, despite the fact that he may find it even more difficult, the Hon Leader of the Opposition, to say that he is speaking here for the trade union movement because he is here as a member of the GDM and with the votes which were already counted by the Hon Mr Isola, with the result also in so far as he is talking about the trade union movement covering everything we might probably have something different to what we have now but what was happening was that the people of Gibraltar, including a considerable number of labourers, workers, members of the workers world, refused to give Mr Bossano and his more working class colleagues than the ones who got elected, a majority to govern Gibraltar. That is quite clear so he has no mandate on this. On the other ticket, on the GDM ticket on which both are speaking, they talk about open Government and they want a closed shop, that is the difficulty about it. My Hon colleague on my left when he was talking about pensions related to average earnings was saying that that was a proposal which we committed ourselves in our manifesto and that is what we have done because we went to the people and we said this is what we want to do, we have got the authority, we have done it. There is nothing in the programme of the GDM about trade licensing except open Government and all we want is closed Government between the two elements of the GDM who have got together more closely, the old Chamber of Commerce Vice-president and the District Officer of the Transport and General Workers' Union and they want to do a deal amongst themselves to get everything inside and let everybody else go to hell. That is really not the kind of policy that can be followed as has been pointed out by Hon Members on the other side but not of the GDM, or rather Hon Members on the other side to which the Hon Leader of the Opposition used to belong. I don't want to fall into the trap of going into the amendment. I hope that the Hon Member has seen that he hasn't got a hope in hell to get this amendment through.

MR SPEAKER:

Not a hope in the House.

HON CHIEF MINISTER:

Or in heaven, because, in fact, not only will the Government oppose it for the good reasons already stated by member opposite but because other members opposite don't agree. But what is interesting is that they don't cover everything. The Government has received a number of representations from people who are not members of the Chamber of Commerce and I am quite sure that though the Chamber of Commerce represents the vast body of trade they do not pretend to represent the whole of trade and they don't represent it actually because the number of members are much less than the numbers of the members of the Chamber of Commerce. Perhaps another story might be told by members of the union that they represent the Trade Union movement, well, with the greatest respect the Gibraltar Trades Council which is supposed to represent the whole of the trade union movement is not represented in the House nor do I know whether Mr Bossano has a brief to speak for them in this matter but quite a number of them are traders, quite a number of members of the GTC are traders, quite a number of members of the Transport and General Workers' Union are traders and they have their interests to be protected too, so that is why we look at it on the basis of the majority of the people who vote for those who have to pass the laws and that is what we are doing now. Let me tell Members opposite that the Government receive representations from all sorts of people about restrictions. Let me tell them that we have received very strong representation not about the transfer of business but about the transfer of existing businesses from one place of the town to another. That has also been received by the Government. Are we going to stop that, too? If you are going to stop the transfer of one business it might as well say that one place is

covered and we should stop the transfer of one business from one place to the other. That is the consideration that one would have to take into account looking at the whole spectrum of this matter.

HON J BOSSANO:

If the Hon Member will give way. That can be stopped. The transfer of business from one place to another can be stopped without any change in the law.

HON CHIEF MINISTER:

On my understanding of it this is not stopped as a matter of fairness it is stopped by the Trade Licensing Committee despite the fact that there have been objections. I don't think it can be stopped. Anyhow, let there be no misunderstanding about this. We have had representations on that matter perhaps because it is a representation against the implementation of the recommendations of the Trade Licensing Committee.....

HON MAJOR R J PELIZA:

Surely that is not the spirit of the Ordinance. The idea was to prevent people from coming in not stopping those inside already from doing business.

HON CHIEF MINISTER:

I am not saying that there is. I am only pointing out the dangers that you come up against immediately that you start to impose some kind of restriction to which the Hon Member has been referring. I am not saying that I am in favour, I am not saying that I am against, I am saying that the Government has got many, many requests of many people each one looking at it as if the whole world, as is very right because that is the citizen's right, as if the whole world was moving around him because that is his problem. The question of transfers is a ridiculous one, if I may say so, because there is nothing easier than to have a going concern made into a limited company and then the shares are transferred the legal entity is the same and the shares are transferred and then you have overcome that. Is that going to mean that the poor man who is running a little business for fear that he might not be allowed to transfer it has got to go and spend a certain amount of money in becoming a limited company in order to be able to sell his share when the time comes? Money for the lawyers, quite right, but that is not the spirit of it, that is not the spirit because otherwise everybody in order to override it would have to become a company in order to be able to transfer his share. Then the next would be that you cannot transfer the shares without the permission of the trade union and Chamber of Commerce. Where are we, who are we, is this a corporate state or is this a free democracy? Is this open Government? We cannot accept any of these things at all. The Select Committee recommendations were objected to in some aspects of it by the Chamber of Commerce and I received representations from them and the Hon Mr Restano was then a member of the Chamber of Commerce. When they came to object to the Select Committee's Report the Hon Mr Restano was then a member of the Committee of the Chamber of Commerce. Subsequently, much later, he did make some representations with the Hon Leader of the Opposition to me which I undertook to look into and which in fact have been the subject of discussion and is being the subject of discussion. There was one aspect of it some of which this is the one that he has incorporated into this and he has gone a little further than the one representation. There was only one point, if I may say so, that they made at that meeting with which I entirely agreed and on which we are also trying to see what we can do and that is enforcement. There is nothing here about enforcement but they did raise that matter and it is an important matter because I entirely agree that it is no use having legislation if you haven't got some method of enforcement. It was asked earlier on in this House about who

monitors, who checks, and the Hon Member was answered by the Financial and Development Secretary that they are senior Customs Officers. I have been of the view for some time that there are various aspects, and I have said it here before, various aspects of legislation and if I may say even revenue producing matters which for lack of adequate personnel, I am not saying that they do not receive an element of inspection under the Customs Officers, but I think there are certain aspects of our legislation generally in Gibraltar which for lack of specific enforcement officers the community is being prejudiced. In some cases the person who breaks the law has the benefit over the one who does the thing properly. One aspect which I have mentioned which has nothing to do with this and which again requires a certain amount of enforcement is the question of TV Licences. Nobody can tell me that there are only 3,000 TV holders in Gibraltar, this is nonsense, there is bound to be many more and there is no enforcement and we must have some element of enforcement particularly when colour television comes and the value of the licence will inevitably have to go up. That will be a very essential aspect of the matter because it will be fair that people who benefit by that will pay their TV licences. So in that aspect of the matter I entirely agree with the Hon Member. One point that has been mentioned by the Hon Mr Xiberras is about the time of the extension of the Ordinance. Six months would take us only to November, we have the summer recess and it will be very difficult to undertake that. The fact that it is being extended for a year hopefully means that we will have legislation and time for consideration long before not to come again though of course I have no apologies to make to the House if in fact we haven't reached a general agreement by then but, hopefully, now that we are giving ourselves this time I hope that before this extra year has elapsed we will have been in a position to make some progress. What the Hon Mover has mentioned earlier about the time that we have now got a clearance which has been sort of holding up things about whether we were on the right lines or not, that will give a green light as he said to further progress being made. The Committee that sat over a very long period did a considerable amount of good work and we have not, except to receive the Report, fully debated that but I think it is fair as the Hon Mr Xiberras has said that any amendments that are made are made in the light of the results. The Government will have to use its judgement and then submit it to the judgement of the House. Once that stage has been reached then I hope it will not be a question of sectarian interests in this matter but purely a broad interest as has been mentioned by the Hon and Gallant Major Peliza of what is good for Gibraltar as a whole and not what is good for one particular sector of the community at one particular time in history. Thank you.

HON A W SERFATY:

Mr Speaker, I am not going to take more time as I think we have debated this sufficiently but I would like to recall that in November 1972 I did say that it was an unsatisfactory piece of legislation and that is why I agree with the Hon Mr Xiberras that it was unsatisfactory but it was the best we could do and time, I believe, has vindicated this Bill because it has been very difficult so far to find anything better. The Hon and Gallant Major Peliza said he believes in competition and so do I. It is good for the community, it is good for the consumer, it is good for the businessman but we must also protect Gibraltar from the 250 million EEC nationals. Whether we shall ever be able to produce a piece of legislation that suits everybody and meets with the approval of everybody I very much doubt but a Bill has already been drafted and the Attorney General and myself will look at it again, with certain suggestions which we have now received from the experts of

the Foreign and Commonwealth Office, and then we shall take it to the Council of Ministers as I said before to study. Then we shall come here again and see what happens but it is going to be very difficult indeed to produce a piece of legislation that meets with the approval of everybody. But our conscience I hope will be clear when we come here that we have done the best in the public interest.

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

HON A W SERFATY:

that

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

This was agreed to.

THE COMPANIES (TAXATION AND CONCESSIONS) (AMENDMENT) ORDINANCE, 1977.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Companies (Taxation and Concessions) Ordinance (Cap 165) be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This Bill, Mr Speaker is entirely procedural in that it seeks to remove what experience has shown to be a small but nonetheless troublesome administrative inconvenience. The licence fees payable by exempt companies, or I should say the annual tax which is payable by exempt companies, are payable in two half yearly instalments the first of which is for the half year ending the 30th September or the 30th March, as the case may be, and thereafter in advance on the 1st day of April and the 1st day of October. The ordinance also provides that non-payment of the annual tax is ground for removing the exempt status and what happens at the present moment is that the exempt status is removed if after 30 days of being notified by a written demand for the outstanding instalment of the license fee there is no response then the company's name is removed from the register. But by that time of course the instalment is in arrears and has therefore become an arrear which the Government has to try and collect, it is on the books and consequently if action is not taken to endeavour to recover it then audit queries are raised and we have to go through the usual procedures of trying to recover it and we have found that in many cases companies obtain exempt status for a relatively short time and that the whole purpose of the company obtaining exempt status may well have been satisfied with the result that the particular company in respect of which we are trying to recover an arrear of the annual tax has gone into liquidation and even if we went through the cumbersome procedure of obtaining judgement we would not be able to satisfy the judgement. So what this Bill proposes to do is simply this. That if any tax exempt company fails to pay the annual tax or the instalment thereof it will automatically be removed from the register, that is to say, it will cease to have its exempt status. But if an application is made to reinstate the exempt status within 30 days of the date on which the payment was due, then reinstatement will take place. If the application is made after the 30 days then certainly the Financial and Development Secretary will certify that the failure to pay was excuseable and that the company has been reinstated provided that in those circumstances there will be a penalty fee of £25 for reinstatement together with of course the arrears of tax which caused the removal from the register in the

first place. As I said there is no change whatsoever in the whole principles of the Bill, it is nothing more than to remove what experience has found to be an irritating but small procedural difficulty which has been experienced in the administration of these companies. Mr Speaker, I beg to move.

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

There being no response 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:

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

This was agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that the House should resolve itself into Committee to consider the following Bills clause by clause: The Inheritance (Provision for Family and Dependents) Bill, 1977; the Income Tax (Amendment) Bill, 1977; the Trade Licensing (Amendment) Bill, 1977, and the Companies (Taxation and Concessions) (Amendment) Bill, 1977.

THE INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) BILL, 1977.

Clauses 1 to 24 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 INCOME TAX (AMENDMENT) BILL, 1977.

Clause 1

HON ATTORNEY-GENERAL:

Sir, I beg to move that clause 1 of the Bill be amended by the insertion between the words "shall" and "come" in the second line of the words "be deemed to have".

Mr Speaker then put the question which was resolved in the affirmative and Clause 1, as amended, was agreed to and stood part of the Bill.

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman I beg to move that Clause 2 of the Bill be amended by the addition immediately after the words "or a permitted person" of the words "or any person who has been granted a Certificate of Permanent Residence under Section 15 of the Immigration Control Ordinance so long as such certificate is in force." We are in Clause 2,

Mr Chairman, amending, inter alia, the definition of non-resident person which appears in Section 2 of the Bill. At the moment that definition reads: "Non resident person means any person other than a person ordinarily resident or a permitted person or any person who has been granted a Certificate of Permanent Residence under Section 15 of the Immigration Control Ordinance so long as such certificate is in force." This definition is clearly anomalous in that if you have a person who has a Certificate of Permanent Residence he never becomes a non resident for the purpose of this Ordinance even though he may not be living in Gibraltar. A person who is a Gibraltarian under the Gibraltarian Status Ordinance becomes non-resident if, for example, he goes and lives in the United Kingdom, that is common sense, it is common to income tax law everywhere, but the holder of a Certificate of Permanent Residence even though he has been in Gibraltar never becomes a non-resident and that is all the purpose of my amendment to remove that existing anomaly.

Mr Speaker proposed the question in the terms of the above amendment.

HON P J ISOLA:

That particular section talks of the deletion of the words "or a permitted person", doesn't it? I seem to have mislaid my copy of the amendment.

HON ATTORNEY-GENERAL:

At the moment the clause as it stands in the bill provides for the deletion of the words "or a permitted person". I am also asking the House to delete the words "or any person who has been granted a Certificate of Permanent Residence under section 15 of the Immigration Control Ordinance so long as that Certificate is in force". The point being that a person who has a Certificate of Permanent Residence can never become non-resident.

HON P J ISOLA:

Mr Speaker, I beg to move that the amendment moved by the Hon the Attorney-General be further amended by the substitution of the words "or a permitted person" by the words "or any person who has been granted a certificate of permanent residence under section 15 of the Immigration Control Ordinance so long as such Certificate is in force" and by the deletion of all the words after the words "or a permitted person" where it appears therein.

HON ATTORNEY-GENERAL:

I think, Mr Speaker, we are really getting ourselves into the most appalling difficulties because at the moment in the clause it reads "in the definition of non-resident persons appearing therein by the deletion of the words "or a permitted person" appearing in such definition." If we were to vote in favour of the Hon and Learned Mr Isola's amendment this wouldn't tie up with it at all.

HON P J ISOLA:

Mr Speaker, if there is no agreement to the deletion of the words "or a permitted person" then of course we go back to the Attorney-General's amendment and that's it. But as I see it with my memory it would read in the definition of non-resident persons appearing therein by the deletion of the words "or any person who has been granted a Certificate of Permanent Residence under section 15 of the Immigration Control



Ordinance so long as such Certificate is in force appearing in such definition." That is how I would see the clause ending up. But the main purpose of my amendment, and this recurs in a lot of other clauses, Mr Speaker, is that we should not do away with the "permitted persons" provisions in the legislation. As I explained when we were talking on the Second Reading of the Bill I suggested that there was still some use in holding on to the permitted person definition in the law because it would encourage some people who may have investments in Gibraltar or who wish to invest in Gibraltar not necessarily United Kingdom subjects. It might be French, Community nationals or any other nationals and that I thought that no useful purpose is in fact served by taking away the "permitted persons" provisions which only acts as a dis-incentive to people already in Gibraltar under this tag, or people who might wish to take advantage of it and I saw no benefit to Gibraltar as a whole of doing away with something that is provided for in the law and which I would have thought served a useful purpose even though Spanish workers no longer worked in Gibraltar but it would serve a useful purpose in other respects. That is the purpose of that amendment.

MR SPEAKER:

It is proposed by the Hon Mr Isola that the amendment to clause 2 moved by the Hon ~~the~~ Attorney-General be further amended by the substitution of the words "a permitted person" by the words "or any person who has been granted a Certificate of permanent residence under section 15 of the Immigration Control Ordinance so long as such Certificate is in force" and by the deletion of all the words after the words "or a permitted person" where it appears therein.

HON CHIEF MINISTER:

Mr Speaker, when we took the Second Reading of the Bill there were two points raised. One was the present one we are dealing with and the other one by the Hon the Leader of the Opposition to which I will come later. In the case of the question of permitted persons I have a note here of what happened. Mr Isola proposed the abolition of the permitted person and suggested tightening up on the qualification of visits and time spent in Gibraltar which, of course, is not reflected in the amendment. The question of permitted person was first raised to cover the Spanish workmen who resided in Spain and who, without this special provision, would have been charged tax at the standard rate as non-residents. The term "permitted person" now serves no purpose except for non-resident directors of resident companies who are deriving the tax benefit of being charged tax on their directors' fees as if they were resident. The apportionment of personal allowances which was introduced last year now gives rise to conflict as an individual who comes to Gibraltar and takes up employment for a short period can claim to be treated as a permitted person and would qualify for full allowances for the year and the definition could therefore be repealed without any serious consequences. We have made a further amendment whereby the fees of directors of exempt companies would be deleted from that definition and they would have to pay tax at the standard rate. The point is that permitted residents had one purpose and it has ceased to exist. Mr Speaker, in both Mr Bossano's suggestion and Mr Isola's suggestion I suggested that there should be informal talks and I asked for representations early and I then said and not two days before the Committee Stage. Well, we haven't had two hours before the Committee Stage to look at these matters and it is very dangerous, Mr Speaker, to deal with amendments of this nature into a major matter and the matter has been pending for two months and there have been no representations whatsoever. An amendment now and another amendment which is also dated today about which when we come to the merits I will have to deal with or the Attorney-General. It is really not fair to make amendments of this nature in a taxing law which is bad enough as it is without knowing fully the consequences and the considerations that have led to the amendments. It will be recalled that when we produced this bill we said we did not want any more money. It was tightening up <sup>the</sup> Bill more than

anything else and meeting one point which had been raised by the Hon Leader of the Opposition but, of course, he wants to go further now which will be rather difficult but anyhow the purpose of the Bill at that time was a tidying up operation and including an undertaking of looking at certain matters that were raised at the time when PAYE was first introduced and others that were done. The "Green Paper" has been out for more than two months and it is very difficult at this stage to agree to an amendment to an amendment without knowing the full implications. I myself have been having some instruction on this matter from the Commissioner of Income Tax and even I have not understood very well what he has just told me about the residents so how can one without proper advice be expected to agree to amendments of this nature.

HON P J ISOLA:

On this particular question of permitted persons it is not a change of the law that we are seeking. If in fact the Government considers that no useful purpose is served by leaving the definition in, what is the objection to leaving it in? If nothing is happening leave it in. There must be a reason for taking it out and what I am saying is that it still serves a useful purpose because, as far as exempt companies are concerned, of course, they do not deal with any local investment either in business or in property or anything else. Exempt companies' activities by the very nature of their status must be outside Gibraltar. They have nothing to do with what goes on in Gibraltar, whereas the permitted person is related to somebody who has a business in Gibraltar or who has a company in Gibraltar or who has land in Gibraltar and avails himself of these provisions to be able to be treated the same way as a resident of Gibraltar in the same way as UK British Subjects can have and the suggestion of leaving the permitted persons in is to allow that facility to people who are not involved in exempt companies. I appreciate the point about exempt companies that is fine but it doesn't meet this point. All I am asking for is that that status should remain. I have just been reminded of what was said at the second reading of the House, Mr Speaker, that we should put these amendments up and discuss them before. On that one I am afraid I must just plead complete forgetfulness. I was looking for the record of the Hansard among my papers but I didn't have it here. For that apologise but all we are seeking at this stage is asking for the Government to leave that provision in on the permitted person and then discuss it at a later date if necessary.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If this was only a question of leaving in something which serves no useful purpose, conceivably we might agree but unfortunately it conflicts with the provisions, and this is as I explained it to the House the last time, it conflicts with the provision which was introduced last year for the apportionment of personal allowances. If we leave the definition in it means that an individual who comes to Gibraltar and takes up employment, for example, for only a short time and then leaves Gibraltar, could be treated as a permitted person and as such would qualify for the full allowances for that year and that is the stumbling block to leaving permitted persons in. We have taken the point about directors of certain tax exempt companies but they are dealt with separately by an amendment to section 23, ie, by clause 10. So the stumbling block to doing what the Hon and Learned Mr Peter Isola would like us to do is this conflict with the apportionment of allowances.

MR SPEAKER:

Are there any other contributors to this amendment to the amendment?

I will then put the question as moved by the Hon and Learned Mr Peter Isola which is that the amendment moved by the Hon the Attorney-General "to be further amended by the substitution of the words "a permitted person".....

HON P J ISOLA:

Mr Speaker, it might be useful because of the complications my amendment has caused to the Hon and Learned Attorney-General's amendment if I were to withdraw my amendment and then we could vote on the Hon Attorney-General's amendment.

MR SPEAKER:

That would make matters easier. Does the Hon Member have the leave of the House to withdraw his amendment. If that is the case then we come back to clause 2 and the amendment moved by the Hon the Attorney-General to clause 2.

Mr Speaker then put the question in the terms of the Hon Attorney-General's amendment which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

### Clause 3

HON J BOSSANO:

I beg to move that clause 3 of the Bill be amended by the deletion of all the words after "Kingdom" where it appears in line four of subparagraph "hh" and the substitution therefor of the words "or any capital sum paid by an employer to a dismissed employee being an award made by an Industrial Tribunal or a sum negotiated by the trade union holding the negotiating rights in the industry". Mr Speaker, the Hon and Learned Chief Minister has said that in fact he invited representations when the Bill was previously discussed in the House and he hasn't received them. All I can say to him is that the arguments concerning the alteration to the original clause were put in the House and that, certainly, as far as I was concerned I couldn't have made any representations to him, for example, in my trade union capacity to provide him with anything new that hadn't already been said in the House. On the merits of what was said then I thought the case had been made for altering this clause and there is nothing further in fact that can be added to this. I would remind the Hon and Learned Member that one of the points that I brought up was that we were in the process of altering precisely the system whereby 20 years of service is a maximum that can be accumulated in terms of employment in the context of negotiations with the Official Employers. In fact, the position at the moment in those negotiations is that at the General Meeting of the Transport and General Workers' Union a resolution was passed unanimously giving priority to the negotiation and the introduction of the new superannuation scheme which would provide for pensions and would alter the system for entitlement of a gratuity. In the context of those negotiations there would still be short term gratuities based on the UK analogue for the Ministry of Defence and in the UK these short-term gratuities are exempt from income tax. This has already been mentioned in the appropriate forum which is the Joint Industrial Council for the purpose of recording it although of course the Joint Industrial Council cannot give commitments regarding income tax but since we are talking about

UK analogues in JIC the point has been made in JIC that short-term gratuities under the UK CSD superannuation scheme do in fact carry with it the proviso that they are exempt from tax and that in the other cases, in the cases of people who do not become entitled to short-term gratuities, the gratuity would not be paid immediately but would be deferred until reaching the age of 65 which would then make it tax exempt under the other provisions of the Ordinance. So I think that to persist with the original amendment which, as I said at the previous meeting of the House, I appreciate was done in response to the situation that existed when the representations were made, would be to introduce something in our legislation which would have very little value, presumably, in a very short time since the alteration of this system is something that is being given high priority by the trade union movement. The additional new element in my amendment, I am sorry that I haven't given the House greater notice on this, but this is in fact something that came to my attention only within a matter of the last few days where there was a case of an agreed sum of compensation as an alternative to going to a Tribunal which is something that is provided for in the legislation on unfair dismissals where it is possible to reach an agreed terms of compensation without the need to go to the Tribunal. This is the reason why, Mr Speaker, I feel that either the award made by the Tribunal in compensation or the agreed sum without the need to involve the Tribunal should, in fact, be exempt from tax. I think it is very wrong that if somebody loses his job and is given a lump sum in compensation, 30% of it should go to the Government.

Mr Speaker proposed the question in the terms of the Hon J Bossano's amendment.

HON CHIEF MINISTER:

Mr Speaker, first of all I wish the Hon Member in his other capacity every success in his endeavours on the question of the superannuation and the shorter tax and I can now say that if in fact that becomes effective and if in fact he satisfies the House that that is exempt in the United Kingdom from taxation we shall lose no time in bringing an amending ordinance to cope with that new situation which I hope will be effective very soon if the negotiations are successful. So that in that respect I think we better safeguard what we have now while it goes on for the time being. I hope that he will be successful and I hope that if it is in the Superannuation Act in England we would have no difficulty in following. On the other one I would crave a little time and perhaps I could undertake to give an answer to that when the other amendment comes because on present advise an award by an Industrial Tribunal could be deemed to be capital and therefore not chargeable as income. This is the present view of the Commissioner and it might not be necessary, he really wants to think more about it. If in fact it has merit on its own we can introduce it at the same time but I would rather ask the Hon Member to leave that for the moment and I assure him that if in fact the short term gratuities comes under the Superannuation Acts which are not taxable in England we would bring similar legislation in Gibraltar.

HON J BOSSANO:

Mr Speaker, I will not pursue the amendment then at this stage in view of that undertaking.

MR SPEAKER:

I am delighted to see that amendments are falling by the wayside for good reasons. I take it that the House gladly gives leave to the Hon Member to withdraw his amendment.

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

Clauses 4, 5 and 6 were agreed to and stood part of the Bill.

MR SPEAKER:

The next clause has two amendments so perhaps this is the right time to recess for lunch until quarter past three. Before doing so may I give notice to the House that I have received two notices, one from the Hon Mr Maurice Xiberras giving notice that he intends to raise on the final adjournment the matter of the replies given by the Hon the Attorney-General to his question on Vergil Ionescu, earlier in the meeting and that I have received a further notice from the Hon and Gallant Major Peliza that he wishes to raise another matter on the adjournment which is car parking in Gibraltar generally. May I therefore also tell the House that the quota for matters to be raised in the adjournment has now been taken up and no other matter, however important, can now be raised on the adjournment.

The Committee recessed at 1.00 p.m.

The Committee resumed at 3.15 p.m.

Clause 7

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that clause 7 be amended by the insertion in the proposed new section 15A(1) immediately after the words "applied in purchasing" appearing therein of the words "or on improving or developing". Mr Speaker, when I spoke on the Second Reading of this Bill I explained that there was a new principle contained in the proposed new section 15A, which would relieve from income tax interest paid on sums of money borrowed for the purpose of purchasing a house. On consideration, Government had come to the conclusion that in addition to relief on loans for the purchase of the house there should be relief on loans for the purpose of improving or developing a property. That is the effect of this amendment, it will give added relief to persons who borrow money for improving or developing a house. It seems to me, particularly in the context of Gibraltar, to be a good, sensible and logical provision.

Mr Speaker proposed the question in the terms of the Hon Attorney-General's amendment.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 7 be further amended by the insertion in the proposed new section 15A(2)c. immediately after the words "value of what is acquired" appearing therein of the words "or the cost of the improvement or development". Sub-section 2 of the proposed new section introduces some restriction on the relief granted to avoid persons taking unfair advantage of the relief. The amendment now proposed is

consequential on the amendment we have just passed. So that if a person borrows, shall we say, £20,000 for improving a house and the Commissioner is satisfied that in fact only a small part of that sum will be spent in the improvement or development, then he can refuse to allow relief on the interest paid on the whole sum.

Mr Speaker proposed the question in the terms of the above amendment.

Mr Speaker then put the question which was resolved in the affirmative and Clause 7, as amended, was agreed to and stood part of the Bill.

#### Clause 8

HON P J ISOLA:

I beg to move that clause 8(ii)(2) of the Bill be amended by the deletion therefrom of the letter (a) the word "or" appearing at the end of sub-paragraph (a) and the whole of sub-paragraph (b). When I spoke on the general principles of the Bill, Mr Speaker, I suggested that this particular clause might be a bit hard on businesses or on people who hadn't done too well on business and sought to sell the business. The fact that they had been incurring losses showed that at the time of selling the business they were really on their way out. By having tax losses which a new purchaser could put against the business it might enhance the price of the person selling the business. I thought that the proposed new clause was somewhat harsh on the type of situation that in fact is arising in Gibraltar where small businesses are being forced to sell due to losses or whatever. I appreciate, however, the points made that the purchaser should not be able to take advantage entirely of this situation and my proposed amendment would allow where there is a major change in the nature of a trade, would allow losses there not to be counted but where a business is sold and the person who buys carries on substantially the same trade then the losses should be permitted and I would commend to the House the compromise that I have suggested that the tax losses should be recoverable in the case when there is no substantial change in the nature of the business but recoverable in any other case. I commend the amendment to the House.

Mr Speaker proposed the question in the terms of the Hon P J Isola's amendment.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the Government accept the validity of the Hon and Learned Peter Isola's amendment and will certainly not oppose it.

Mr Speaker then put the question which was resolved in the affirmative and Clause 8, as amended, was agreed to and stood part of the Bill.

Clauses 9 to 12 were agreed to and stood part of the Bill.

#### NEW CLAUSE 13

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I move that there be inserted in the Bill immediately after clause 12 a new clause as follows "Amendment of Section 27: Section 27 of the principal Ordinance is amended by the addition, immediately after subsection (2) thereof of a new subsection as follows: "(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, by notice in writing, direct any Company to which the provisions of that sub-section apply not to deduct and pay over to him tax on any interest payable by such company and such notice may

be either in respect of creditors generally of such company or of such special class of creditors as may be specified in such notice. Where any notice has been given under this sub-section then to such creditors in respect of whom notice has been given, interest shall be payable without deduction of tax." Mr Chairman, the substantive section 27 of the Ordinance provides that every company which is ordinarily resident in Gibraltar shall, upon payment of mortgage or debenture interest, or interest on any loan advanced to the company for a capital purpose, deduct therefrom tax at the standard rate in force at the date the interest becomes due and payable and shall forthwith account for and pay over to the Commissioner the tax deducted. The Commissioner has no power to exempt the company from this requirement under any circumstances. There are two reasons why this is unsatisfactory. Firstly, there are persons whose only source of income is relatively small interest from a mortgage or debenture and it would therefore seem to be justifiable in such cases to grant exemption from the deduction of tax at source. Any tax, of course, which might be payable by those persons, could be dealt with directly between the persons concerned and the Income Tax Office. The second reason is that if a company runs into liquidity difficulties the section 27 provision as it stands can be a very useful way of affording some alleviation of those difficulties because what happens is that the company pays the interest less the tax to the lender but then withholds paying over the tax to the Commissioner and this is precisely what has happened in one particular case where the matter is still the subject of discussion and negotiation with the company concerned. Of course, the section 27(1) provision as it stands can be enforced, it is perfectly possible, but it is cumbersome, expensive in terms of time and, I submit, unnecessarily rigid. The Government considers, therefore, that the proposed amendment is a better way of proceeding. It will enable the Commissioner, in appropriate cases, to prevent advantage being taken of the Section 27(1) provision and it also, of course, has the added advantage of enabling the small investor to be given a measure of assistance so that the tax for which he is liable is assessed on the basis of his own income rather than suffering tax at source some of which might in some cases be refundable. Sir, I beg to move.

Mr Speaker proposed the question in the terms of the Hon Financial and Development Secretary's amendment.

Mr Speaker then put the question which was resolved in the affirmative and new Clause 13 was agreed to and stood part of the Bill.

HON ATTORNEY-GENERAL:

Mr Speaker, there is a suggestion which I would put to this House following, I think, the practice in the United Kingdom Parliament, and this is that where there is a new clause inserted in a Bill it is left to the draftsman to renumber before the Bill is printed all the other clauses which have their number changed by virtue of the insertion. For example, in the present case the new clause would be clause 13. When continuing with the Bill in Committee the Clerk would call clause 13 as it is printed, not clause 14, but when we actually come to print the Bill and pass it the consequential amendments would be made. It would save a considerable amount of time. It seems to me to be logical. I am not changing anything at all. I am merely making a consequential amendment.

Clauses 13 to 16 were agreed to and stood part of the Bill.

NEW CLAUSE 18.

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that there be inserted after clause 16 a new clause as follows: "Amendment of section 48. Section 48 of the principal Ordinance is amended as follows: (i) In sub-section (1) thereof by the deletion of the words "or of the partners who are permitted persons" appearing therein and (ii) in sub-section (2) thereof by the deletion of the words "or a permitted person" wheresoever they appear therein. Mr Speaker, these are two references to permitted persons which were overlooked by myself when drafting the Bill. They are merely consequential on the decision to do away with that category of person.

Mr Speaker proposed the question in the terms of the Hon Attorney-General's amendment.

Mr Speaker then put the question which was resolved in the affirmative and New Clause 18 was agreed to and stood part of the Bill.

Clauses 17 to 20 were agreed to and stood part of the Bill.

NEW CLAUSE 23.

HON G T RESTANO:

Mr Speaker, I beg to move that there be inserted after old clause 20 a new clause as follows: "That section 6(1)(b) of the principal Ordinance is amended by the addition of the words "except premiums paid by an employer towards employee's life insurance policy or pension scheme". Mr Speaker, in the law as it stands there are concessions on life insurance premiums which must not exceed one-sixth of assessable income or the premium should not exceed one-seventh of the capital sum. I think there is an anomaly in the law which I am sure is quite unintentional and it differentiates between employees in the private sector and employees in the public sector or in Government employment. Employees in Government employment have ipso facto a pension scheme which the Government in fact does not show to be paid within their books throughout the employee's employment but at the end of the Government employment of the employee a pension is paid to the employee and he then gets his pension throughout the rest of his life. In the private sector any insurance premiums or any pension scheme must be paid by the employer, shall we say, to an insurance company and at the moment that payment by the employee is taken in assessing the employee's income tax return as an added revenue and he is taxed on that. Obviously there is this anomaly where whereby the employee in Government, because the premium is not paid to an insurance company is not set out as an added income to the employee, the employee in the private sector, because his employer pays part of it and pays an insurance company is considered as an added emolument and he is taxed on that. I feel that there is this anomaly and, as I said before, I am sure that there was no intention of having any preferential treatment for one type of employee as to another but I feel that the position should be rectified and that is the reason why this particular amendment is being put. If it is thought at all that it is in the wrong clause I am quite prepared to have any suggestions from Government if it is considered it should be put into any other clause. There should be some provision to prevent private employees from having their pension scheme contributions paid by employers assessed in their income tax return.



Mr Speaker proposed the question in the terms of the Hon G T Restano's amendment.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, while I appreciate the motivation or thought behind this amendment, I am afraid it cannot be accepted because the whole of the Income Tax Ordinance stems from the fundamental principle that so far as the individual is concerned the recipient of income or the recipient of monetary gain, profits, fringe benefits or the like, those are aggregated for the purposes of charged tax. There is, and I stand to be corrected on this, provision in the ordinance that where an individual makes a contribution out of his own income to a pension scheme or life insurance scheme that, at any rate to some extent, is admissible as an allowable deduction but in this case as I understand the amendment this is premiums paid by an employer, in other words, an employer, not in this case the tax payer, the employer is making the payment on behalf of and to the benefit of an employee, ie, the taxpayer. This is, without any question at all, a gain, a profit if you like, or a benefit from the employment of that employee and to give way on this principle would be to go against the whole basis upon which the charging section and the whole fundamental principle of charging income rests and therefore, Mr Chairman, I am afraid that the Government will oppose this particular amendment.

HON G T RESTANO:

Mr Speaker, may I ask the Hon the Financial and Development Secretary whether in fact Government employees do not enjoy therefore certain privileges which employees in the private sector do not enjoy because pension schemes or life insurance policies are payable at the end of an employee's employment in the same way the Government doesn't pay its employees these policies during the time when the employees are engaged in working, it is at the end, it is either in the form of a lump sum or in the form of so much per week which is paid in pension. During the employee's term of employment the Government is not in fact declaring, shall we say, that it is paying so much per week or per month towards that eventual payment of pension or life policy whereas the private employer has to declare that even if the employee has 20 years further to work with him and it is not, I think, a departure of principle as the Financial Secretary has said because this in fact is happening to Government employees and there is an anomaly and there is a difference between the conditions to the private employee or the employee in the private sector as to the conditions of the employee in the Government sector.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, no, Sir. Government employees are not insured in the sense that private sector employees would be or can be insured by virtue of their employer paying on their behalf into an insurance fund or pension fund. Government employees are eligible for a non-contributory pension and unless I am much mistaken this is, generally speaking, not only here in Gibraltar but certainly in the United Kingdom, it is taken into account in assessing the level of tax. So far as the employer is concerned any contribution which he makes towards a pension fund or life insurance fund in relation to his employees is of course an allowable deduction from his point of view. Moreover, the employee's own contribution if he makes it personally either to a life insurance or to a pension scheme is also an allowable deduction in respect of his tax - Section 21 - so that if the contribution is paid by the employer although the employee himself does not receive it, it is unquestionably a benefit in kind stemming from his employment.

HON J BOSSANO:

But, Mr Speaker, the Hon the Financial and Development Secretary is in fact contradicting himself in what he has just said because if he claims that the salaries of public sector employees are arrived at taking into account the fact that they are receiving a benefit through a non-contributory pension scheme, he is in fact saying that they are receiving a benefit which is part of their normal weekly or monthly emoluments which presumably should be subject to tax which it is not. This is what he has just argued, Mr Speaker. He has said, for example, that if a labourer in the public sector gets £25 he gets £25 taking into account that he is going to get a pension to which he doesn't contribute and that therefore his income is worth to him, say, £26 whereas the employee in the private sector gets the £26. That is what he is saying and that is in fact the principle which applies in the United Kingdom where there is a pay review unit that when comparing the salaries and wages of the public sector with those of the private sector, takes into account non-monetary benefits of this type. In fact it doesn't apply in Gibraltar because we don't conduct pay negotiations like that in Gibraltar. In Gibraltar it tends to be the other way round, the private sector tends to follow the public sector rather than the public sector looking towards the private sector to set its standards, so it isn't strictly a true comparison but in any case in the United Kingdom the benefit of a non-contributory pension scheme is taken into account in arriving, or it was before the social contract certainly when the Pay Research Unit was in operation, was taken into account in arriving at what was appropriate public sector salaries and public sector wages. The point that my Hon colleague is making in the amendment is in fact that there is a de facto benefit to the public sector employee in that he is obtaining a pension to which the Government is in effect contributing, the only thing is that the Government instead of contributing towards this pension by virtue of weekly premiums is contributing towards that pension by virtue of funding it through an annual allocation in the budget. But it could equally decide like we have done, for example, in the Government insurance scheme which provides insurance premiums for Government property, one could equally decide to fund the pensions of Government employees by setting up a Government pension scheme to which the Government could make premiums and then the situation would be identical in both the public and the private sector with the exception that in the case of the private sector the premiums would be considered to be notional income subject to tax whereas in the public sector they would not be. I think that, generally speaking, in the private sector it isn't a widespread practice but if the taxation of this is in any way to act as a disincentive, I think it is wrong that it should be there and I can find no reason in fact why there should be this discrimination against private employees because in fact the argument about the equivalence of salaries that the Hon Member has mentioned might exist in UK does not in fact exist in Gibraltar and in Gibraltar wages in the private and public sector move very much in line and I think it is right that one should remove whatever obstacles might exist to enable private sector employees who have got a difficult job anyway in providing pensions and who are willing to do it.

HON CHIEF MINISTER:

One aspect of this which I think should be taken into account is that if these amendment as I see it is carried it would mean that the employer could deduct the amount that he pays in to the benefit of the fund and the employee could also deduct the amount himself in so far as he makes a contribution which is already the case. In the first place the amount that is paid by the employer or both employer and employee, the amount is added to the employer's income on which he pays income tax which means that the employee's contribution is not deducted by the employer and therefore the tax rate at which he can reach a certain level can get nearer than if he deducted at source. The point is this, you cannot deduct the same amount of money for both sides otherwise it would

lend itself to considerable abuses and to fictional insurance policies which would give much bigger benefits to the employer than the employee.

HON J BOSSANO:

The position at the moment is as we understand it and if it is not the case then obviously the need for the amendment will not arise. If an employee works for a private firm and that private firm has got a pension scheme for the employee and the employee, for example, pays £1 a week towards this pension scheme he is allowed tax relief on the £1 that he pays. The employer is allowed tax relief on his contribution as regards the firm's profits but the pound that the employer pays is assessed as part of the employee's income, notwithstanding the fact that he doesn't receive it. So if he pays, for example, 30p in the pound he is paying 30p on a pound that he doesn't get out of the rest of his income. That is in fact discriminatory against private sector employees because in the public sector employees of the public sector receive a pension which is funded by Government notwithstanding the fact that it is not funded by weekly payments of premiums, it is funded at a cost that could be translated into weekly payments and could be assessed as part of the individual's income.....

HON CHIEF MINISTER:

There is one fundamental difference and that is that public sector employers don't pay tax and private sector employers pay tax.

HON G T RESTANO:

What could happen is that an employee in the public sector may also take out a life insurance premium in his own name, in his own right, without taking into account the pension scheme or the life insurance policy which his employer might take out and therefore he would not be paying, he would have that deductible from his income tax assessment whereas the employee in the private sector may also want to have a life insurance premium on his life because he wants to give his family protection in the future on his own right but when it comes to the policy, perhaps, of his employer to give him a life insurance premium then he is going to be made to pay tax on those premiums and that is the anomaly between the situation of the employee in the private sector as opposed to the employee in the public sector.

HON M XIBERRAS:

Mr Speaker, listening carefully to the arguments it seems to me that the arguments of the Hon Members on the other side do not really meet the points being raised on this side. For instance, Mr Speaker, on the question of the determination of the level of wages, generally, I would neither hold entirely with the Hon the Leader of the Opposition or with the Financial and Development Secretary. I think increasingly the actual take home pay is becoming a consideration as wages in the private sector are moving higher and as the cost of living is moving higher as well and as the contribution necessary for social insurance is moving higher. Now the employee pays 93p, the employer pays £1.10p and for a wages clerk like myself when you are going down the line you will see that it is quite a chunk out of the man's earnings that you consider for taxation almost £2 of his income a week and that is a substantial amount. I am not saying that commensurately the tax which will be paid on that is very large amount but for the employee it does seem as if £2 of his pay is being chopped off, is being taxed. I appreciate that there are benefits in kind which he will receive at some future date and I hesitate to argue whether these benefits in kind should be taxed at the time. It is a fine point, I suppose, whether it should be taxed in that particular week because the benefits in kind do not actually accrue as we all know till a very long time afterwards and therefore on that side I find the principle of the concept being moved by the Hon Mr Restano quite unobjectionable. Similarly, if one can allow in income tax

legislation for private insurance and that is a deductible amount then I can see difficulties in the legislation but I can not see logically a difficulty in exempting from taxation the amounts paid in respect of a compulsory Government contribution. Whereas on the one hand we have a question of choice, a private assurance policy, on the other hand we now have a quite substantial amount being paid compulsorily to the Government in respect of benefits that some might say are good, some might say are bad, some might say are indifferent but nevertheless it is a compulsory contribution which, on top of that, is being taxed. If that is the case I don't see the difficulty which the Financial and Development Secretary has in arguing that one can be exempted from income tax but the other cannot. If he had said this will cost the Government too much to exempt every employee in Gibraltar of £2 of taxable income then this might be perhaps a consideration but I do not see how logically one can say a private assurance is permissibly deductible but the other, a compulsory contribution of the Government, cannot be. We may argue about the definition in this and it might be possible to do it by amendments to the Social Insurance legislation if the argument put by the Financial and Development Secretary were to be seen to hold water which I think it does not really. One might argue with the Leader of the Opposition that in fact he is contradicting himself on this particular point. Therefore, Mr Speaker, not for the amount involved but because I do not think the Government can reasonably oppose this, I think that it is certain that the proposal is worthy of consideration even though the Government might say that at the moment there are a lot of considerations of how it might be fitted into existing legislation to be taken into account but I would not like the view of the Financial and Development Secretary to prevail in the House, namely, that there is some repugnance between the proposal and present income tax legislation. I think that is a way of opposing but not a legitimate way of opposing the proposal. I hope Hon Members will consider this as worthy of at least further study and, I would hope, of acceptance now.

HON MAJOR R J PELIZA:

Mr Chairman, I think that the logic of it is very good but whilst I go 100% with trying to do away with any form of privileges in any form of employment on the other hand no one, I believe, in this House would like to see a loophole whereby an employer who might be a director or who might be the owner of the firm could easily avoid tax or evade tax by increasing his pension out of all proportion and I don't think anybody in this House would like to see that happening but I believe that if that is the only objection that the Government has, it could be overcome by laying a ceiling above which no one would be entitled to obtain this benefit without of course the normal taxation. So whilst I agree with my Hon Friends here I still believe that there is that problem which is not impossible to overcome.

HON A J CANEPA:

Mr Chairman, I missed the earlier part of the debate and I may be putting my foot in it up to a point, if so, I hope that Hon Members opposite will correct me. The position with regard to the taxes adopted with social insurance contributions is that the employee is taxed on those contributions to the extent that they are shown in his gross income but then, separately, he gets tax relief for them because the amount of the contribution is then deductible from income. In so far as employers in the private sector are concerned their share of the social insurance contribution likewise entitles them to tax relief. That is not the case for employers in the private sector because they do not pay tax. If he did they

would be benefitting from that tax relief on their side of the social insurance contribution which now they don't at all and in so far as the estimates which are presented before the House of the Government's share as an employer of the social insurance contribution we get the full gross amount and tax relief doesn't come into it at all though you could say that notionally they ought to be reduced perhaps by a certain amount. With a private life insurance policy you get tax relief up to a certain ceiling, not more than one seventh of your total income. With the employer that operates a private pension scheme, again the premium being paid by the employee is taxed in the sense that it is part of his gross wage or his gross salary but he gets tax relief under the other formula because it is assessed as if it were to be a private insurance policy and likewise the employer gets some tax relief so I honestly don't see that there is any discrimination between that and what is happening in the public sector.

HON J BOSSANO:

Mr Speaker, the position at the moment is, for example, there are three different pension schemes in effect available in Gibraltar. There is the compulsory Social Insurance Pension Scheme. The employer pays a stamp every week but the amount that the employer pays is not considered to be part of the employee's income. The Government funds a pension scheme but the cost to the Government is not considered to be part of the employee's income. But in the case of the private sector, if the private sector employer pays a contribution towards an insurance scheme, the contribution that he pays is treated as if he were paying it in cash to his employee and the employee is taxed on it notwithstanding the fact that he doesn't receive it. That is the difference that we want to eliminate.

HON G T RESTANO:

And furthermore, if I may say so, it does happen that certain employees in the private sector have been employed with their firms for many years when the practice was never to implement these sort of schemes and with modernisation and employers become more conscious of new trends they say: "Well, this man has been working in my firm for fifteen years perhaps I should have paid a premium for him fifteen years ago". Therefore the man is older and the time span has to be shorter and therefore the premium is increased. But that is in those cases where employees have been working for very many years and the practice was never in the private sector to pay these premiums by employers.

HON CHIEF MINISTER:

Mr Speaker, some interesting points have arisen out of this. I am glad that the fear that I expressed originally before the Hon Major Peliza spoke about the fact that this could be a way in which employers could work and it is quite well known in other spheres not only on this question of premiums that insurance business is now run on the basis of repayment of vast sums in order to avoid the punitive income tax applicable elsewhere, not in Gibraltar, and, equally, I accept the point made by the Hon Mr Xiberras and it would be very rash now to say what the ceiling should be but I would say, with all sincerity, that enough has been discussed about these matters so that the Attorney-General can look a little more into it and see whether we can find a formula that will be acceptable. We will have to, in any case, when the Hon Leader of the Opposition succeeds in his efforts for the superannuation. We will have to come back on that one for the undertaking I gave this morning and if we are given a little time we will look into this and see whether we can find the solution for the small contributions which the

Hon Member is mentioning and which does not cover possible abuses of the system which is geared now.

HON G T RESTANO:

Would the Chief Minister please say what happens in the meantime for those employees who have come across this problem and who are being taxed on premiums which they have not received physically. Can that assessment that item be waived.

HON CHIEF MINISTER:

This is the danger, but in any case when we postponed the Committee Stage of this Bill it was said that it would be retrospective to 1 April. Nothing more could be done in respect of that even if we agreed to the amendment. So any amendment that could be made would be within the financial year. I hope that in those circumstances the Hon Member will withdraw the amendment.

MR SPEAKER:

So this is another amendment falling by the wayside. Is the Hon Member requesting the leave of the House to withdraw his amendment?

HON G T RESTANO:

Yes.

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

THE TRADE LICENSING (AMENDMENT) BILL, 1977.

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

MR SPEAKER:

Mr Restano, I believe you have got several amendments which mean the addition of several clauses to the Bill.

HON G T RESTANO:

Yes, Mr Chairman, the amendments this morning seem to have caused a lot of controversy. The Minister did say, or did announce this morning, that he was studying the whole matter of the Trade Licensing Ordinance with a view to making several amendments and bringing these amendments to the House in the not too distant future. In view of this I will withdraw these amendments.

MR SPEAKER:

You don't have to withdraw because they haven't been proposed, in other words you do not intend to proceed.

HON G T RESTANO:

I do hope that the Minister, when he does discuss the drafting of the new amendments, takes into account the proposals that I have made because they are the amendments of myself and my Party and we do believe that this would be the right way of going about redrafting the law and I would have thought that possibly he would consult Members on this side of the House before drafting the amendments and bringing them to the House. I would like to say, Mr Chairman, that whilst I withdraw the amendments the views put forward this morning in these amendments are the views that we still hold and.....

MR SPEAKER:

No, I am afraid I cannot let you do what you are doing. Either you move an amendment or you don't. All you are trying to inform the House is that in the light of what has been said when the general principles of the Bill were discussed you do not intend to proceed with your amendments.

HON G T RESTANO:

Mr Speaker, you did warn me when I started speaking on the principles of the Bill that I should not get bogged down in any details and then there was a certain amount of latitude given to all Members.

MR SPEAKER:

With due respect to the Member, there is no question before the House. You are free to proceed with your amendments if you want to but if you are not going to proceed with them you are not entitled to speak on them. That is all I am trying to say. If you wish to proceed with the amendment of which you have given notice this is the time to do it but you cannot say that you are not proceeding and go on to say what you would like to say on this particular amendment I have given you time to say a fair amount.

HON G T RESTANO:

What I was going to say, Mr Chairman, was that I regret that there were certain misconceptions this morning as to the reasons of some of the proposed amendments and let me assure all Members of this House that this is no attempt to try and push through something clandestinely as I think was intimated by my Friend here on my right, it was a way which I thought would be a way to alleviate a problem which I think is a very serious problem of how easy it would be for any group of people or any group of nationals from wherever to take over trade in Gibraltar. There was no other motive as was intimated this morning. That was the only reason and very, very briefly on the second amendment which seemed to have caused psychotic furore on my right here about three members of the Chamber of Commerce and three members.....

MR SPEAKER:

No, No, I am afraid I cannot allow you to continue.

HON G T RESTANO:

May I just give a very brief explanation, Mr Chairman. There seems to be this fear of the Chamber of Commerce and trade union rule in Gibraltar. In fact, on this Committee if there was this collusion which is so much feared the trade, the commerce and the unions have a 4:3 majority already.

MR SPEAKER:

No, I am afraid I cannot let you go any further.

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

THE COMPANIES (TAXATION AND CONCESSIONS) (AMENDMENT) BILL, 1977.

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

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Inheritance (Provision for Family and Dependants) Bill, 1977; the Income Tax (Amendment) Bill, 1977; the Trade Licensing (Amendment) Bill, 1977, and the Companies (Taxation and Concessions) (Amendment) Bill 1977, have been considered in Committee and agreed to. In the case of the Income Tax (Amendment) Bill, 1977, with amendments, and I now move that they be ready a third time and passed.

This was agreed to and the Bills were read a third time and passed.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move "that the Statement of virements approved by the Financial and Development Secretary, No.5 of 1976/77, be debated." Mr Speaker, this motion reminds me of the motion that I introduced recently to the House where I had to wait until the motion was passed before the Hon Financial and Development Secretary availed himself of the opportunity to give the House an answer and I was therefore in a difficult position having exercised my right of reply as mover of the motion of not being able to follow up his answer. In order to avoid complications of that nature on this occasion I would invite the Hon Member to interrupt me and let me know whether he wants me to put the motion first without giving any explanation and let the motion be passed or whether I shall give my explanations and he will give his explanations in the course of the debate.

HON CHIEF MINISTER:

This is a very important matter of procedure which is not as light-hearted as would be made. We shall be opposing the motion so he can go all along the way for his justification that it should be debated. I will just give notice that we are opposing the motion itself that the virements be debated in the sense of a debate in the House as against his wishing to raise any matter at any time in the paper laid before the House. In fairness, I want to tell him that we propose to oppose the motion for reasons that I will say later so that he doesn't think that our silence now means that we are going to agree and then we are going to debate it.

HON J BOSSANO:

I am grateful for that, Mr Speaker. Now I know where the Government stands on this matter I can allow myself full licence. Mr Speaker, the matter of papers being laid before the House is, to a certain extent, unsatisfactory



in that it does not in fact allow the House full freedom to discuss matters without in fact a motion being moved, as I understand it, under Standing Orders. I sought your advice on this and you advised me that my ability to question any of the contents of the Statement of Virements would be limited under Standing Orders if I chose to do so on the basis that it was laid as a paper before the House in the Agenda. The reasons for my deciding to move a motion is in fact to enable me to speak with greater freedom and not be in conflict with the Chair as regards the requirements of Standing Orders.

MR SPEAKER:

You are never in conflict with the Chair. You may be in conflict with the Rules but not with the Chair.

HON J BOSSANO:

Of course, the rules, Mr Speaker, are very wisely interpreted by the Chair and that was my only reference. Mr Speaker, in moving this motion I am not in any way moving a censure motion on the Financial and Development Secretary or anything of that nature and if in fact it has been interpreted in that way by the Government, the Government has misunderstood my intention. Mr Speaker, there is one particular item to which my attention has been drawn in the statement of virements which is the question of Item No.20, Public Works Non-Recurrent, where the House originally voted a sum of £10,000 for a new Item 68 which was Quarters for Foremen of Waterworks and in fact the sum has been used for a new Item 8 - Extension to Matron's Quarters. Item 20 on page 3 with authorisation on the 11th of March 1977 in fact during the month of March very close to the date when the House was in session in the Budget Estimates. I feel that there are a number of points in relation to this use of virement warrants which require an explanation. One is that we are talking here about a fairly substantial sum, £10,000, secondly, that we are talking about a completely new and unrelated item of expenditure which I think the House has not had an opportunity to hear an explanation about and in fact had I not moved the motion there would have been no opportunity for the House to know why it was necessary to spend these £10,000 on an extension to the Matron's Quarter. Thirdly, the nature of virement expenditure, as I understood it from the Hon Financial and Development Secretary in his previous references to this in the past, is to allow urgent expenditure within Heads which cannot be delayed to enable the House to give formal approval in a supplementary estimate. I would have thought that capital expenditure of this type, which requires the preparation of plans, the publication of invitations to tender, the submission of tenders and the selection of the tenderer, involved a process which do not come in fact within the terms of reference of urgent expenditure which cannot be delayed. I would have thought that it would be more appropriate to include an item such as this which was authorised as I say in March, round about the time when the House was considering the Budget, would have been more appropriate included in the expenditure for the approval of the House. In addition, I feel that some of the items in the virement do not give adequate explanation in the final column of the statement where the reasons for the virement are stated. I think that we have the question of biennial review given in items where the original head, for example, was "biennial review," it has been moved to a subhead that says "Staff Wages" and the explanation given is "biennial review." I feel that because the statement of virements are not normally debated in the House, there may be a tendency to be less clearcut in giving explanations than is generally the case in supplementary

expenditure where overall, in the majority of cases the explanations are easily understood and the reason for the use of the funds can be understood by Members of the House. I feel that the fact that statements of virements are not normally debated and are simply laid on the table should not be in fact a cause for less than full explanation of why the money is being transferred from one subhead to another. These mainly were the two reasons that impelled me, Mr Speaker, to avail myself of the opportunity to allow the Government to give an explanation in the context of a motion to debate the statement of virements.

Mr Speaker proposed the question in the terms of the Hon J Bossano's motion.

HON CHIEF MINISTER:

I just want to explain first of all that given sufficient time and notice there will be no objection at any time to explain any virement by the Financial Secretary if so requested. What I was going to say was that the notice of this motion was given, obviously, after the Hon Member received the statement of virement in the agenda papers which is to be laid before the House. So that it means, too, that if he really wants to question the Financial Secretary on any particular virement it can be the subject of a question which can of course be followed by as many supplementaries as you will allow to be relevant to the matter. So let it not be said that we are opposing the question of debating the virements themselves for the sake of doing so but because I think a matter of principle is involved here on parliamentary procedure which could clog the work of the House if we were going to take this strictly in the way in which it has been mentioned. I think the Hon Leader of the Opposition was saying what the Financial Secretary said the virements were, but I think a better authority of what virements are for is contained precisely in the Public Finance (Control and Audit) Ordinance, 1977, which was a Bill which was passed and the Governor's assent was given on 15 March and it must have been passed by the House on 9 March. It was a Bill which was, I think, debated with contributions from both sides and let me say at the same time that, if anything, what the Financial Secretary has been doing with the full approval of the Government and we have said so often enough, is to make the question of expenditure as I shall have reason to show tomorrow in some papers I have got to bring as a matter of urgency which would not have been the case before, that what we have done in the past is to tighten the control of expenditure by the House much more than it was the case before. In fact, if I may say so now and I haven't said this to the Financial Secretary, he has tightened it so much that it is sometimes too tight on very routine matters, but anyhow we have done that with the full knowledge that it is in the best interests of Gibraltar that public expenditure should be fully controlled by the House and only by the House. But if he looks at section 43 of the Ordinance which I referred, which is No.1 of 1977, this is where the power of the Financial Secretary lies and it says: "If in the opinion of the Financial and Development Secretary the exigencies of the public service render it necessary or expedient to vary the sums assigned to any purpose within a head of expenditure or to make provision for a new purpose within such head, he may direct by means of a warrant that there should be applied in aid of any purpose for which the sum assigned may be deficient or in aid of a new purpose, a further sum out of any surplus arising or likely to arise on any sums assigned to any other purpose within the head. Provided that any new purpose to which any sum is assigned shall be within the ambit of such head and provided, further,

that the total authorised establishment or staff provided for in that head is not thereby exceeded," and then, "any warrant issued under the provisions of this section shall be laid before the House of Assembly at the earliest opportunity." Of course that is what has been done except that it has covered quite a number of virements this time because it is, I think, the end of the financial year and it is necessary in order to be able to pursue the question of the closing of the accounts. I shall not deal on the particular merits of the case which the Hon Leader of the Opposition has mentioned because I think, apart from whatever the Financial Secretary has to say, the Financial Secretary is answerable to the House since he is the one who has made the warrant. Why I am saying that we are opposing the question of debating the statement as a whole is because if the House of Assembly has given the authority to an Officer to carry out certain functions subject to certain conditions, the burden must be on the other side to prove. When I say on the other side I don't mean on the other side of the House I mean the burden must be on anybody outside the Financial Secretary to prove that something has gone wrong or to question him as to why he has done something. For that he is perfectly answerable to the House and in so far as particular references are made and in fact the Hon Leader of the Opposition has mentioned one in particular as far as one or two remarks in respect of the columns, that could easily have been elicited with considerable information if it had been known that that was the item that was going to be in the interest of the Hon Member to raise. If that is so, then a question on that one would have elicited all the information which the House is perfectly entitled to ask and which we would expect the Financial Secretary to give and which I am sure the Financial Secretary wouldn't refuse in giving. That is why, as a matter of principle, we are opposing the motion though it does not mean whether the Financial Secretary can now be prepared to answer a question in a list of virements covering six pages, one particular virement, whether he has a paper on that or not is another matter because we did not have any prior information. That is the principle that we want to defend without in any way precluding the House from questioning the Financial Secretary on the principles of this.

HON M XIBERRAS:

Mr Speaker, I first of all feel that members particularly on this side of the House have a responsibility especially if they are as keen on going through the various papers that are circulated to Hon Members on this side of the House as the Hon Leader of the Opposition is, to bring to the notice of Hon Members and of the public any points, and I mean any, on which there is any doubt in the minds of Hon Members on this side of the House. This is very much in line with what I was saying about control of expenditure and so forth, the committee on expenditure and so forth from time to time. I take the Chief Minister's point though I do not think his attitude to the motion necessarily follows from the point that he has made to the House. I take the Chief Minister's point which he has just made, namely, that the terms of the motion appear if not too sweeping, at least too blanket like, to meet the point which the Hon the Leader of the Opposition has made. Nonetheless I say I do not think that that is sufficient reason for the Chief Minister to oppose, in my view, the motion which obviously has as prime consideration that the House should debate a particular item in this notice of virement and therefore of the two principles the more important is, to my mind, that there should be a debate on anything which any Hon Member has doubts. I would ask the Government to support the motion and in fact I am doing so because the motion in effect is being debated and we hope to have some sort of indication of what actually occurred from the Financial and Development Secretary in the course of this debate. This is, in fact, the first time a motion of this kind has been brought to the House and I do not think the Leader of the Opposition in any way wanted to cast an aspersion on the whole of the statement of virements and that he was merely limiting himself to questioning one particular item of it. I would agree with the veiled points which I think I got in the Chief Minister's statement and that is that there is the possibility that such a blanket-line motion might be taken somewhat in the spirit of the famous Supplementary Estimates No 5 which we debated some time ago in the House. In other words, something

has gone wrong with the whole document rather than one particular item. I do not think that is the intention of the mover. I think the mover is simply asking for an explanation. It might have been done in a different way and I would like to see it done in the future in a different way if it is simply dealing with one particular point and I would be satisfied that the object of the motion has been achieved if we hear from the Financial and Development Secretary what must be a perfectly logical and simple explanation of what happened. I will support the motion and commend the Hon the Leader of the Opposition for bringing it to the House.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, if the motion had been framed, in the first place, as the Leader of the Opposition has moved it then of course it would have been perfectly possible in the course of this debate to have provided him with the answer. But the motion gave no indication whatsoever of the particular point or points, item or items, which he wished to question or on which he requested clarification. I submit that it would be quite wrong of this House to approve this motion for the simple reason, and I am now going, if I may, and with all due respect to expand on what the Hon the Chief Minister has said. The motion as it stands questions a decision, a legislative decision, a statutory provision, which this House has already enacted. Section 43, in the wisdom of this House, has empowered the Financial and Development Secretary to make virements. The motion as it stands calls in question the whole content of this statement which consists at a quick glance, of three separate virement warrants. It calls into question the whole of this document. I would like to put the Hon the Leader of the Opposition right on one point and that is that the question of urgency does not come into virements. He, while not quoting me, referred, I think, to remarks which I have made in relation to warrants on the Contingencies Fund which is a very different thing altogether where there, indeed, the Financial and Development Secretary's power is a power which he is authorised to use in anticipation of the House approving additional financial provision. There is no question of the power of virement being used in anticipation of any further authority by the House. Another point I would like to make is this, and here it is slightly technical, but the Hon Mover said that the House had approved the sum of, and I cannot remember what the total sum was, in relation to Head XX, it had approved funds for the construction of a new quarter for the foreman of the Waterworks. Since the House goes through the Estimates, subhead by subhead, technically that is correct but when the money is voted it is not voted subhead by subhead, it is appropriated Head by Head and therefore the virement of power rests to various sums within a head of expenditure and the head of expenditure in this particular question is the Public Works Non-Recurrent Head about which I had something to say in the course of the Budget Statement and the content of that head which until the new Estimates for this year was not properly defined and one could only infer the purpose of the head by looking at the contents and the contents of that head in relation to the financial year 1976/77 was a miscellaneous collection of quasi capital works and therefore the power of virement related to that head was certainly quite properly used to vary the allocation as between one capital or quasi-capital project and another project. That was certainly within the ambit of that particular head. I cannot, I am afraid, not having known the particular item which the Hon the Leader of the Opposition intended to raise on this, I am not going to trust my memory to recount exactly what happened in this particular case but I can undertake and I will undertake to investigate the exact steps leading up to this particular virement and I will make a statement at an appropriate opportunity in the House but as, and I come back to this, as the motion stands it, in my submission, challenges a power which the House in its wisdom has conferred upon the Financial and Development Secretary and if the House did not wish to confer that power then it should have said so and it should have provided, by law, that virement warrants would be subject to subsequent debate in the House. I might add that this House is taking considerably greater powers in

relation to virement than the House of Commons. Virement is a very old term, it comes from the French and it has been in use since approximately the 17th Century. However, in the case of the United Kingdom, virements between subheads are exercised without reference to Parliament by the Treasury. The correct use of virements is not subject to debate in Parliament. As far as I know the virement authorised by the Treasury are not made in Parliament. Parliament's control over the use made of virements in the United Kingdom is through the Controller and Auditor-General. So in the case of Gibraltar Parliament's control over virements is rather greater than it is in the United Kingdom by virtue of the fact that the law requires all virements actually made to be reported to the House and, of course, as the Chief Minister has said, any particular virement, the House is, of course, fully entitled to ask for clarification to obtain such other information about the reasons which led up to it, the reasons for it, etc, as the House may wish. Had this motion specifically requested or required clarification of this particular item or of any other items, naturally, we should have agreed and the explanations could have been forthcoming now but the point is that until the Hon Leader of the Opposition moved his motion it might have been any one of the particular items covered by the virement.....

MR SPEAKER:

As I have to approve the terms of any motion presented to the House may I say that the reason why I approved it and the reason why I allowed it was that it never dawned on me that it questioned the right to make virements. The Hon Member was most certainly entitled to enquire into its particular use in this particular circumstances. That is the way I read the motion and nothing else. I must say this because the Hon the Financial and Development Secretary has questioned perhaps the right of a motion in this context being brought to this House and I mustn't allow an allegation to be made to say that it questions the right to make virements and to that extent I must make a clarifying statement. What I am trying to say is that I don't want to curtail the right of Government to do its work since I have allowed the motion.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, if anything I have said has been or could be interpreted as any reflection on the Chair I withdraw absolutely.

MR SPEAKER:

It has not been taken as that but it has been stated clearly that you have taken the motion to mean the curtailing of your rights to make virements and that I mustn't allow.

HON CHIEF MINISTER:

Mr Speaker, the point is that this could be taken ad absurdum because the way we look at it Mr Bossano could take 35 motions asking about each item. That is exactly what we are establishing now and in fact we are debating the thing in itself although we say we don't agree to a motion that it be debated we are debating the matter in its own merits and we don't mind that but I must, if only to make it easier for people to answer particular questions, show our attitude to these matters in a way that will make it easier precisely to get what the Hon Member was seeking.

HON M XIBERRAS:

Mr Speaker, on this point of order, generally. Surely there are grounds for opposing the motion but not on grounds that the House should not debate the statement. Whatever powers we have given the Financial and Development Secretary, whatever opportunities the Financial and Development Secretary has afforded the House of controlling or knowing what decisions he takes there must be an accompanying right of Members to bring to the notice of the House. Whether this form is the most appropriate or not I myself question, I do not think it is the most appropriate, but certainly it is in order and quite a normal thing for Hon Members on this side of the House to raise these matters.

MR SPEAKER:

I think we will leave the matter as it stands. I don't want to be misunderstood again. Perhaps I have misunderstood the Financial and Development Secretary, I hope he hasn't misunderstood me. I am not making any allegations.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, my real point is that if the motion seeks to obtain clarification or further information or to question a particular virement, not a warrant, not a statement, a particular virement of which there are five pages there, then, of course, the House has every right to question it, to ask for information. But in my submission the way this motion is framed is not the way to do it and, therefore, as the Chief Minister has said, we shall oppose it.

HON M XIBERRAS:

Mr Speaker, still on a point of order. Wouldn't it be in order to your mind, Mr Speaker, if this motion were brought in respect of another statement of virement, in other words, if the mover of the motion, not the Hon Mr Bossano necessarily, wanted to bring in such a motion to his disadvantage, perhaps, because he might not get the necessary information which he wanted on one or two items, but would it be in order for any mover to bring forward another motion asking that any other statement of virement should be debated. I think that point should be clearly established. I think it is in order even though it might not be the most appropriate way of doing it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps I am going to make matters even worse but I would say this, that the information which the Hon the Leader of the Opposition is obviously seeking could, I think, have been obtained if he had asked a question.

HON P J ISOLA:

It is not always easy, I am afraid, to ask questions in respect of papers that are delivered eight days or whatever it is. I mean, you are thinking of all the questions you are going to ask and these papers, especially when you have a lot of them, you don't necessarily see them within the time limit for questions so I think that a good way of dealing with these things is in fact, perhaps the Hon Leader of the Opposition has put it in too wide a term and if he really wanted answers to two questions I think that the best way of doing it would be to have said that the House would take note of the statement of virements approved by the Financial Secretary and in particular number so and so and so and so, so it can be discussed. Because the principle involved here is an important one also from the point of view of other things laid before the

House, for example, the Annual Report of the Registrar of Building Societies, the Employment Survey Report and they are laid before the House precisely so that any Member who wants to do anything about it can do something about it. But perhaps using the words "be debated" is perhaps a bit strong in the circumstances. I think the Hon Member put it in a way, in other words, to air a particular item of virement. But of course, he doesn't achieve what he wants because as the Financial Secretary has said there are five pages of them and we cannot expect a hard-pressed Financial Secretary to come with answers to every single question in the statement of virements.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. Of course, there is no impediment as far as I know for the questions to be asked at a subsequent meeting or a meeting after that or at any time indeed. The paper is laid before the House, it is a House paper and questions can be asked on it at any time. I have, incidentally, taken a little advantage here. We will expand the Explanatory Notes.

HON P J ISOLA:

So at least something good has come out of this debate.

HON CHIEF MINISTER:

If the Hon Member will give way because he has mentioned something that I thought might come up in the course of question time but it hasn't. I would like to say, I do not want to get Members by surprise, that I shall be calling a meeting of the Rules Committee soon on general matters that are pending but I must give notice that we will have to extend the time for the giving of notice of questions because 75 questions with a weekend in between and four or three days it is really not possible in some cases to seek all the information that would be required and do justice to the questions themselves. We were able to cope before with the, I won't say reasonable numbers because we may go to 120 next time, who knows, but on the other hand it is necessary to say that we cannot do justice to getting all the information required in the time available and that a lot of the officers of the Government have got to leave everything, in order, within the very short time limit, to deal with them.

MR SPEAKER:

May I say that if the Government get their questions within two hours of the same being presented to the Speaker, it is because the hardworking Speaker's Office immediately vet them upon receiving them. We have no reason to give so much priority to the vetting of questions but vetting 75 questions in two hours and doing justice to the questions in order to enable Government to have a reasonable amount of time to answer them and to find the information is beginning to tell.

HON M XIBERRAS:

I think it would not be very fair to allow the Chief Minister to put his point of view on the question of questions without any comment from this side. I think we do labour under some difficulty here on this bench and create a greater volume of work but I think that a certain give and take is necessary to ensure that the Opposition in the matter of questions does have an opportunity of putting their questions. Whether other arrangements can be devised in such a way that the load is spread or the time is spread....

MR SPEAKER:

With due respect to the Hon Member the time is most certainly spread because there is no time limit other than the minimum of five days. You can start sending in questions now for the next meeting.

HON M XIBERRAS:

What I mean by that, Mr Speaker, is for the actual taking of questions. In other words there could be ways and means of not taking all the questions in one day. These are propositions which can be discussed.

HON CHIEF MINISTER:

We couldn't be here meeting on something else and answers being prepared at the same time.

HON M XIBERRAS:

My major objection, Mr Speaker, is to the Chief Minister making a statement on questions.

HON P J ISOLA:

I think this must be the most unique case of generosity in giving way to other Members. All I want to add is that I think it is a good thing that we should get together a procedure under which we can raise matters not necessarily through questions, by merely taking note of papers to be laid. It is unfortunate that the Hon Mr Bossano has started this, I think, desirable practice by being a bit too wide with his motion so that he cannot get the answers and get the thing discussed that he really wanted to discuss. Apart from that I see no harm at all, apart from the need for rationalisation, Mr Speaker, in questions, verbiage, economy of manpower, economy of everything which I think we are so badly in need of in Gibraltar. This is just one aspect of it.

MR SPEAKER:

I will call on the mover to reply if he wishes.

HON J BOSSANO:

Mr Speaker, the point made by the Hon and Learned Mr Isola is in fact very pertinent to the motion that I am moving to the extent that in fact we have a number of papers laid on the Table of the House at each meeting and there doesn't seem to be an appropriate point at which one can raise questions regarding those papers and I don't really think that the timing of the receipt of the agenda and of the receipt of the papers coincides



well enough with the time limit for questions to enable one to do justice to studying these papers and preparing questions which might first arise on a first glance through a paper and which onemight feel is unnecessary when one goes into it more thoroughly. If, for example, I feel sure that if I were to go through everyone of the papers that have been laid down for this meeting of the House and put in a question in respect of the first query that came into my mind on each of those papers, the Hon and Learned Chief Minister would have had 75 questions just from me and I don't think he would like to encourage that sort of trend somehow. I think that we need when we are revising Standing Orders to take into account whether one should stipulate some sort of machinery for points of clarification to be raised on matters regarding papers laid before the House at a particular meeting.

MR SPEAKER:

May I say that it is a matter of practice and procedure that papers are laid in furtherance of requirement by legislation and that they are accepted and the only way that they can be questioned is by a motion.

HON J BOSSANO:

That is precisely why I moved the motion, Mr Speaker, because it is precisely what you told me when I asked you. But if there is another way of doing it or if we can devise another way of doing it then by all means let us do so. I think the point that I made in my opening remarks about the use of virements might not have been made by the present Financial and Development Secretary but it has certainly been made by a Financial Secretary in this House and in fact if the Hon Member cares to look back at the debate on the original Financial Procedures Ordinance which we amended recently he will find that it was my suggestion at the time that the procedure that we started off with under the 1973 Financial Procedures Ordinance should be altered to allow the use of virements between subheads because in fact we started off in 1973 with the Financial Secretary having to come to the House for authorisation for each individual subhead which I thought was very cumbersome and in fact I suggested to the Financial Secretary that it would be more effective for Government to have the power to move funds from one subhead to the other so he will see that in fact it isn't that I have now altered my stand on it, it is just that notwithstanding the fact that I consider it desirable, I still think it is right without in any way putting in doubt what is being done, nevertheless, I think it is right to raise questions if one is not clear from the information that is laid on the table of the House, one is not clear why a particular thing has been done. I also think it is not valid to say simply that the House now votes heads of expenditure as a result of the latest change in the Ordinance that we passed recently where we vote in the Bill heads of expenditure and not subheads. The fact that we vote heads of expenditure I don't think means that we should not in fact exercise control over subheads because heads of expenditure are subheaded in the original estimates and in fact heads of expenditure cover a tremendous amount of money and I think it would be a considerable lessening of control by the House if we just limited ourselves to just voting, say, £5m for Public Works and then we let the Hon Minister of Public Works spend it how he sees fit. We will never know what we would finish up with then.

## HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. As I recall it that has always been the case that the appropriations are made to heads in the Appropriation Ordinance and that is what sets the framework for the present section 43 and also the one in the previous Ordinance, section 21(a). What really is happening is that the House, and I am delighted to hear that the Hon the Leader of the Opposition was the inspiration of virements between subheads, gives the Financial and Development Secretary the power to supervise movement of money and to ensure that those monies are only used within the broad purpose for which they were originally voted and that is why I have put it here "provided that any new purpose will be within the ambit of the head for which the House appropriated the funds." I can assure the House that I take a very tough line on that.

## HON J BOSSANO:

Mr Speaker, the only point I think in the difference in procedure is in fact that now when we are approving expenditure it is part of a Bill whereas before we approved the estimate of expenditure and the differences in procedure between heads and subheads comes in that, in fact, that before it was not part of a Bill and, in fact, the heads of expenditure were not voted as they are now as a Schedule to the Bill at the Committee Stage. I think this is where the difference comes in terms of procedure although I accept that we are de facto following the same steps although with a different machinery. Mr Speaker, the only thing I can say is that I regret the Government intends to vote the motion out. I hope that in the contribution we have made the Hon Financial and Development Secretary who seemed to be a bit upset by the thing originally, has accepted that there is nothing personal intended against him.

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

The Hon J Bossano  
 The Hon P J Isola  
 The Hon Major R J Peliza  
 The Hon J B Perez  
 The Hon G T Restano  
 The Hon Dr R G Valarino  
 The Hon M Xiberras

The following Hon Members voted against:

The Hon I Abecasis  
 The Hon A J Canepa  
 The Hon Major F J Dellipiani  
 The Hon M K Featherstone  
 The Hon Sir Joshua Hassan  
 The Hon A P Montegriffo  
 The Hon A W Serfaty  
 The Hon H J Zammitt  
 The Hon J K Havers  
 The Hon A Collings

The motion was accordingly defeated.

The House recessed at 5.15 p.m.

The House resumed at 5.45 p.m.

MR SPEAKER:

Mr Bossano, I think the next motion in your name is the motion on the CPSA.

HON J BOSSANO:

Mr Speaker, I beg to move the motion of which I have given notice: "That this House condemns the decision of the United Kingdom Departments to suspend from work without pay all officers in the clerical grades employed in these departments for refusing to remove the industrial action that was being implemented in furtherance of an official dispute." Mr Speaker, I originally gave notice of my intention to move this motion in November of last year and I explained to the House when I decided not to proceed with it that since at that time all Members of the House expressed themselves in quite strong terms about the need for the employers to make an effort to hold meaningful negotiations and the hope was expressed that the dispute would end in fact before Christmas, that in deciding not to proceed with the motion then I was doing so not because of any change of heart on my part and on the part of my colleagues regarding the sentiments expressed on the motion but so as not to allow the motion to become an obstacle to the holding of meaningful negotiations and the hopeful achievement of a just settlement which would allow a return to normality in Gibraltar. Regrettably, we have witnessed that the sentiments of the House have had little effect, that the lockout has continued and the impasse stands to this day. I feel, therefore, that in moving the motion at this stage it could no longer be used by the Ministry of Defence as an excuse for not holding meaningful negotiations since it is quite obvious that at the moment they are not contemplating this. I think it is important to highlight that this issue is in fact a political issue for a number of reasons. It is a political issue because the numbers of families involved in the dispute are very substantial in relation to the Gibraltarian working force. They would be the equivalent of a million workers in the context of the United Kingdom labour force and it would be unprecedented in the UK if an employer, let alone a Government Department, were to lock out the entire civil service. I think it is also a political issue because the position appears to be absolutely deadlocked and the situation has created, and continues to create, a bitterness which is bad for Gibraltar and, as such it must, whatever the merits of the original dispute, as such it must be of concern to all of us. I think that it is important also for the House to be aware of the stand taken by the CPSA in the United Kingdom, Mr Speaker, and if you will allow me I would like to make reference to this month's issue of "RED TAPE", the official journal of the CPSA, where the editorial comments on the nature of the struggle that is taking place in Gibraltar with an editorial article entitled "ECHOES OF COLONIALISM". The CPSA leadership in the United Kingdom is completely committed to supporting its members and I think in the history of Gibraltar we have never witnessed a show of support and solidarity from any section of the United Kingdom population such as the one that we have witnessed in the CPSA dispute where 300,000 United Kingdom citizens have decided in a general assembly last month, to hold a national strike in support of their 300 colleagues in Gibraltar. For every locked out CPSA member in Gibraltar there are 1,000 civil servants in UK willing to undertake industrial action in order to identify themselves with their colleagues in Gibraltar. I think it is an important lesson for us because that sort of support, that sort of identity between the people of the United Kingdom and the people of Gibraltar, it is the sort of identity and support that we may well need on other issues. The CPSA Executive says in its article: "There is no strike in Gibraltar. A Branch of our union taking legitimate industrial action in support of a legitimate claim

was met with the use of an archaic anti-union weapon, the lockout. The ultimatum with which our 300 colleagues were faced required them to give a signed undertaking that they would disregard their union's advice or be deprived of access to their place of work. No amount of hedging or polemical fencing can alter the truth." That is the essence of the criticism that the motion that I am moving makes of the handling by the United Kingdom departments of this dispute. The motion condemns the original decision that was taken because the original decision was in fact the use by the UK Departments of a sledgehammer to crack a nut. A problem that might have been resolved a long time ago has become almost intractable by the way it has been handled by the employers. I think that the employers misjudged completely the reaction of their employees in thinking that they could place an ultimatum in front of them virtually asking all employees to give <sup>up</sup> their right to take industrial action because they were being asked to make an undertaking that they would discontinue the industrial action that they were carrying out on union instruction otherwise they would not be allowed into their places of work. That was what actually took place. The doors of the offices of the DOE and the Dockyard were locked, a table was placed outside the door and a senior UK-based civil servant was at this table with a piece of paper asking people to either sign or turn round and go home. That sort of situation was, to my mind, the spark that led to a position of confrontation with inevitably the two sides becoming entrenched in their respective points of view. I think if it had been handled any other way we would not have found ourselves in the situation in which we find ourselves now. I think the onus of responsibility for things having been handled in the way they were handled must rest squarely on the shoulders of the employer who decided to do it in that fashion. The CPSA Branch Executive in Gibraltar has made quite clear in respect of their reaction to the latest move, the move that took place a couple of months ago by the Ministry of Defence, of holding an Inquiry that the Inquiry would have been perhaps the appropriate solution to offer at the beginning of the dispute but it is an absurd situation to suggest that you lock people out for six months and then, after they have been out in the street for six months, you suggest that you should hold an Inquiry to find out the causes of the original dispute which led you to locking them out. If there is a dispute and if you want to defuse the situation then you don't hammer somebody first and then you say: "Let us inquire as to why I have hammered you." You suggest that you hold an Inquiry first and I think the avenue of third party intervention might have stood some chance of success if it had been done in the early stages of the dispute and that is in fact the view that has been recorded publicly as being the view of the membership and the Branch Executive in Gibraltar. The Inquiry, coming as it did so late in the day, appears to have come very much as a reluctant concession obtained from the Ministry of Defence after a great deal of pressure and, in fact, at this stage I think what the House expected of the Ministry of Defence, what it expected last November, was that both sides should get down to holding meaningful negotiations and that was what was said in the House of Assembly in November of last year. We know, in fact, that a long time elapsed between the debate in the House and the first moves by the Ministry of Defence. In fact, at a subsequent meeting of the House, Mr Speaker, when the Hon and Gallant Member Major Peliza raised the matter once again in an adjournment motion, Members made reference to the long period of inactivity that had followed the initiative in the House of Assembly.

There is no doubt at all that the Ministry of Defence does not share the concern of the House and, of course, it is understandable that they should not. For the Ministry of Defence Gibraltar and their employees in Gibraltar are a minute corner of a vast empire. For us they are something different. For us, the employees who are members of the CPSA, who are now out and who have been out for seven months, are part of our community, friends of some of us, families of others and therefore we cannot remain undisturbed by what is happening. We cannot look at it dispassionately, we have got an intimate interest and I have no doubt at all that the welfare of Gibraltar is being put at risk by the length of the dispute, by the apparent lack of light at the end of the tunnel and I have no doubt at all that that was a consideration that played no part in the original decision as to whether to proceed with suspending all employees in these two departments or not. My motion seeks to make it quite clear that Members of the House considered it wrong that UK Departments should have taken such a momentous step without having had the vision to foresee the possible repercussions and side issues that would evolve from the result of their decision if this was perpetuated for any length of time and that in condemning their original decision it should, hopefully, ensure that there can never be a repetition of such a sad event again in Gibraltar.

Mr Speaker proposed the question in the terms of the Hon J Bossano's motion.

HON CHIEF MINISTER:

Mr Speaker, I really very much regret that we have reached a stage when a motion which had been intended to be moved in November and which was not moved because of the effort of the House has been made, has had to be moved again and that the situation, so far, has remained unchanged and I would like to take this opportunity of saying that whatever may have been thought or said about it that it has certainly not been for lack of representations being continuously made and, if I may say so, for the concern also of the Governor himself to whom these representations have continuously been made to see that some move was made in this matter. In so far as the action taken and the way in which the matter was dealt with, I reiterate what I said in my two interventions during the first debate on the motion of the Hon Mr Xiberras and on the adjournment debate. There is, however, a matter in which we are concerned as Government, which of course makes the motion difficult for us to accept on the terms in which it is framed, and that is the question of the right of the employer to take action against an employee in certain circumstances and this is in no way any attempt at justifying the way in which this matter was done at the time which was very strongly criticised and which I still think, and I entirely agree with that part of the speech of the mover that had the matter been tackled differently perhaps we wouldn't be where we are today. I did say at the time, and I made no apologies for doing so, that we were having a similar problem and we had intended to take action of a similar nature. But I did say that we had in fact a warning prepared which giving 24 hours warning to everybody which was going to

make people think before the matter was put in the way it was put. It was also unfortunate that when Mr Terry Adams came to Gibraltar he wasn't given time to consult and to pursue the matter but on the other hand we, as employers, must take into account the fact that we cannot give up the right of employers in certain circumstances to suspend people from work if it is justified. Members will recall that during the problems that arose in 1974 and in respect of particular people who had been not attending work or rather had been attending work and not doing anything, in the final analysis the people were exceptionally dealt with but the Official Employers and the union signed an agreement on which this is the text. I am reminded, it was with the whole of the Trades Council. "On this specific occasion the Official Employers agree, as an exceptional gesture of goodwill, to reinstate the suspended postal workers and telephonists on basic pay for the time lost when they would otherwise have been employed. All the undersigned Unions agree that this gesture of goodwill by employers will not be regarded as a precedent if the occasion should arise in the future for management to exercise their right to suspend employees who fail to carry out their normal duties in pursuance of industrial action officially notified to the employer by a recognised trade union or staff association." So that the right of the employer to exercise that right is there and recognised by the Union. How it was exercised and what it led to is another matter of which we have a lot to feel sorry for even though the action was not ours in this particular occasion and that is the state of the situation now. Yet, I fail to accept that the situation hasn't got a solution. I fail to accept that. I know that it will be very easily said that there has been no solution for a long time but I fail to accept that there is no possible solution in this matter and I certainly wouldn't like anything that could happen here that that would be an impediment even at this late stage. There is one aspect that the Hon Mover has mentioned which I am sorry but I have no choice but to take up with him and that is that there has never been any solidarity from the United Kingdom like the fact that the National Union of Seamen have come out in support of the people of Gibraltar. Well, they have come out in support.....

HON J BOSSANO:

If the Hon Member will give way. I have not mentioned the National Union of Seamen and according to the Hon and Learned the Chief Minister the National Union of Seamen hasn't done anything according to his answer to a question in the earlier part of the meeting. I said that there were 300,000 civil servants who had decided to hold a national strike who are members of the same union.

HON CHIEF MINISTER:

Yes, and the Hon Member said that we might in other circumstances need that kind of support for other matters. Well, if a particular union has attempted to interfere with the life of Gibraltar, though the results may not yet have been seen on this occasion and did not do so when Gibraltar was in a very difficult situation at the time of the first restrictions, it is a matter of regret that the welfare of the whole of the people of Gibraltar could not get the sympathy of the unions that are now supporting the people who are now, not that they do not merit such support, that is another matter, but, of course,

that we perhaps merited that support in a more national way and we didn't get it and that was clear despite the fact that great efforts were made at that time.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. That is precisely the point that I am making, that this sort of support would have been very welcome in other circumstances. We might well find that it is welcome in some other circumstances in some unknown future date. That is the point that I was making, the one that he is making.

HON CHIEF MINISTER:

Oh, yes, it is true that would certainly be a change, I will not put it any higher than that, that it would certainly be a change. It is for this reason, Mr Speaker, not because we are in any way complacent about the situation or because we are in any way not critical of the manner in which the matter was handled that we cannot accept the motion in the terms which it is drafted. It is very significant and I give the mover credit for this that he has described in the motion the steps taken by the employer and has not called it a lockout not because I am going to go into that controversy but because that has been used far too often in this matter but I do not question the accuracy of the statement of the motion as it is moved now and in fairness to him not only now but when it was first mooted in November 1976. It is a very, very great pity that the party aspect which one has been asked by the United Kingdom representatives of the CPSA to intervene in which was the local nuances that this has been put on the population and the efforts that have been made that no notice or no earlier notice or no notice at all perhaps until the Board of Inquiry was offered had been taken into that matter. With regard to that this is a matter for the membership they are old masters in this respect and it was their wisdom or their lack of wisdom to have accepted or not to have accepted. It may perhaps be pertinent to know that there was a very substantial number of people who would have welcomed that and, who knows, that may be the answer in the final analysis.

HON M XIBERRAS:

Mr Speaker, in November when I moved the motion it was for the purpose of attempting to unite the House in this most important issue and I was glad that then the motion was successful and the House was able to be united in the proposition that there should be meaningful negotiations and prompt negotiations. What the Leader of the Opposition has said is quite true that the motion appears to have been of little avail and that the stand of the MOD on this has not altered enough to produce meaningful dialogue. There has been some movement in the offer that was made but it is a question of judgement and the judgement of the union primarily, as to whether that movement is enough or not enough. In my view the matter still remains a union matter primarily but this does not mean that the House can wash its hands of a commitment which it has undertaken and that commitment, if I could define it, is the interests of Gibraltar as a whole to get meaningful negotiations under way and to get reconciliation between the parties. Mr Speaker, in introducing the motion the Leader of the Opposition has

pointed out why this dispute was a political issue. He gave three basic reasons, the families of the people involved as well as the employees, the bitterness, which is bad for Gibraltar and the echo that this has had in the United Kingdom. I would insinuate that there are other repercussions as well and that there have been since the issue began and I am sure that these both the Leader of the Opposition and other members of the House are well aware of. I regret as much as anybody and more than most the bitterness that is being created and I will not do anything to increase that bitterness and I will not do anything which puts myself or other Hon Members beyond the scope for the proper responsibility which Hon Members have in this House. I have made my position about the dispute quite clear and that is that I consider the CPSA claim, as I have said publicly, to be justified. That remains my position, it remains my view of the situation. It is not for me, however, I have no mandate to enter directly into the dispute, especially if I am not called upon to do so. Therefore, whilst I make no bones about the fact that I would have liked to have seen a more active pursuance of the mandate of this House and resolution of this House on the part, should I say, of all Members of this House in order to try to establish a meaningful dialogue, I would not go as far as condemning the MOD and I would not go that far not because I am afraid of making a judgement but because I am afraid that if I do make a judgement I would not be helping the very people whom we are trying to help, namely, the people who are out of work. Mr Speaker, if the Leader of the Opposition had said that the original motion which had the support of all members of this House had little effect, then I would ask him to consider quite altruistically and in the interests of those people whom we are really trying to help, what influence and what effect a condemnation of this kind would have on the future of negotiations which he, I am sure, as much as anybody else in Gibraltar, would like to see if not started at least continued at a faster pace. I would say that whether rightly or wrongly whether the MOD is to blame or is not to blame that a motion of condemnation now is simply going to entrench an already entrenched position and I am quoting the Hon the Leader of the Opposition on this, that both sides are in fact entrenched at this moment and therefore if we fire, as it were, our last cartridge, our last shot, then this House has no further part to play in the proceedings and there can be no appeal back to this House because we would have lost any sign, not of impartiality, but our right, our obligation to think for Gibraltar as a whole in these circumstances. I do not think it is in the interests either of the people affected or of Gibraltar as a whole for this House to utter a condemnation now whatever views have been expressed of MOD's actions in this and nobody in MOD circles can be under any illusion as to how all Hon Members in this House feel about the attitude of MOD in this matter. Mr Speaker, the Hon the Leader of the Opposition said that the MOD does not share the concern about the situation. There has been a great deal of concern expressed. I recall the Leader of the Opposition saying that is all we can expect, concern. I remember the Governor saying that he was concerned about the situation. Hon Members here have said they are concerned. The CPSA have said that they are concerned, the public is generally concerned and we seem to be moving nowhere in this matter. But I put it to Hon Members what else can be done, and I put this not as a rhetorical question but as a real question. What else can be done to



get a solution to this problem? There have been meetings in the ante-Chamber of the House and no Hon Member has come up with a working idea. If any Hon Member does have such a suggestion I, for one, am certainly willing to consider it, to pursue it and to add my active support to it. But I ask also the House to consider whether it is in the interest of the people that we are trying to help in the absence of any practical suggestion to utter this condemnation. We know we are not the employers and the Gibraltar Government whom we can press on certain matters to which I shall come in a minute, is not an employer either in this situation, unlike the situations in 1970/72/74 when all the Official Employers were engaged on this. Perhaps we could urge Hon Members opposite to show a little bit more activity because I think that there is a responsibility, if I may say so, a responsibility which I believe was fully fulfilled at the time of the Gibraltar Government Clerical Association settlement. I believe that there was some regard paid, there was some consultation but I do not believe that the Gibraltar Government actually created the sort of situation which would allow for movement to enable a settlement of the MOD dispute which it could be seen was going to arise. If I have not mentioned it before it was an attempt to keep a common front on this matter. But now we have to examine our own consciences and ask ourselves what else can we do. Let us each take stock of his responsibility in this matter. Would it be working towards a solution that there should be from this House a resolution that individual members or delegations and so forth should take other steps and, if so, what other steps could be taken? I would like to hear, particularly from the Minister for Labour, what his view is on this matter. Mr Speaker, the welfare of Gibraltar has been put at risk as the Leader of the Opposition said. I believe it not only has been put at risk, I believe the situation is still a serious one. I think it is perhaps less serious in view of the announcement that was made earlier in this meeting that JIC was to meet once again to consider the 1976 Review and that negotiations might start on the 1976 Review and that there was movement of the Gibraltar Government Clerical Association because I feel that the CPSA/MOD dispute was acting as a stopper in the bottle and the fumes inside might make it come out suddenly and forcefully. I believe that temperature was pretty high at the beginning of this dispute and I believe that it has not been conducive towards a settlement of the CPSA and therefore it is fully conscious of the truth of what the Leader of the Opposition has said that the welfare of Gibraltar is at risk, or was at risk and continues to be at risk but I ask Hon Members not to add fuel to the fire by any imprudent condemnation of one party in the dispute. I believe my Hon and Gallant Friend Major Peliza is going to move an amendment which I hope will meet with the approval of the House as a whole and in considering that I hope that Hon Members will bear in mind exactly whom it is that we are trying to help, what are their interests and then, obviously, as it is our responsibility, what are Gibraltar's interests in this matter. And if

there is thought of reconciliation let us assess what has happened over the long period that these persons have been out of work and their families have been suffering, and the bitterness, let us take all that into consideration and let us at least not take an unwise step at this moment. Perhaps Hon Members would wish to contribute and say whether they have any idea on how we might serve the interests which I have mentioned, in the absence of those my Hon and Gallant Friend I might move his amendment.

HON MAJOR R J PELIZA:

Mr Speaker, there is hardly a need for me to say how serious the situation is and how delicate the matter is. I will not go through all the arguments that have been used here previously or restate my position in this conflict because it is well known. However, Mr Speaker, other speakers in this House already have pronounced their views and I think that if we look carefully at what they have said there is a lot of common ground. Therefore, what I think we ought to do in this House is to find out how far we can all go so that once again whatever motion is passed carries the weight and the support of every elected member. I believe that only if that is the case will it really command respect from those who will have to act upon it. It is a well known fact that there is nothing that we can do ourselves. It is a well known fact too that the Union itself with the way they are proceeding are not getting very far. I think it would not be in the interest of the affected party, and certainly of Gibraltar, if we were to introduce a motion in this House and carry it which was really a condemnation in a sort of negative form and not in some way leaving a door open so as to bring about some form of reconciliation. I think the part that we can play is only that one of an honest broker and try and bring the two sides together so that at least they can start talking again. How can we best do that? I would say that the only way that we might be able to do that, Mr Speaker, is by amending the motion and so arrive at a form of words of which I would give a lead and I do hope it is acceptable, but if it isn't acceptable I hope that we continue to thrash it out until everybody can agree to it because I think the sentiments of the House are more or less united on this issue. Let us not apportion blame to anybody as to why the situation has arisen, let us now be constructive and find a way out of the impasse. There is no doubt about it, the potard is there, the fuse is alight and our job must be to snuff it out and try and defuse the situation. This is our job. It is an urgent one. It is a very urgent one because the effect of the explosion in the industrial sense can be very serious indeed. So, therefore, I think we all have a responsibility in this House to take this matter seriously and to try and reconcile our views in this House so that we can arrive at a form of a unanimous action forward. We have done it before and I have no doubt that with good will this can be done again. I know that already there is a motion in the House of Commons, an early day motion under the name of Mr Ian Wrigglesworth which carries the sentiments of the motion that the Leader of the Opposition has used for this particular one and therefore we must not be alarmed at the wording of the motion. I am not alarmed at all. The only thing is that I do not believe that this is the appropriate forum to use that form of words. I think it is excellent in the House of Commons and a good number of Members of Parliament already have appended their names to it. But that is the forum where that can be done because that condemnation, of course, could have some shifting effect on the Ministry of Defence but I do

not believe that any condemnation in this House will have the slightest effect on the very strong and powerful Ministry of Defence. Next to them, we stand like an ant next to an elephant and I don't think we can do very much other than find ourselves under their big paw. Therefore, I would suggest that we should not risk that situation because we will find ourselves really flattened out and it is not only the 300 families that are going to suffer but perhaps many more people here in the long run. I think it is our duty to avoid that situation and I think it can be avoided. As you know, Mr Speaker, there is still a possibility, and I hope this is pursued, of a delegation of this House going to the United Kingdom. I think this is something that should be pursued. I doubt whether the Ministers themselves of the Ministry of Defence have seen the human side of this problem. They have seen this remotely through civil servants but there has been no tete-a-tete between a Gibraltar Minister and a UK Minister and I think this is essential. Politicians, like lawyers, tend to understand each other and I think we are understanding each other here now. No matter how much we may fight on other occasions we have proved ourselves on many occasions that whatever our political differences there are many occasions when we bury our hatchets and we are friends again and fight together on a particular issue. I have no doubt that this can be done again and I have no doubt that an approach to UK politicians could be successful. I am not saying it is going to be but it is better to try and not to succeed than to fail because we have never tried. Therefore, I think we must try again and again. It is very, very essential that we should try. Mr Speaker, with those sentiments I beg to move that the motion be amended (i) by the deletion of the word "condemns" in the first line thereof and the substitution therefor of the words "is greatly concerned about the effects of" (ii) by the deletion of the full stop and inverted comma after the last word "dispute" and the addition of the following words "and trusts that they will seek meaningful negotiations".

Mr Speaker proposed the question in the terms of the Hon Major R J Peliza's amendment.

HON CHIEF MINISTER:

Mr Speaker, much as I would certainly like a consensus brought out and we will do our best to do so I am not now considering the MOD side of the problem, I am now considering whether I could accept a motion in those terms which referred to the Government itself in the exercise of its right to suspend people. Therefore, perhaps, we may have to inject something about the manner in which there was suspension from work in order to make it acceptable to us.

MR SPEAKER:

Is there any member of the Opposition who wishes to contribute? Mr Bossano, you are entitled to speak to the amendment itself if you wish to do so. You have the right to reply to the original motion.

HON J BOSSANO:

Mr Speaker, perhaps I ought to say that the Hon and Learned the Chief Minister has said that in fact the Government could not go along with supporting the original motion and I think the Hon Mr Xiberras has made that clear as well and, to a certain extent, so has the Hon Major Peliza. I feel, in fact, that the right thing to do is to condemn the UK Departments for the decision otherwise I wouldn't be moving the motion, obviously, but I would obviously prefer to see a motion carried than to see this motion simply defeated and have that, perhaps, misinterpreted by the UK Departments as a sign of approval for what they have done. To that extent I would welcome the production of a motion that would be carried with the support of all members of the House and I agree entirely of course with the objective that has been expressed by the Hon and Gallant Major Peliza and by the Hon Mr Xiberras as regards the desirability of seeing the dispute settled, I think that it is obviously a thing we all want to see most but there is no doubt that the position of broker can only be sustained, I feel, for a limited period of time and eventually one has to make a decision as to really where ones sympathies lies. I have no doubt in my mind that the position has been made that difficult because of the decision that was taken by the UK Departments. I must say that in relation to the point made just now by the Hon and Learned Chief Minister I don't really think that to regret the effect that the decision has had is in fact the same thing as to condemn the decision. My own motion condemns the decision that was taken because I feel that the UK Departments even if one does not wish to condemn the actual suspension of people, I think they were a bit hasty in the way they handled this. I think the proposal by the Hon and Gallant Major Peliza in fact takes, as it were, the focus of the problem on the results rather than on the action and to that extent I don't feel that there is an inherent conflict between the fact that an employer may suspend his employees and the fact that one may regret what follows after that suspension takes place. So I don't think in fact that the Government can say that it conflicts with the position as regards the statement that was signed with the Gibraltar Trades Council at the end of that dispute. Of course, I think since that has been made reference to before I think to put the record straight it should be understood that in this thing as in all negotiations, that particular statement was in fact a package deal. We got the money for our members in return for signing a bit of paper.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I pray for your indulgence if I might quote from Hansard what I said on a previous occasion: "I would first like to congratulate the Hon Maurice Xiberras. My reaction when listening to the Leader of the Opposition was that as soon as possible I would get up and reply to some of his cracks against the Chief Minister and the Government in general. But, on second thoughts, I think that by doing this I would not serve the interests of the workers in this dispute with the MOD/PSA. I think our main task this afternoon is

to show the MOD and the PSA our concern at the dispute which has been carrying on for over 7 weeks and the suffering that this is causing to the members of the CPSA and their families and any other matter which we discuss here in verbal accusations against each other is completely irrelevant. Our main duty this afternoon is that the message comes through loud and clear that we are all united in the support that we must show to the CPSA in the current dispute with the MOD/PSA." The Hon Mr Xiberras, during part of the contribution to this debate, said that he is under no illusion as to how the people of Gibraltar know how this House feels on the question of the CPSA dispute. If I hadn't seen the Hon Maurice Xiberras every week and during the past meetings of the House we have had, I would have thought he was somewhere in Jamaica because certainly a minority of the CPSA are not aware about how the whole House has supported them through these difficult times that they are going through. And they still have my support despite the threats and accusations made personally against me. They still have my support and they will always have my support. But I cannot accept a motion that will take away the powers of an employer be it a Government employer or a private employer. The same rights that the trade union have to take industrial action against an employer, the employer must also have the same right to take whatever action it seems right to take. By saying this I do not mean that the PSA/MOD are right or that they have handled the matter rightly. I am just saying that their right should not be taken away, however, archaic it might seem to the Leader of the Opposition.

HON J J BOSSANO

Mr Speaker, if the Hon Member can think of an amendment that will take that right away I am quite happy to see it introduced.

HON CHIEF MINISTER

Mr Speaker, I have on very short amendment to the manedment which may make it possible for us to accept the motion i.e. just add the work "continuing" between the word "the", and "effects".

Mr Speaker then put the question which was resolved in the affirmative and the Hon the Chief Minister's amendment to the amendment was passed.

HON CHIEF MINISTER

I want to make quite clear that I feel that even whether the decision was right, the continuing effects are worrying and no employer should allow even a right decision to continue to last for as long as this one has lasted.

Mr Speaker put the question in the terms of the Hon Major R J Peliza's amendment, as amended, which was resolved in the affirmative and the amendment was passed.

MR SPEAKER:

I will remind the House that the motion before the House now reads as follows: "This House is greatly concerned about the continuing effects of the decision of the UK Departments to suspend from work without pay all officers in the clerical grades employed in these Departments for refusing to remove the industrial action that was being implemented in furtherance of an official dispute and trusts they will seek meaningful negotiations." Is there anyone who wishes to make further contribution to this debate. If not, I will call on the mover to reply if he wishes to do so, if not, I will put the question.

HON J BOSSANO:

The only thing I want to say is that I think that the important thing about the situation is not only of course the continuing effects but that there is every indication that unless there is a radical departure in UK Government policy towards the situation the effects are likely to get worse before they get better.

Mr Speaker then put the question in the terms of the Hon J Bossano's motion as amended, which was resolved in the affirmative and the motion was accordingly passed.

The House recessed at 6.50 pm.

THURSDAY THE 19TH MAY, 1977

The House resumed at 10.40 am.

MR SPEAKER:

Mr Clerk, before proceeding to the next motion in the name of the Hon the Leader of the Opposition I believe we have some Supplementary Estimates to deal with.

HON THE CHIEF MINISTER:

Mr Speaker, I have, or rather the Financial Secretary has given notice that I propose to move the Suspension of Standing Order No. 19 in respect of Supplementary Estimates No. 1 of 1977-78 and I would like to proceed with it. As it may well be known a committee to raise funds for a Christian Brothers Commemorative Fund now that they are leaving Gibraltar and something was thought should be done to commemorate their contribution to education and to Gibraltar, generally, a fund was started and a number of private individuals have given money and it has done quite well and the Government was approached by the committee with a view to seeking some contribution from the Government. Perhaps I might remind the House that there is a working committee which is arranging the commemoration celebrations and that there are four patrons of the fund, one of whom is my Hon Colleague the Leader of the Opposition, who was seen to rush into the church, the other one is His Lordship the Bishop and the other one is the Deputy Governor and the last one is myself. Because of our procedures we have no heading under which we could anticipate expenditure on this matter and we have a very stringent Financial And Development Secretary who is finding himself more and more bound by his own rules in these matters, and it has not yet been decided what the extent of the contribution is but since the celebrations are likely to take place on the 3rd July and by then the Committee will have made up their minds what they want to do, what I am seeking now is approval for a token vote in order that there should be a sub head under which money can be spent and then we can come for a supplementary estimates to make up for the difference. I have had a word

with the Hon the Leader of the Opposition and my view is that the extent to which the Government should contribute depends very much to the use to which the money is going to be put. If it is going to be to commemorate the works of the Brothers so that it is not forgotten in Gibraltar and the benefit is going to be a commemoration in Gibraltar, then I think the Government would be justified in making a substantial contribution. My view, for what it is worth, is that if it is a contribution which is to be made together with the money which has been collected which up to now I understand exceeds £3,500 from individuals and firms and so on, is for any projects that the Brothers may hold dear somewhere else, then I think it would not be justified to spend substantial public monies for that to be done because I think it would be contrary to the spirit of the commemoration that it should be commemorated elsewhere with our money if it has to be commemorated and something has got to be done by means of a scholarship or bursary whatever it is, apart from a plaque and the usual thing, that the benefit should come to

Gibraltar. What I am seeking at this stage is authority for a supplementary token sum of £100 and I have undertaken to consult with my colleagues opposite before we finally make the contribution after which of course the House will be asked to provide the funds that have been agreed.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

On a point of order. Should we not first move the Suspension of Standing Orders 29 and 30 in accordance with our new procedure so that I can introduce the Bill when the estimate is considered in Committee Stage of the Bill.

HON ATTORNEY GENERAL:

I think the position is under our new procedure that both in the case of the Appropriation Bill and the Supplementary Appropriation Bill the House goes into Committee and the House deals with the bill and then at the committee stage it takes the schedule immediately after clause 1 had been read and the schedule is then dealt with at that stage.

MR SPEAKER:

I will get the new procedure which is not incorporated in my Standing Orders just now and we will take it from there but then of course there should have been no motion to move into committee just now. We shall have the Suspension of Standing Orders 29 and 30 and therefore the motion itself should not have been moved. Once the motion was going to be moved we have to suspend Standing Order 19 because otherwise we will be moving a motion without having given 5 days notice.

HON CHIEF MINISTER:

So long as I get my token vote I don't mind how we do it.

MR-SPEAKER:

Basically what has happened is that I have been asked whether suspension of Standing Order No.19 could be taken to move a motion. It is not for me to decide what the motion is about. You need 5 days notice for a motion and you need to suspend Standing Order No.19 if you don't want to give 5 days notice. The motion is that we should resolve into committee. The new procedure is that you bring a Supplementary Appropriation Bill for which you now have to suspend Standing Order Nos 29 and 30. Once we consider the Supplementary Appropriation Bill, as part of the Bill we consider the Supplementary Estimates which is

contained in the Schedule. Therefore there was no need to apply for suspension of Standing Order No.19.

HON CHIEF MINISTER:

I move that Standing Orders Nos. 29 and 30 be suspended to deal with the Supplementary Appropriation Bill.

Mr Speaker then put the question and this was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1977-78) ORDINANCE, 1977.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate an amount not exceeding £100 be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I now beg to move that the Bill be read a second time. I understand that the Hon and Learned the Chief Minister will explain the purpose of the Bill.

HON CHIEF MINISTER:

I will do so again, Mr Speaker, but I already explained substantially what it is for. This is in order to have a token vote on which the Government, in consultation with Hon Members opposite, can decide on the extent to which the Government should make a contribution towards the Christian Brothers Commemorative Fund depending very much the use to which the fund is going to be put. I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

The only thing I want to say is that I agree with what the Hon and Learned the Chief Minister has said that the primary consideration should be the use to which the money is put and that weights a great deal on how much public money is put into this.

HON M XIBERRAS:

Mr Speaker, it gives me a great pleasure to support the Bill having moved a motion about the Christian Brothers when it was announced that they were leaving Gibraltar and I wish the



committee every success. However, this is something of an exceptional step because as I have it the Government does not normally make donations of this kind to committee that organise appeals and so forth but I think it is completely justified in view of the hundred years contribution which the Brothers have made to the education of the people of Gibraltar and the general social contribution which they have made. I would, however, like to be kept informed of the use to which the money eventually voted is going to be put and I entirely agree with the Hon and Learned Chief Minister that since public money is concerned the commemoration should be in a way that it would remind the people of Gibraltar as a whole of the contribution of the Christian Brothers.

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:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill should be taken immediately following if the House approves.

This was agreed.

#### COMMITTEE STAGE

#### HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the House should resolve itself into Committee to consider the Supplementary Appropriation (1977-78) Bill, 1977, clause by clause.

#### THE SUPPLEMENTARY APPROPRIATION (1977-78) BILL, 1977.

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

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

Clauses 2 and 3 were agreed to and stood part of the Bill.

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

#### THIRD READING

#### HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to report that the Supplementary Appropriation (1977/78) Bill, 1977, has been considered in Committee and agreed to and I now move that it be read a third time and do pass.

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

#### PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

73

Mr Speaker, I beg to move the motion standing in my name of which I have given notice "that this House regrets that in the proposed dual structure of British Nationality, Gibraltarians should have been placed in the "Overseas Citizens" category thus failing to take into account Gibraltar's special circumstances". Mr Speaker, the proposed changes in the British Nationality Laws contained in the Green Paper presented recently to the House of Commons was made public in Gibraltar recently and shortly before they were made public His Excellency the Governor informed me and the Hon Mr Xiberras and the Hon the Learned the Chief Minister and, in fact, the three of us met and decided to send a cable expressing sentiments which are reflected in the wording of the motion, expressing our concern about the situation and stating that we would be following up the cable with specific representations which are, in fact, provided for in the Green Paper since the Green Paper and indeed the statement that was made in the House of Commons when it was presented, invited representations from affected parties or interested parties both in the UK and in the overseas territories. The motion that I have brought to the House at this stage therefore is on the Order Paper because I felt that it would be wrong for us to allow a meeting of the House to go by, the first meeting since the British Government published their proposals, without making any sort of reference to the fact that we are concerned about the situation and putting it on record and without also giving all other Members of the House an opportunity to put forward their own views or identify themselves with the stand that was taken in the name of the whole of the House of Assembly by the three of us. Mr Speaker, I think the situation is well known, there is a certain amount of confusion, I think, amongst the people in Gibraltar as to precisely what the implications of this are and I think the people of Gibraltar naturally look towards Members of the House of Assembly for some light on the situation. We have chosen to take a low-key approach to the matter at this stage and act in unison because we feel this is in the best interests of Gibraltar but I think that we must at this stage record our position on the matter and we shall have before long to come out and take perhaps a more active position regarding the situation and when that happens, of course, I think people may get a clearer view of how each of us feels on the matter.

Mr Speaker then invited discussion on the motion.

HON CHIEF MINISTER:

Mr Speaker, I have much pleasure in supporting the motion and the reasons explained by the Leader of the Opposition are valid and that is that this is the first time we meet and that we should reinforce the original stand by us when the Paper was brought to our notice and publicity was given to it. The matter is one which can be very emotive and which of course is highly technical in some respects and requires a considerable amount of work to be put into a proper Memorandum. The Secretary of State in acknowledging the telegram did say that he was looking forward to receiving the representations. I think it is fair to say this has also been made clear through other channels and that the Paper itself stresses in various parts of it that this is a consultative document, the matter affects a lot of people and they want to have as much consultation as possible. I think it is not a question of whether we want to believe it or not, I think it is a question that we are entitled to make a case to be treated in a special way and not in the way it has been intended and I hope that we will be having early consultations, a certain amount of research has already gone into the matter, and that we will

be able to have a preliminary Memorandum some time next week to accompany the motion if it is carried and I am sure it will be unanimously, and then carry on with the work which has to be done in order to present a reasoned case. The matter is one which preoccupies people, I have always had the view, despite other matters which have been raised in connection with immigration, that that was a completely separate thing to the status and I always argued, and I argue now, that our status is the same as that of the United Kingdom because we are all citizens of the United Kingdom and Colonies and this is the first time that there is a thought of changing the status of people over their heads in the sense that if you were born with a status you should not be deprived of it, certainly not without having a good say as to what you think about it and in fact, hopefully, not be deprived of it at all.

HON M XIBERRAS:

Mr Speaker, in wishing to follow the controlled and disciplined tone of the two speeches which have been made on the motion which I fully support, I would nevertheless not like to give the impression, or the impression be given, that it is not an important issue for the people of Gibraltar. It is, in fact, one of the most important issues that has faced the people of Gibraltar for quite some time. Mr Speaker, the Hon the Leader of the Opposition in moving the motion said that the people of Gibraltar looked to the House of Assembly for an explanation of the implications of the Green Paper and I feel that it is important that they should realise that despite the adverse factors contained in it as they affect us, the general sense of the consultative paper is one which can not by any stretch of the imagination be attributed to any direct attack specifically on Gibraltar. It is a subject that has been kicked around in the United Kingdom for a very long time, attempts have been made to come to grips with the problem but this has been unsuccessful for a number of reasons which I shall not enter into but mostly because of the difficulties surrounding the immigration problem. Gibraltar is a very small part of the, I believe, 900 million people that would be affected in one way or another and the people of Gibraltar should be assured or reassured that this is not levelled specifically at them. Having said that it should also be said that even as we stand now we are in the, if I might put it that way, in the privileged minority in one sense though having said that as well it should be added that if the proposals of the Green Paper were carried into effect it would represent a diminishing of our status in a very serious and real way and therefore I welcome the resolve of all elected Members to make representations to contest the proposals which are set out and to do so in the most disciplined of manners. Mr Speaker, I feel that in this unanimity, and I have felt since the meeting was first called on the immediate representations to be made I have felt that concerted and coherent action was essential. We are indeed defending rights that we already have, we are not seeking to acquire new rights, we are seeking to prevent rights which we have in law being taken away from us and I am sure that elected Members in consultation will be able to present a strong case in this respect. As important as unanimity must be the legitimacy of our claim and the longstandingness of our claim, Hon Members will recall that this has been the subject of discussion and debate in representations between elected Members for the past 17 years as the effect of the Immigration Act cut into the concept of nationality and we saw that our citizenship was gradually being threatened by legislation which bordered on the concept of nationality. We have seen the Immigration Act for 1965 on which representations were made, we have seen the patrials law, we have seen the various papers produced by lawyers in the Conservative Party, we have heard from Mr Alec Lyon some time ago that a review on nationality was taking place. The representations made, as Hon Members know, are covered in various documents which I am not going to quote in view of the tenor of the speeches that have already been made but which are summarised in the Report of the Constitution Committee, the last one which speaks of the 1970

representations made when Sir Alec Douglas Home was Home Secretary, which speaks of the representations made to Mr Hattersley when he was here in Gibraltar and Hon Members know that in the Memorandum given by Mr Hattersley there was ample reference to the question of citizenship. I do not wish to be controversial because I feel that it is important that we should present a united front on this but I should say that HMG has been fully advised over a period of some 17 years, and I am not exaggerating, of the uneasiness that existed in some quarters in Gibraltar which gradually became generalised that eventually the time would come when a redefinition of the concept of citizenship would be arrived at. There have been denials of the British Government's intentions to do this but now there is a formal proposal. There is in the time sense no immediate hurry, the matter is urgent because of its importance but as the Green Paper sets out it is quite clear that it is a consultative document, that it will take at least two years and probably one general election in Britain before the issues can be clarified and settled. It may very well take longer but I am sure that all Members are keen that the views of the people of Gibraltar should be represented in no uncertain manner, to coin a phrase, to HMG and that this motion brought by the Hon the Leader of the Opposition should be another brick in building up a strong case. I commend the motion to the House and I hope that other Hon Members will contribute to it and I hope my Hon and Gallant Friend Major Peliza will arrive in time - he has been unavoidably delayed on an important matter - and I am sure that he would wish to contribute to it. I support the motion entirely.

HON P J ISOLA:

Mr Speaker, I would like to come to the assistance of my Hon Friend Mr Xiberras who has appealed to Members of the House to contribute in order to enable my Hon and Gallant Friend to contribute but I doubt whether I shall be able to talk for very long, Mr Speaker, especially on a subject on which there is so much unanimity in the House. I would really like to stress, Mr Speaker, the need for unanimity in Gibraltar among all shades of opinion on this subject of British Nationality. I would also like to stress the need, I believe, of taking this issue in view of the very changed circumstances that now appear might occur, to take this issue out of the arena of local politics and I hope it will be possible for all different shades of opinion in this House to present a genuine united front, not just a united front for effect, but a genuine united front which understands the problems and the difficulties, the aspirations of different Members of the House in this issue and of its side effects, side issues and so forth. I think the important thing here is that the case for Gibraltar in this matter should be put strongly by all Members of the House and all shades of opinion in Gibraltar and it should be an argued case, not a case filled with emotion or with heat or so forth but a case argued solidly on what I consider to be very strong grounds as far as the people of Gibraltar are concerned. The purpose of this motion, Mr Speaker, has been set out by the Hon the Leader of the Opposition and the Chief Minister and my Hon Friend Mr Xiberras and it is really to record in a public and responsible manner the regret of the House and through the House of all the people of Gibraltar that the Gibraltarians should have been placed in the "Overseas Citizens" category in the Green Paper, that we should

have to start and have to fight that particular issue, that we should have been put in that position. But we are there and I feel that the most one can hope in this situation is that the British Government which has shown, I think, on this issue although we haven't been terribly successful, but it has shown a great understanding of our position. I think it is true to say that although we are not legally entitled under the Immigration Act to free entry into Britain, Gibraltarians have been given very special treatment, very special status in this respect, if I may call it, and through our membership of the European Economic Community we also have, I believe, some vested rights in this situation which could, I would have thought, help us in the question of categorisation. Mr Speaker, I have much pleasure in supporting the motion put by the Hon the Leader of the Opposition and hope that this is a beginning of a really united effort on the part of the House to sort this very important aspect of life for the Gibraltarians.

HON MAJOR F J DELLEPIANI:

Mr Speaker, as part of the discipline of being a member of this Government, I have to follow the lead given by my Chief Minister and play this in a low tone, but I can tell you that my reactions when I heard this were certainly not in a low tone and I will keep my short contribution in a low tone for the sake of discipline. When one talks of citizenship I thought the question of citizenship was something that one has and one has citizenship when you are born until you die and it can only be taken away by some countries if you have done something against that country, you have betrayed that country, if you have done a treasonable act etc etc. So the shock that I felt when I read the Green Paper was rather traumatic but I think, personally, that whether Britain can do this or not is up to what we are able to put across in legal arguments and talk about special status for Gibraltar etc etc, but what I am wondering is if Britain is not violating human rights by taking away the citizenship of people who have had the citizenship for over 250 years.

HON J B PEREZ:

Mr Speaker, I see that the Hon and Gallant Major Peliza has not yet arrived so I suppose I better add a contribution to this. I would like to say first of all, Mr Speaker, that I support the motion wholeheartedly and I would like to say that there are, in fact, three very worrying aspects of this proposed new British Nationality Laws, the first one being the actual fact that we have been put in the category of British Overseas, that to me is worrying, I think the Hon and Gallant Major Dellipiani has pointed out to the House. The second worrying aspect is whether in fact other countries in the world would accept this British Overseas Passport should we be given it, whether it will restrict Gibraltarians travelling elsewhere and, thirdly, in connection with the proposed new European passport I wonder, Mr Speaker, if we are given the British Overseas passport whether we will be left out when the time comes. I think these three points are very worrying and we should all sit together and try and reach a consensus at a later date and make good representations to the British Government so that we are given our full and justified rights.

HON A W SERAFY:

I was also very surprised when I read the Green Paper. We are the only Dependent Territory in Europe, we form part of the Common Market, we are the only territory outside the United Kingdom in the sterling area. Surely it should not be all that difficult to make a good case for full British citizenship for the Gibraltarians. This will facilitate matters because if we are not there may be complications with the European Common Market and I would not like to say how this would affect the other problems that we have at the frontier but I would have thought it should not be very difficult for the British Government to decide that this small dependent territory in Europe should have full British citizenship. We are only 20,000 inhabitants, anyhow.

MR SPEAKER:

If there are no further contributors I will call on the mover to reply.

HON J BOSSANO:

Mr Speaker, I won't talk for a long time because however long I talk I cannot help my Hon and Gallant colleague. I think one point that needs to be made is that the Green Paper as the Hon Mr Xiberras said in fact deals with a world wide problem that the United Kingdom has got with the peculiar relationship of citizenship which was a result of a world wide empire and the need to adjust its nationality laws to the reality of its present national boundaries. That we should see the Green Paper as having a particular significance for us is natural, I think, because Gibraltar has got certain features about its relationship with the United Kingdom which in my view are unique and different from those of any other colonial territory. These unique features have not in fact been given any consideration in the Green Paper if one is to judge by the result and I think if one wanted to be charitable to HMG then, perhaps, the only way one might be able to excuse it might be to say that one could hardly expect them to treat one particular colony differently of their own bat, as it were, without having been pressed to do so. If that is a right analysis, I don't know whether it is or not, but that is the only excuse really that occurs to me for Gibraltar not having been treated in a different way, that it would be an embarrassing situation for them to do it on their own initiative without anybody having put the arguments, then I think there are chances of altering the situation. If, in fact, the arguments have been looked at and considered then I think there is little quite frankly that we can tell the British Government that they are not fully aware of already. But the case has got to be made, of that there is no doubt so I am happy to see that the motion enjoys the support of Members and commend the motion to the House.

Mr Speaker then put the question in the terms of the Hon J Bossano's motion which was unanimously resolved in the affirmative and the motion was accordingly carried.

HON CHIEF MINISTER:

Mr Speaker, I beg to move the adjournment of the House. Perhaps I might say a word in moving the adjournment and that is those who saw the procedure to get through the Supplementary Appropriation Bill and the time it took for this House to vote £100 might think twice when they say that this House or that the Government spends money easily and throws money away.

MR SPEAKER:

May I say once you have mentioned the procedure that we have completely gone haywire on the procedure we have adopted this morning for the passing of the Supplementary Appropriation Bill. The Standing Order that I should have been asked to move for Suspension is the new Standing Order 44(1). The new Standing <sup>Order</sup> which states that "printed, typed or stencilled copies of the Annual Estimates and of all Supplementary Estimates shall be sent by the Clerk <sup>to</sup> every Member at least 15 days in the case of the annual estimates and 7 days in the case of Supplementary Estimates." That is the Standing Order that I should have been requested to suspend but in any event it is the first time we put the procedure on Supplementary Estimates into effect and I am sure that we will learn by our mistakes.

MR SPEAKER:

I will now propose that this House do now adjourn sine die and in so doing I will remind Members that we have been given notice by two Members of the Opposition that they wish to raise matters on the adjournment. The first notice I received is one from the Hon Mr Maurice Xiberras who wishes to raise the matters related to the answer given to his question in connection with the Roumanian seaman Vergil Ionescu so I will call on Mr Xiberras to raise the matter on the adjournment and remind him, as I always do, that there will be no vote at the end of the debate and that the time limit on matters raised on the adjournment is 40 minutes and that if he wishes to give a chance to Government to reply to any matters that he is going to raise in the debate he should bear this in mind and give Government some time to reply. The time is now exactly 11.25.

HON M XIBERRAS:

Mr Speaker, I am sure I had the sympathy of the House in asking for contributions to extend the debate on the Green Paper. I was waiting for the Hon Major Peliza to arrive. I am sure I do not have the sympathy of the House if I spend all 40 minutes talking which will enable the Hon and Gallant Major Peliza to make his contribution to the Adjournment Debate on the question of parking tickets. Now as a matter of fact the reason for his absence is that he had to go to hospital to take somebody there and that is a perfectly legitimate reason. However, Mr Speaker, the subject which I wish to bring to the notice of Hon Members is an important one and concerns the death in Gibraltar waters of the Roumanian Vergil Ionescu on which subject I asked a question and found myself dissatisfied or hardly satisfied with the reply that was given to me by the Hon and Learned the Attorney General. It is one of the obligations, I feel, of Hon Members of this House in matters concerning the freedom of the individual or concerning the welfare of individual cases, especially if they are as serious as the one of Ionescu, to bring them to the notice of the House. In this particular instance there is little to be gained for the ill-fated Ionescu since he has already met his death but there is apart from this an importance which all Hon Members I am sure will share in this motion, namely, the reputation of Gibraltar as a community that welcomes political refugees, a community that traditionally has been liberal with these, a community that prides itself on its freedom and which has not so very long ago by the Lord Thompson been described as a beacon of freedom on the Iberian Peninsula for many years. I do not thereby wish to assume that there has been any violation or any contradiction of this impression people have of Gibraltar in the treatment that Ionescu received at the hands of the local authorities but I do feel that there is sufficient doubt for the matter to be raised in the House to give Hon Members opposite an opportunity to clarify exactly what happened. When I say clarify I do not mean that the Hon and Learned the Attorney General's statement on the matter in reply to my question was not extensive. I thank him for that, it was an extensive and detailed statement and one may I say which did not conflict and had in fact many points of detailed similarity with the accounts that appeared both in Vox newspaper and in Panorama shortly after the incident took place. In fact the amount of detail which these two newspapers produced was quite extraordinary bearing in mind the fact that the matter was one of some delicacy and one which is normally shrouded with some mystery in my experience. Mr Speaker, I will not go through all the ins and outs of the case but there is first of all the very important question of who took the decision not to grant political asylum to Vergil Ionescu. We have heard in the House that this was dealt with entirely by the Police.



If that was the case I feel that it is a wrong procedure and one whereby any potential applicant for political asylum would not have his case weighed up fairly. It is a matter of political importance and even though we might get people who for different reasons apply for sanctuary in the name of political asylum and these must be sorted out from the genuine cases of political asylum, nevertheless there is always the danger that the application may be a genuine one, that the time available for its consideration is a very limited one if it is the case of a crew member of a crew in a ship such as this case was, and that the police in the normal execution of their duty would not have enough time or enough detachment of mind to be able to consider the case which could involve the life of the individual. I am not saying that this was the cause, I have no proof that this was the cause of the death of Ionescu, apparently by drowning, or that what happened at the Police Station in some way, though obviously not directly in the sense, was connected with those events in the Police Station the day before. But it is a fact that after this man had asked for political asylum, after he had been dealt with in a manner which I would describe as imprudent at least, after he was given 3 whiskys in order to in half an hour in order to contribute to an excuse for his getting back onto the ship without his being reprimanded, it is a fact that this man was found dead with a lifejacket round him next to the shore at the North Mole. These events are very close to each other in time and I feel that more information is necessary as to was it really the police who decided upon this matter and secondly, do the authorities in Gibraltar consider that the police's treatment of this petition was the correct one, if not, what can be done about the general procedure in the future. Mr Speaker, obviously no member of this House knew Vergil Ionescu, he was only 23 years old. It is said in the newspaper at least, that he and his mother were unhappy and they had tried in Rumania to change their residence before and they had not succeeded. If a newspaper can quote this information and this is not contested, then, surely, there was at least prima facie evidence that this man was in fact seeking political asylum. I am not saying that he was a political activist but merely one of those persons for whom life behind the iron curtain was distasteful for whatever reason. There must be hundreds of these cases in Eastern Germany. There must be a great deal of dissatisfaction as, no doubt, the Hon Member two removed from my left would agree, there would be people who are dissatisfied with the system in the West. But, nevertheless, Mr Speaker, it was not a case of political activism as far as I can say but of a man who had decided to make a break with that form of Government at some time. I could not discover if there were other complications, complications that sometimes arise on board a ship, complications of getting on with the rest of the crew, complications of a social character, these things do happen. But I would like to see some evidence why the petition for political asylum was turned down and whether the judgement was that Ionescu had a different problem, if that was the case, and that his petition for political asylum was simply an excuse to get away from his ship. I am not aware of the ins and outs of deciding upon these matters. The Hon and Learned Member opposite quoted a Convention, whose name for the moment eludes me, but the application of this Convention must be a very difficult matter with as many cases as one gets of political asylum. No doubt it is the case that in those incidents which generate a great deal of political heat then the decision allowed by the Convention is as liberal or as illiberal as needs to be in the interest of Government or the authorities. Hon Members will recall that this is not the only contentious case we have had of political asylum being sought and being turned down in recent times. Mr Speaker, I would like to hear from the Hon and Learned Attorney General what are the general rules for the granting of political asylum, what is the Government interpretation of the Convention he quoted to the House. I do not wish to encourage an influx of political refugees but we must of course bear in mind that Gibraltar has been something of a focal point for political refugees in the past, the civil war in Spain and so forth, and that these rules should therefore be well-defined. I am aware that this is a delicate matter, I am aware that one has to be cautious because there are other interests involved but it is our duty here in this House particularly from the Opposition to stress the rights of individuals in these matters. It is for the Government to defend decisions which at first sight appear to go against these rights and what I am doing is precisely this,

bringing to the notice of the House that there has been an apparent violation or turning down of a perfectly legitimate petition in respect of a basic human right. Mr Speaker, I do not know to what extent it is the police that has a right to turn down petitions of this nature, I do not know that it is not a matter for a high authority, I do not know whether it is the Attorney General who should decide upon these matters or the Deputy Governor or the Governor himself. I would like clarification of this, I would like clarification of the level of responsibility and I would like some evidence that these matters have been dealt with by the police in the past. My information is that these matters, generally, if there is time at all, are taken to higher authority than that of the Commissioner of Police because of the possible political implications that the case may give rise to. I do not know, Mr Speaker, whether elected Members have a say in these matters, especially in any matter which might put in doubt the good name of Gibraltar as a free community and a freedom loving community and I would welcome contributions from the other side to the effect that they do and would take an interest in these matters. I do not think it is a matter which should be abdicated into the hands of the non-elected members of the Gibraltar Government. I believe that all elected members of this House have a responsibility in this respect. Mr Speaker, I think I should end there and allow Hon Members, if they wish to make contributions, and the Hon and Learned Attorney General, to reply. May I just finish off by saying that Vergil Ionescu is dead, the circumstances were obviously tragic and that if this motion can contribute to a more fair seeming and more prudent approach to the problems of petitioners for political asylum then my purpose will have been well served. I ask the Hon and Learned the Attorney General to be as frank as he can with the House about the procedure.

HON CHIEF MINISTER:

Mr Speaker, though under the Constitution internal security is a reserved subject for the Governor and this would come direct to that part of the dichotomy we have here in Government, I think I would be failing in my duty if I didn't express a view not in respect of this particular case which has been raised but certainly my views and the views of my colleagues with regard to the question of political asylum because it affects the whole of Gibraltar and the good name of Gibraltar. I think Gibraltar has a name in history for having provided political asylum to all sorts of people. It was General Castanos who took refuge in Gibraltar running away from Napoleon and enabled them to rejoin the forces that eventually threw the French out of Spain. At the beginning of this century there were problems in Africa and a number of people were given refuge in Gibraltar and given rights to carry out their religious duties and so on. Nazi Germany provided us with a few refugees whom we were able to take even though our possibilities were small but some people did take refuge here from the Nazis. In 1931 when the Republic of Spain was declared we had all the right wingers coming out here and in 1936 we had all the left wingers when the Civil War was declared in this part of the world. Also other facilities were given not so long ago in respect of people who were seeking another place because where they were living they couldn't live and every facility was given despite certain difficulties. I have always said that Gibraltar has a proud record of being a haven of refuge for people who may be temporarily in trouble and from where they could go on somewhere else perhaps because of its strategic position and so on. The fact that Gibraltar should continue to have this reputation and that that reputation should not be damaged in any way is a matter on which I have expressed my own views to the Governor, not only in connection arising out of the report in the papers in this case but generally on matters that have come up from time to time. That is the view that we take about the matter. My own personal view is that it may be very difficult to establish who is a bona fide refugee and who may be a spy, if you want to put it that way. My own personal view is that perhaps we are not qualified here and we haven't got the security services here to get people through the grill to see whether they are bona fide or they are sent through but that doesn't make it less important to see that anybody who asks for refuge should be considered very seriously. It may well be that it has nothing to do in this case, the pity of it all is that we will never know.

HON J BOSSANO:

I understood in fact, the Hon and Learned Attorney General to say that the reason really why, I don't know whether I should say Comrade Ionescu or not, was refused political asylum was because he simply wanted to live somewhere else and was not being persecuted for his political beliefs. I think for example we have got not just hundreds we have got probably thousands of Moroccans who would prefer to live in Gibraltar because they think that living in Morocco is worse but that would not be an argument for giving them all political asylum because they may not like the political system in Morocco and Mr Ionescu might not have liked the political system in Roumania because it was a socialist system but and he might have preferred to live under a capitalist system which he thought might have been better for him personally, but as I understood that is not the situation which one would describe as requiring political asylum. I would say that in a case like this of a Roumanian, presumably if he has got valid entry documents to Gibraltar can settle in Gibraltar provided he gets a job and gets a work permit the same as any other nationality other than an EEC national, he doesn't have to have political asylum in order to do that. I think the criterion for political asylum must of necessity be where we depart from our normal immigration laws in order to provide sanctuary for somebody who is being persecuted. I am sure he is not the first person to drown, he might have drowned after having asked for political asylum but he is not the first person to have drowned in the vicinity of Gibraltar, Mr Speaker. What I find peculiar about the situation is that the Police having told him that on the basis of his story he did not qualify for political asylum because he was not in any danger, should then have given him whiskeys to give him a cover up to go back, that seems to be an inconsistency because if he was in no danger he should have been in no fear of going back to the ship without having to fabricate a story and there I would have thought, Mr Speaker, that there is an inconsistency which suggests that perhaps we don't know the whole truth about the matter. Certainly, if Mr Ionescu asked for political asylum because he was afraid to go back to the ship and if he was refused then I think we have been guilty of a criminal act and that should not have been allowed to happen and should not be allowed to happen at any time in the future.

HON MAJOR R J PELIZA:

Mr Speaker, going back now to the answers that were given earlier in this meeting, there were quite a number of points that I think needed clarification and perhaps the Hon and Learned Attorney General could do that subsequently when he answers the points raised by my Hon Friend. At the postmortem could he say the amount of alcohol in his blood? This would be rather interesting because I think it would lead us to the fact concerning the actual death of the individual, how soon after in fact, he had the drinks he was drowned. Also whether there were any signs of struggle such as bruises. Not that I think it is necessary to do that to drown an individual particularly if he is in a state of inebriation as it appears that this unfortunate person was. It is very simple for a number of people to get hold of an individual and put his head under water for a number of minutes for death to occur. I think there are lots of questions like that that need clarifying. I think it is the duty of this House since this happened within our jurisdiction that we should leave no stone unturned to find out whether there was foul play in this instance and if possible go a little bit further and see if there were any motives. No question of motive has been mentioned here. Why did this

man refuse to go on board? Isn't it fair to assume that an individual coming from such a country knew perfectly well of the consequences of simply applying to remain ashore and therefore isn't it fair to assume that an individual before taking such a step must have had a very, very good reason to do so. I fail to see why the whole matter was dismissed so lightly by the police whatever the guidelines. What was the demeanour of the individual at the time? No mention of that has been made either, not only what he said but in the manner that he said it and the attitude, generally, his physical strength or weakness at the time. All those points I think have been gone over very quickly and we have heard the Attorney General explain all those points which I think should have been forthcoming even without asking. Mr Speaker, I am very concerned about this matter. I do not believe that the matter should rest as it is. I believe that the police should pursue the matter further and try and find out all the necessary points to make it clear beyond any reasonable doubt, which I don't think at the moment that is the position reached, that this was accidental and if it was not accidental then I think there is a big question mark. Isn't it strange that the individual should drown with a life belt on? What is the **propensity** of an individual who wants to swim across the bay, let us suppose that that is what he wanted to do, and again that is a sign that there must have been a very good reason because after he was refused asylum in Gibraltar then he took it upon himself if necessary to risk his life to get away from the ship. All this I think are pointers that it was not a simple question of an individual saying: "I want to have a holiday in Gibraltar". It was much more than that, obviously, and therefore I think that it is not proper that the matter should be left to rest as it is at present.

MR SPEAKER:

There are 13 minutes left. If there are no other contributors I think the Hon and Learned the Attorney General should be given a chance to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, the first thing I would say is that a transcript of this motion, I can undertake, will be given to His Excellency the Governor who I am sure will give very great consideration to what has been said in the House. There has been talk of Ionescu asking for political asylum. I don't want to be accused of playing about with words but political asylum does not mean merely saying "I want to live in Gibraltar, I don't want to live in Rumania", or, "I want to live in Spain, I don't want to live in Gibraltar." Political asylum is an accepted term for a person who goes to another country because either his life or his freedom is in danger in his own country. That is the accepted criteria in the Refugees Convention which I mentioned and, of course, it also appears in our Immigration Ordinance which talks about a person "who seeks asylum in Gibraltar to escape arrest by a foreign government for any political offence." In those cases it is quite clearly laid down in the Ordinance that the matter must be referred to the Governor. But until there is a suggestion that that is why the person is wishing to come to Gibraltar the question of political asylum does not arise. In this particular case I inadvertently misled the House on Tuesday. The matter was reported to the Deputy Governor by the Chief Inspector concerned who said: "This man is here I am satisfied he does not come within the guidelines." That was a report. That was done. It was done before Ionescu returned to his ship. I think, understandably, these matters have got to be dealt with on an ad hoc basis. My understanding is that if there is any suspicion that it might be political asylum then, of course, the matter will be referred to the Governor. But in the everyday run-of-the-mill, when I say everyday I accept that it doesn't happen everyday, the normal case, unless there are some grounds for showing that it is political asylum which is being sought when a person merely comes and says: "I wish to stay in Gibraltar," then the Immigration Officer has to decide whether or not this will be granted. I accept also that in this particular case there was of course the fact that the man was a seaman, if a long time was spent on

deciding whether or not he could stay his ship would have gone and then of course we would be faced with the problem of repatriation. I accept we are dealing with human lives but there was of course no reason to suspect at all that anything would happen to this man because his wish to stay here had been refused. Turning to the points raised by the Hon and Gallant Major, I do not think the alcohol in the blood was tested, the postmortem was carried out by the Government pathologist, there was as far as I am aware no reason for him to do so. But his report did not show bruises on the body and it merely was death by drowning, asphyxia due to drowning.

HON M XIBERRAS:

If the Hon Member will give way Mr Speaker. Is there a transcript of the inquest available or is a report on the Coroner's inquest available?

HON ATTORNEY GENERAL:

There may well be. The Hon Leader of the Opposition raised the point, why was it necessary to give him whisky if he was in no danger. I think the short answer to that is that he had to provide some story as to why he was late back to the ship. He could, I imagine, have incurred possible displeasure if he told his captain: "I was asking to stay in Gibraltar". He would probably have incurred more displeasure that way than if he merely said: "I went on the booze." I am not quite sure what the Roumanian equivalent for that expression is. But it follows, of course, that if you could say: "Merely by asking to stay then I get into trouble, I am in danger if that comes out," it would mean automatically that anybody for no reason at all could claim that he was going to be in danger merely by reason of having asked. I don't think there is anything more I can add on this but in any event this whole motion will be communicated to His Excellency the Governor.

MR SPEAKER:

The second Member who gave notice that he wished to raise a matter on the adjournment was the Hon and Gallant Major Peliza.

HON MAJOR R J PELIZA:

Mr Speaker, as you know one of the problems that have been facing the car owners in Gibraltar and also the general public is that of finding sufficient space in the small area of Gibraltar for the large numbers of cars that circulate our streets. I think that the Government have never really faced the problem with a plan to try and resolve it if not in one go at least in stages but we have heard nothing of this, nothing at least that is leading to some conclusive finality but a haphazard effort here and there patching up which if anything I think in some cases tend to make things worse. It appears that whoever is in charge of organising circulation and parking in Gibraltar seems to suddenly decide that in certain areas of Gibraltar there will be no parking. We have an instance coming down Engineer Lane where they decided to have a pavement on the right side of the road. But no provisions were made to find parking space for the cars that usually found themselves parked in that area. We have another instance, Main Street, where it was decided to have one-way traffic and again I think there was no provision. I know they are going to blame a Government that was here 7 years ago, I know that, but that is not the answer.

MR SPEAKER:

Main Street has always been one-way.

HON MAJOR R J PELIZA:

Yes, I am sorry, it was pedestrianised, I beg your pardon. And again I think, although I am glad to say at that stage we did cover up, nothing has been done really to try and increase the parking spaces there were before and would have been there before if the parking that we made for these cars leaving Main Street, the parking had been made whether or not those cars had left Main Street. And so we go haphazardly patching here, patching there but no overall plan in the short or long term to do this systematically and try if not to overcome it at least to minimise it. They think that purely and simply by imposing more fines that is going to be the solution. It might be a way of finding a surplus in our Estimates at the end of the year by the amount of money that the police is collecting now from parking tickets, that may solve our economic problem, but it is not going to solve the parking problem by any manner of means. All this was anticipated very clearly by Members on this side of the House because we kept saying it, it isn't something new that we are coming out with now. It was by the Government at the time everything was going to be fine and that the police was going to be extremely discreet about the use of the parking tickets. An undertaking was given in this House that that would not be abused and it was stated in this House more than once during the debate that would only go for those who cause obstruction. However instead we find the toughest attitude from the police force in that respect, an attitude I think we would only find in a police state. I think it is the system because after all if there is no parking and the poor chap has got to enforce the law he has no option but to come along and slap a ticket on you whatever may have been said in this House before that. Now, what happened before that? What happened

before was that it was not so easy to find an individual and the very fact that it was more difficult made the whole thing more practical. It made the whole system much more practical in that the policeman had to take the fellow to court. Perhaps the Minister for Housing and Sport is better able to tell us about the system that was in operation before. All I know is that that same Minister was very keen in having a Watch Committee which I think is probably time we had, perhaps not in every sense but in this connection perhaps the Minister should give it some thought. I think it is time that this House had a say over the police in affairs to do with things like traffic and other matters which has nothing to do with security, it is purely municipal, and I think at least this House should have a say on those matters and if this House cannot have a say at least there should be a Watch Committee who would look after these affairs. We have instances like Irish Town, where most of the traders in the area who have got to use the area for parking their vans and cars which is a necessity find that if they leave their car there for 5 minutes when they come out they find a parking ticket and here I have in my briefcase a petition from all the traders in the area which was forwarded to the Transport Commission and nothing has been heard about it since. I think I should produce it at least to tell you the date, I have a copy.

MR SPEAKER:

The 40 minutes are running out.

HON MAJOR R J PELIZA:

I better leave it then. Anyway, that is a fact. We have another instance where there was some celebration at St Joseph's Church and I think it took place at about 7 o'clock in the evening and when all the people who attended the celebrations came out they found that all their cars had parking tickets on them. That is not even done in London where the traffic is much greater. After 6 o'clock one can go anywhere in central London and you will find cars parked even over the pavements. It is accepted simply because the car parking available in the area is not sufficient to cater obviously for the number of people who move into that area perhaps at night for dining and other purposes. I won't say what the other purposes are. I think that if that can happen there and there is no problem with fire brigade tenders going through or anything like that, this is obviously where common sense comes in and this is where in cases of obstruction, this is where I think the law must come down like a ton of bricks. But what I say is don't penalise the individual who has no option in Gibraltar other than perhaps to park for 5 minutes in one place, go out, do whatever business he has got to do, come down, and away. That I think is going too far but that is happening and it isn't happening I think because the policeman wants to do it but because he has got to do it. These are the instructions he gets, this is what he has got to do. Mr Speaker, I think that people in Gibraltar, generally, are complaining about the present attitude with regard to parking. I think every reasonable person understands that this business of parking can be abused and I think anyone who really abuses it usually if he is fined accepts it. He knows he did something wrong and he expects a punishment and usually he can take it. But I think by and large when it is something which doesn't make sense then it is absurd precisely because we have so little

room in Gibraltar. If the Chief Minister says "no" I would like him to investigate this to find out from the petitioners who have sent the petition to the Transport Commission and perhaps get it from the horse's mouth. Then he will find that what I have said is true and that I am not exaggerating. If I am proved wrong then let him come here and say so but that is the situation today and that is one instance, Mr Speaker, I have said more than enough. I hope that this has not fallen on deaf ears and that something will come of this except that I would say that this is not going to solve the parking problem of Gibraltar. I think the Government must grasp the nettle and do something definite and constructive for the future in this respect not just assume that because you solve the parking ticket problem you have solved the parking problem of Gibraltar which might be the case with this Government.

HON M XIBERRAS:

Mr Speaker, I disagree entirely with my Hon and Gallant Friend's suggestion that even in bad offences that fines should go up to £40. I think that would be draconian and I cannot support that but I can support everything else that he said. My main concern is not with the parking problem of Gibraltar, my main concern is with the use of the Ordinance which gives the police powers to use parking tickets, an Ordinance that was amply debated in this House and which Hon Members on this side made it quite clear that they were very reluctantly supporting the Ordinance only because certain assurances were given that the parking ticket would be used for the serious cases of parking and cases of obstruction. It was my Hon and Learned Friend the Attorney-General who gave these assurances and others besides and it is a matter of great regret that the Hon and Learned Member has not been able to monitor the proceedings in the department for which he is responsible to this House and should have allowed an increase of some mammoth percentage in the use of parking tickets. I have torn up the paper which I had, and I don't remember the number.

MR SPEAKER:

It was 2000.

HON M XIBERRAS:

Thank you very much, Mr Speaker, 2000, roughly, for a year and 2000 now for about four months. What a tremendous increase, Mr Speaker. Isn't it a fact that these parking tickets are issued to policemen? Isn't it a fact that there is an Inspector of Traffic and isn't it a fact that the Commissioner of Police and the Hon Learned Member is aware that this was a sensitive issue in the House? Isn't the Hon and Learned the Attorney-General aware that even members of the Government expressed their displeasure when this Bill went through? Isn't the Hon and Learned Member aware that not everybody in Gibraltar is convinced about the desirability of giving the police these powers in any case? And isn't the Hon and Learned Member aware that this can do a great deal of harm, the over abuse, not in the legal sense but in the sense of frequency of the parking ticket, that this can give rise to a great annoyance and not so good relations between police and motorists which I think are always desirable. I have not got a petition in my bag, Mr Speaker, but I can give the Hon and Learned Member a list of people and several cases where there has been not a shadow of a



doubt that it was not a question of obstruction but a simple question of parking, parking for three minutes and five minutes, Mr Speaker, I was involved in two of these cases myself and I know people who work with me to the number of about ten where parking tickets was stuck quite indiscriminately. Wasn't it said, Mr Speaker, in the House that this parking ticket would not be used unless the motorist could not be found. In other words, that the policeman would in the normal exercise of his duty try, to report the driver and if he couldn't find the driver then he would make use of his parking ticket. Wasn't it said in this House, Mr Speaker? Why is it that the policeman comes down and quite indiscriminately and apparently by area slaps down one parking ticket after another? My Hon and Gallant Friend has mentioned one area. I will give the Attorney-General another example, Line Wall Road, on one occasion. I saw it, there were four cars parked there, people talking in offices, the policeman comes along, slaps on the parking ticket even within view of the driver, a known driver. That is not the purpose which the House gave the police powers to use parking tickets. I thought we were going to do away with the pressure on the Court, that there would not be so many applications to the Court. I hope that the Courts are not overworked but certainly I am not prepared to stand idly and watch undertakings given in this House being broken in such a flagrant manner. Now, Mr Speaker, what can the Hon and Learned Member do about it? What assurances can he give this House? Can he tell us that the Commissioner of Police was aware that this was happening, this great increase in the rate of use of parking ticket? I am sure the Hon and Learned Member will be full of good explanations. I am sure Hon Members will be listening to him with great attention. May I just say a few words about the Minister for traffic. Surely, Mr Speaker, the Minister for Traffic has a very great interest in these matters and he will bring this to the notice of the Traffic Commission and I am sure the Traffic Commission, when it reads the transcript of the debate on the Bill which took place in this House, will redouble its efforts to keep a watchful eye on the way the parking ticket is being used. Mr Speaker, I have great pleasure in supporting the words of my Hon and Gallant Friend.

HON P J ISOLA

Mr Speaker, the petition from Irish Town has been handed to me and there are some very distinguished names on it including that of a notable Notary Public in the area who also apparently feels strongly on the subject. I don't think I have to read the petition, the people who signed believe that there is room for parking in Irish Town and I think we would all agree with that one and that they should be allowed to park in Irish Town. I think it shows the feeling there is in Gibraltar on this sensitive subject of parking. I would observe, Mr Speaker, that I am all in favour of having a "Watch the Dog" Committee, apart from a Watch Committee because I think there are many more stray dogs around in Gibraltar than there are cars almost and I think police time would be better employed or could be better employed in prosecuting offenders with regard to dogs without muzzles, without licence, running around the place fouling the streets and so forth and people who leave out rubbish outside their places and don't care about it, and put everybody subject to disease and so forth. I think they would be much better employed. I see policemen going past while all these offences are being committed and then they go down Irish Town and they put tickets on every car. That is an easy job. Why don't they tackle difficult jobs and jobs that I think are of better value to the community? Mr Speaker, having said all that I just want to say very quickly, I think it is very, very bad indeed and I think it is something that calls for public explanation that undertakings given in this House as to how a particular law is going to be administered are not observed. We were told yesterday on rating, for example, we were told that this form of rating is not going to be used except for undeveloped property or under-developed property. What value can one put on these undertakings when other undertakings

given in the House are not observed, Mr Speaker? I think it is obvious the undertaking is not being observed. If they put in four months more tickets than in one year the undertaking is not being observed because obviously the people of Gibraltar, those who commit the parking offences, haven't suddenly trebled and quadrupled in Gibraltar. The parking situation, the situation of cars in Gibraltar must be exactly the same in 1977 as it was in 1976 so all that is happening is that the Commissioner of Police or somebody else has suddenly decided that they are going to administer the law on parking tickets as they think it should be administered and not as the Government has publicly stated in this House it should be administered and I think that is the most serious accusation that requires answer and should be answered. The only other point I would make on the question of parking, Mr Speaker, is it is a problem that has to be tackled. I do not believe we are ever going to make any progress on parking until the House decides and agrees that parking is something that should be paid for. Until people have to pay for where they leave their cars, not by way of fines but by way of parking fees, until you get that situation you will not get people building car parks and you will not sort or solve the problem that we are faced with. But there is no way of solving it Mr Speaker by happy-go-lucky stick-as-you-please parking ticket policemen. That is not going to solve our problem and is going to bring very poor relations between the Public and the police. I think the relationship is fairly good except in certain areas. I think it is fairly good and I think it would be a great pity if people began to grow resentful of the Police Force because of this sort of happy-go-lucky attitude to parking tickets.

#### HON ATTORNEY GENERAL

Mr Speaker, if there is criticism about parking in Gibraltar it surely must be that there are too many restrictions on parking. If the law is broken then surely the law must be enforced. I would remind Members that before we introduced parking tickets we didn't create a new offence we merely created a new shorter method of stopping people parking where the law had said "you shall not park". Why, because one introduces a new method, can that be wrong? Anything which could be done before could be dealt with in two ways, either the policeman could wait for the driver and we had ample evidence that a driver seeing a policeman waiting round his car would not come back to his car, the policeman therefore had to wait wasting his time when he could have been on the beat doing a normal policeman's job. Or the summons could be sent through the post. Again that entailed a lot of time and so we introduced this form of parking ticket. There is no question of easing the pressure on the Court. It was never suggested. There still is the fixed penalty which existed before parking tickets were brought in and existed after parking tickets were brought in. If a person gets a parking ticket and objects then he doesn't pay the fixed penalty, he can go to court. Why, it is said, are the police issuing more tickets? What is it suggested, that they pick one man in ten? I could at least understand people being extremely annoyed if you happen to be the tenth unlucky man. Surely, they must administer this without discrimination. By all means, relax your parking, do that, less restrictions. Let us say Irish Town, the Hon and Gallant Member has said the residents have said there is no need for restrictions in Irish Town. Right, let them be taken if the people can park there. If there is a breach why should the police turn a blind eye? How do they know whether a car has only been there for five minutes. The police office comes along, sees a car parked in violation of the law, is he to decide; "Well, this has only been here probably five minutes therefore I will not issue a ticket". Surely he must do so and, if necessary, if the person objects, if they think they have been unfairly treated, they can go to court and when the charge is heard they can put their point to the Magistrate.

HON P J ISOLA

Could the Hon and Learned Attorney-General give way for one moment. Could I ask, shouldn't these sort of thoughts have been taken into account when the undertakings were given in the House. Why weren't all these considerations applicable then?

HON ATTORNEY-GENERAL

I accept that it was said in the House that the tickets would be used mainly in cases of obstruction but it is quite clear, of course, as Hon Members will recall from the terms of the legislation itself, that it can be had for offences connected with lights, parking or obstruction. I am informed, though I agree that people have said differently, by the Commissioner of Police that in virtually every case there is an element of obstruction. This must be so because if it is necessary to impose restrictions on parking surely that must be because if a car is parked in that particular place it is going to cause obstruction. It might be an Hon Member going to buy cakes and the car, without any particular criticism, was parked and it did cause obstruction, some kind of obstruction otherwise if there was no obstruction there wouldn't have been any need to impose a parking law. I feel very strongly on this and I could go on at length but I know the Hon Minister for Housing and Sport wishes to say something so I will sit down.

HON H J ZAMMITT

Mr Speaker, I must say in all sincerity that there are a tremendous amount of things that I agree with which have been said by the three members opposite. In fact, because of my views on this matter and my responsibility, not as Minister for Traffic but with traffic responsibilities, I have brought to the attention of my colleagues and as answered in reply to a question we did say that the whole parking ticket situation was under review in honour of the commitment which we had with this House that it would be reviewed in time. Mr Speaker, the Hon Major Peliza has, of course, brought in, rightly so, I think, the general concept of the total parking problem in Gibraltar not exclusively the parking ticket but, of course, one has to look at the whole situation one way or the other and I think the parking ticket and parking generally are, of course, very much linked. I would like to say, Mr Speaker, that there are many things in Gibraltar with regard to parking that are cause for concern and I think, in disagreeing with the Hon Major Peliza, that we have not rested on our laurels and done nothing about it. We have, Mr Speaker, provided in an area up at the hospital, which is an area which is very much picked upon by the police at a time I think the police force should least attack it, we have provided I think eighty parking places up at Arengo's Palace and at the moment, as Members know, we have agreed to open the shelter at Flat Bastion Road for a further eighty-plus cars. We do of course see there is a traffic problem but I don't think this Government can be accused of taking absolutely no action. I can say, Mr Speaker, that I have brought a number of problems to the Commissioner of Police regarding the parking tickets. I have experienced something personally. I get parking tickets too, Mr Speaker. The other thing I would like to tell the Hon Major Peliza is that he mentioned Engineer Lane. Well, Engineer Lane Was always a no parking area. If cars are allowed to stay that is possibly where one can accuse the police force of having tolerated offences and now plunging full ahead into it, that I agree.

HON MAJOR R J PELIZA

I think that could be overcome by having time limits, say, 30/40 minutes. That would allow people to go there do the business and out again.

HON H J ZAMMITT

I do not agree with that, Mr Speaker. In fact, Members of the House will recall that there was a time when the bottom part of Main Street was a 30-minute waiting, but there again as the Hon and Learned Attorney-General has said it would require an officer having to wait there permanently for 30 minutes to ensure that an offence has, in fact, been committed. The whole situation evolves and I must say that I agree entirely that the parking ticket is being abused and I say abused by the system that is being adopted and this is exactly why I think the whole thing requires a complete revision. Having been, and I say this with a certain amount of pride, a policeman for 20 years and may I say I wasn't very concerned with traffic I was more on the Ionescu side, that parking is a tremendous problem but I do agree, Mr Speaker, that there are areas that are taken and like Members on this side of the House have asked why somebody all of a sudden considers that a yellow line should be painted and probably a little more concern should be given into what areas are or ought to be declared "no waiting" or "no parking" when there is a possibility of an obstruction but I agree with the Hon Major Peliza and with the Hon Mr Xiberras that there are places in Irish Town that can well take a vehicle and cause no obstruction and I agree equally that it is wrong for a policeman or woman just to walk down Irish Town and slap tickets as they please. Now, Mr Speaker, I have brought this to the attention of my colleagues. I have brought it to the attention of the Commissioner of Police because there have been instances particularly in the area of the hospital where the Police Barracks are situated, that a row of cars have been plastered with tickets except two vehicles and it has been brought to my attention by members of the public, I have checked and, regrettably, it was found that those two vehicles belonged to police officers. This was brought to the notice of the Commissioner and there were certain excuses. However, Mr Speaker, I must say that the parking ticket situation derived from England and this is where I have always felt very strongly about it. It really began in London when it was found that all businessmen coming into the city had nowhere to park and basically all the roads in London were paralysed through parking. It was done because the prosecution or the method of bringing offenders to justice was very cumbersome and time consuming and then the traffic wardens were brought in for the whole set up. It is a different situation in Gibraltar completely, Mr Speaker, because where I disagree with the Hon and Learned Attorney-General is that a policeman does not have to wait for a car owner to return or the driver to return. A police officer in Gibraltar who is worth his salt or her salt invariably knows what car belongs to whom and where and, if not, there are radio communications with the station that has the registered owner of a car close at hand and that person can be called and reported, if necessary. Mr Speaker, the other situation is that in London or in England, should I say, 67% of the parking tickets issued are never paid. In fact, it is found by the administration that it is more expensive to chase Mr Brown in Aberdeen than to bring him back to justice in London, so they scrap it. But in Gibraltar you cannot scrap any, we are here, so therefore the moment you get a parking ticket you are lumbered with it. So Mr Speaker, it is a different set up and of course I would look at the parking tickets and I would go <sup>to</sup> the £10 limit with my Hon Friend Major Peliza if we provided parking spaces, but we do not provide parking spaces.

HON M XIBERRAS

If the Hon Member would give way, I would like to refer the Hon Mr Zammitt to page 90 of Hansard of the date which I shall give the House in a minute and which the Attorney-General - this was during the debate on the Bill - where he said:

"Now, if a policeman should start to be officious and of course this would soon become known to his superiors, if he should start as has been suggested, slapping on parking tickets when, in fact, a car though illegally parked, is not really causing any particular trouble or inconvenience, then I would have thought that he would fairly quickly be told; "Look, technically you were right but do not exacerbate relationships. There was no need, in this particular case, to serve a ticket," and I generally consider that the police will do all they can and they can do a lot to avoid any feeling on the part of the public that the jackboot is being imposed."

HON H J ZAMMITT

Mr Speaker, I must rush this through because I agree and this is exactly why it has been brought up in Council of Ministers for consideration of the Members of the Honourable House. We agreed that it would be used mainly for the double parking and for the causing of obstruction and in my modest judgement it is being abused. This is one of the cases which will have to be ironed out, Mr Speaker, purely because of the recent inflation on parking tickets that has really brought this to mind but I assure you my colleagues will bear me out that I have been bringing the question of parking tickets up quite frequently because of the commitment we had to the House as stated. Mr Speaker, what I would say in favour of the police is that this Commissioner was not here at the time when this was passed. I have spoken to the Commissioner about this, he says "Yes, it is quite true but, in fact, how can I tell a policeman not to do his duty." We cannot tell the Commissioner how to instruct his constables to do their duty but I can say this, Mr Speaker, I have very good grounds to know that the parking situation is being, shall I say, refined within the police force at the moment and waiting upon our ultimate decision in this House I am sure we will find that the rate of inflation may be slowed down.

The adjournment of the House sine die was taken at 12.35 pm on Thursday the 19th May, 1977.