

HOUSE OF ASSEMBLY

HANSARD  
OF MEETING

HELD ON 24 JUNE 1977

OFFICE COPY.

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixth Meeting of the First Session of the Third House of Assembly held in the Assembly Chamber on Friday the 24th June, 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 Zammitt - 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 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

ABSENT:

The Hon J K Havers OBE, QC, - Attorney-General  
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 17th May, 1977, having been previously circulated, were taken as read and confirmed.



HON CHIEF MINISTER:

Mr Speaker, I beg to move under Standing Order 7(3) that the House should proceed with the motion in my name on the question of the Freedom of the City to the Congregation of Christian Brothers. I did put all Members on notice that the more mundane side of the agenda would be dealt with on a subsequent date and because of the events that are to take place early next month that this part of the Agenda should be taken now and I hope that Members support this.

Mr Speaker proposed the question in the terms of the Hon Chief Minister's motion.

HON J BOSSANO:

Mr Speaker, let me say first that I support the change in the Order Paper so that we can take this motion now and, secondly, that I had indicated to the Chief Minister that it was my intention to seek as well to take on this occasion the motion regarding the employment policy of the MOD of which I have given notice. Members will be aware that subsequent to my letter to His Excellency the Governor, I have had a reply which has been made public restating the assurances that were obtained in the House in March 1976 and informing me that the procedure that was originally set in motion which was in fact to have culminated today since today was the original closing date for the applications and had that gone unchanged it would have meant that today that post would have been closed to Gibraltarians. That is no longer the case, the post will remain open and it will be possible for local girls to apply for this job which is of a secretarial nature. In the circumstances I feel that there is no need now to proceed with the motion of which I have given notice and not only will I not be making use of this occasion but, in fact, I will not be moving the motion either on the 12th July.

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

HON CHIEF MINISTER:

Mr Speaker,

It is with great pleasure that I move the motion standing in my name which reads -

"That the Honorary Freedom of the City should be conferred upon the Congregation of Christian Brothers in recognition of their work for Gibraltar during a period of over 100 years and as an expression of the deep appreciation and warmest gratitude of the people of Gibraltar."

Mr Speaker, the statutory provision for the conferment of the Freedom of the City was originally contained in the City Council Ordinance and, on the merger of the City Council and the then Legislative Council, was transferred to the Government. The wording of the relevant section is that the Council, now the Government, "may .....admit to the honorary freemen of the City persons of distinction and any persons who have rendered eminent services to the City."

I have quoted the statutory provision because, in my view, and, I am confident, in the view of the great majority of Gibraltarians, the description is so very apt. We know that many members of the Congregation who have served in Gibraltar can most justly be described as "persons of distinction". But perhaps the more general - and perhaps also the more deserving-qualification, of "persons who have rendered eminent services to the City", is even more appropriate.

We are not talking here merely of persons of distinction. We are talking as well of persons who have rendered eminent services to the City of a particularly profound and far-reaching nature. These eminent services have been given primarily in the field of education. Education is a word which few of us would lightly attempt to define but, if we cannot find the words which adequately express what we mean by it and, at the same time, hope to get others to agree with them, I am sure that we all accept, at least, its tremendous importance for the individuals and for society alike.

As to individuals, each man must speak for himself. As far as I am concerned at every important stage in my life, both professional and political, I have publicly expressed my gratitude to the Brothers for everything they taught me. I have the happiest recollection of my school days and, of my teachers.

As far as society as a whole is concerned, I have been in the privileged position, for over 30 years, of being deeply involved in the political and social development of our community. I have no hesitation in saying that Gibraltar's society owes a great debt to the Christian Brothers for the major part they have played in the formulation of our society and in teaching us the values which today, in a world of turmoil and unrest, still enable us, by and large, to continue to live in a comparatively stable, moral, civilised and sensible way.

As the House will be aware, a Committee is raising funds to commemorate the work of the Brothers in Gibraltar. I should like to say a few words about this. The fund-raising campaign is being run under the patronage of His Lordship the Bishop, the Deputy Governor, the Leader of the Opposition and myself. In consultation with Brother Provincial and the Committee, it has been decided that the total amount collected from contributions by individual members of the public, by firms and by organisations should be used for two purposes. On the one hand, it is the mutual wish of the Congregation and ourselves that a part of the fund should be used for Gibraltar's benefit. This will be achieved by establishing an "Edmund Rice Scholarship" for Gibraltar to enable teachers and others to be sent on religious education courses on a pro rata interdenominational basis as well as refresh courses in other subjects. The remainder of the fund will be put to such use as the

Committee might agree with the Brothers, Gibraltar being suitably commemorated there.

The Government will invite the House to contribute a substantial grant to the fund in particular recognition of the services which the Brothers have given to education, not just in the post-war years which we can all remember but in the much more difficult years of the last century and pre-war 20th century when little was cared by those in command about the education of the people of Gibraltar.

We are all, I think, familiar enough with the work of the Brothers in our own lifetimes but I think it is true to say that less is known, generally speaking, of their earlier years here, of the origins and foundation of the Congregation and of the fact that Gibraltar became the first overseas mission when two Brothers were sent out in 1835, only 15 years after the foundation in Ireland and only 10 years after the first school was opened in England. A brief historical account of these matters is contained in a booklet being published this afternoon which also contains a programme of the events which have been organised for the farewell to the Brothers. Essential among these is the ceremony of the unveiling, which I have been asked to conduct next week, of a permanent and public memorial to the Brothers. At the same time I shall present to Brother Provincial a miniature of the memorial which they will take with them as a memento of their long stay amongst us.

I am informed that the fund-raising campaign is going well. I am not surprised, not just because, as I think, our community is a generous one but because, on this particular occasion, there is a debt of gratitude to be paid and our "amor proprio" requires that it be paid as well as it can. I have, however, maintained from the beginning of this campaign that the sort of debt we owe cannot be paid in monetary terms, but just as a gesture.

It is for this reason that I must earnestly commend my motion to the House. If the Freedom of the City is the highest honour that it is within our power to confer, then let us confer it on the Christian Brothers. It is perhaps this, more than any more material expression, that carries the most sentiment, the most meaning, the most gratitude.

Mr Speaker, this is one of those very rare occasions on which I can speak without, I think, incurring dissent. In moving the conferment of the freedom of our City I am trying to express, on behalf of the people of Gibraltar, our thanks for a hundred years of service, with all that that means. I am confident that the whole of Gibraltar public opinion, as represented in this House, will support this motion. May I end by expressing the hope that this grateful, but sad farewell may not be the end of our historic association with the Brothers, but that, apart from the continuing link established by the two different forms of scholarship, they will always regard Gibraltar as a second home where they have many friends and where they will be individually and collectively welcome. Mr Speaker, I beg to move.

Mr Speaker then proposed the question in the terms of the Hon Chief Minister's motion.

HON J BOSSANO:

Mr Speaker, the Hon and Learned the Chief Minister is of course absolutely right in thinking that he runs no risk of finding opposition to the motion. I myself had some doubts about the value of conferring the Freedom of the City to the Christian Brothers



since I had previously thought of it as something in a military context which didn't quite seem to fit but I have had it since explained to me that in fact it is purely accidental that we tend to expect to see those who have been given the Freedom of the City marching up and down Main Street with fixed bayonets, it doesn't necessarily have to be done. There is one very important thing which the Hon and Learned Chief Minister did not mention, I think, in all the other things that he did mention about our relationship with the Christian Brothers and that is that there is at a personal level throughout Gibraltar amongst all those generations that have passed through the hands of the Christian Brothers, a great deal of personal affection because however happy or unhappy our memories might be of the treatment we had at the hands of Christian Brothers - and I can vividly still remember the strap - I think when those days go by and one grows up I think one can also recall the things that were not so obvious at the time and that is the interest and the affection and the total commitment that the Christian Brothers put into looking after their charges which I think certainly transcended simple dedication to one's job and profession. There was an interest in the welfare of the pupil and in the welfare of the family and perhaps the over zealousness spilled over into use of the strap more often than one would have liked in those days but I think looking back what remains in one's memory is an affection for a figure that one can remember always being there and always being concerned about the welfare of their charges and that can never be rubbed out whatever changes take place in the world in which we live. I think that as a sign of the affection that many hundreds of Gibraltarians who have been pupils of Christian Brothers feel for them I think the Freedom of the City should also be seen in that light.

HON A J CANEPA:

Mr Speaker, it is with a deep sense of humility that I rise in order to associate myself both with the motion and with the sentiments of the Chief Minister and the Leader of the Opposition. The debt which I personally owe to the Christian Brothers is a very considerable one, not only for the six or seven years during which I was a pupil in the grammar school, and I was guided by very many excellent teachers who took such a close interest in one's educational development in the fullest sense of the word, both moral and spiritual apart from academic, but I also owe a very considerable debt of gratitude to them and in particular to the two Headteachers under whom I had the honour to serve for about 10 years in the Grammar School for the guidance that they gave me as a teacher, for the help and support and advice that they were always willing to tender. I think that it is true to say that in the Reverend Brother D'Arcy and Brother O'Sullivan one found understanding and support in the problems that one encountered as a member of the staff. My personal involvement with the Christian Brothers, Mr Speaker, is a very considerable one. I think at least half the years of my life have been spent in the Gibraltar Grammar School and it is an episode, a chapter in my life, that I value enormously. There is no doubt in my mind that the happiest years of my life so far were the seven years that I spent in the Grammar School as a pupil. I can look back on those years with great satisfaction, there are colleagues of mine here like Dr Reggie Valerino, we went to school together in the Grammar School and I am sure that he will echo what I say that they were very, very happy years and I am very grateful to the Brothers for making those years very happy ones.



The Brothers, Mr Speaker, have become an institution in Gibraltar both collectively and individually. It is amazing to see members of the older generation talking about Brothers who taught them 40, 50 and 60 years ago and remembering them as if those events had taken place very recently and it was gratifying to see the response that there was to the exhibition in John Mackintosh Hall in particular from the older members of the community and I was able to follow that very closely because my Director of Labour and Social Security was very intimately involved in putting up the exhibition and I was able to see the number of people that came in to his office in the Department of Labour bringing photographs and showing an enormous interest and enthusiasm in this exhibition. The Chief Minister spoke earlier about the inadequacy of our ability to attempt in any way to settle the debt of gratitude that we owe the Christian Brothers. Undoubtedly, Mr Speaker, it is impossible to do that. Perhaps the biggest thank you that we can give is to ensure each in our own way that the work of the Christian Brothers will continue in some form or other, that the effect of that work will be seen in Gibraltar for very many generations to come. There is evidence here in the House this morning amongst the elected Members of the success of the mission of the Christian Brothers.....

MR SPEAKER:

And the Speaker.

HON A J CANEPA:

And probably the Clerk of the House. I have often heard Brother Foley say that when the Brothers returned to Gibraltar after the War and the system of education was put on a much more formal footing and on a statutory footing, that the Brothers considered that their path was to bring the Gibraltarians maturity, to ensure that the Gibraltarians would be able to occupy leading positions of authority, of trust and of responsibility in the administration of Gibraltar, in the Civil Service, in our public life and certainly not least of all in our teaching profession. I think that they have succeeded in accomplishing that path very, very successfully in a very great measure, not the least of all in the quality of the teaching profession that we have in Gibraltar today which I am sure is going to be the guarantee that the work of the Brothers continues to bear good fruit. I think next week, Mr Speaker, is going to be a wonderful opportunity for very many of us to renew acquaintances with so many of our friends amongst the Christian Brothers that are returning here. It is in a way obviously sad that it should be prior to a farewell that they are returning but nevertheless the opportunity is one that one welcomes. I wish to place my very sincere thanks on the record of the House for everything that the Christian Brothers have done for me personally, for everything that they have done for the people of Gibraltar and I wish the Order wherever it may continue to do its great work every success and God's blessing in every way.

HON M XIBERRAS:

Mr Speaker, it is not given to everybody, as has happened not far from this place, to make an ex-teacher a Speaker of the House, but the least one can do as an ex-pupil of the Christian Brothers is to support this motion. I refer of course, Mr Speaker, to the royal dignitary in the neighbouring country and the Speaker who has just resigned in the House. Therefore I feel with some sense of gratitude that I am doing no more than other people would have done in supporting this motion. I wish to associate myself with the thoughts conveyed by the Chief Minister and the Leader of the Opposition and the Hon Mr Canepa and I have, if the House will recall, on another occasion moved a motion about the work of the Brothers in Gibraltar. I was very glad on that occasion that you, Mr Speaker, read out the reply from the Brothers which I think put another brick on the edifice of gratitude and mutual understanding which has been built over the years. I should say at the outset that it would be wrong to exaggerate the work of the Brothers in the same way as it would be wrong to damn with faint praise. I think that what has been said in the House is evidence enough that all Members of the House, whatever their political or other leanings may be, are able to support this motion in terms of the contribution that the Brothers

have made to Gibraltar, I would be wrong to stress the point to the exclusion of other teachers, especially in the post war years, that have contributed to the work of education in Gibraltar and I am sure that the Brothers themselves would not like this impression to be given that they did it all and no-one else did anything about education. But their contribution must rate as the major contribution undoubtedly because it is one of such long standing, because it was a seminal contribution, because they started it all, if they did not do it all. The Chief Minister has quite rightly said that at that time, at the beginning of the involvement of the Brothers in Gibraltar, there were people who did not care for the education of the people of Gibraltar and therefore it is in this context that I think the greatest honour that the House can bestow should go to the Order of the Brothers and not to individuals though as the Hon Mr Canepa, contemporary of mine at the Grammar School both as a pupil and a teacher will realise, not because I do not know any of them individually, I know many of them individually, I have the fondest recollection of them as teachers and as colleagues but because I think the anonymity of the Order demands that we should praise them collectively rather than individuals. There is a great submerging of individual personality in religious Orders. I think it is fitting that the Freedom of the City should go not to a particular generation of Brothers or to a particular individual but to the Order itself on the whole. Mr Speaker, from a historical point of view the contribution of the Brothers is immense. They have gone from the bread and butter education of long bygone days, mercifully bygone, to the comprehensive school. We have been through selective education, we have been through private education, we have been through tri-partite education and we have ended with comprehensive education, a whole development in this little microcosm of ours in educational philosophy and educational practice. I think, Mr Speaker, if we look around the House we see some of the fruits of their labour, and labours they must have been, Mr Speaker. A certain robustness of outlook and spirit, Mr Speaker, if not of tremendous academic attainment but certainly a robustness of outlook and spirit and I would say a fair competence in professional and matters of skill amongst the population of Gibraltar, a very small population, which I think does the teachers of Gibraltar and the Brothers about whom we speak now, in particular, great credit. In a state controlled system, Mr Speaker, it is very difficult to create this independence of spirit and one must remember that the Brothers have worked within a state controlled system of education where teachers are appointed by the Government and where the temptation to follow a particular line must have been great and therefore it is to be valued that Gibraltarians in the care of the Brothers have developed, whatever else they have developed, this robustness and independence of spirit and I think in this hour of Gibraltar this robustness and independence of spirit is being amply demonstrated. On the personal side, Mr Speaker, there are too many memories, too intimate I think, for recounting here, but I remember not only occasions within the school but out of school, I think that what was said by one of the earlier speakers about the Brothers being concerned not only with the education of their charges but also with the general welfare of the pupil and of their families is perfectly true. Mr Speaker, if anything can justify this Freedom of the City being bestowed on the Brothers it is the long term commitment that they have given. I do not think that there is anybody who has worked so constantly and so affectionately for the people of Gibraltar, being non-Gibraltarians, than the Brothers. One hundred years is indeed a magic figure, a 100 years you might get a clap at cricket or you might get a birthday cake. But here, Mr Speaker, we are talking about an immense contribution of a great number of people, people who have become a part of us, who have come not only to teach us but to share our experience and to build up that common experience and it is that togetherness of feeling, that becoming part of the community which has endeared the Christian Brothers to us. If they had been aloof, if they had broken away from us, if they had tried to ram things down our throat, not in the academic sense but in the cultural or even the political sense, then they might have been rejected. But this was not the case they tried to bring out from us what was in us in many cases and to make us stand, as one particular Brother used to say, "Stand on your own two feet." This is indeed what we, a little community, are learning to do. Mr Speaker, they leave behind not chaos but a pretty organised system of education, not free from controversy as it was not free

from controversy in their own days, but one which is quite capable of carrying on the education of future generations of young people in Gibraltar and this is, I think, the crowning glory of their work, the fact that they have been able to pass on their skill, their knowledge, their affection and their commitment to a generation of Gibraltarians. I speak, Mr Speaker, with some experience of this having been, along with Mr Canepa, one of the pioneers after the war in beginning what has turned out to be a process of taking over from where the Brothers left off. Mr Speaker, for us in this House it is very important to realise that education and democracy go very much hand in hand. It is very important to realise that if we expect people to make a sensible choice at elections which on and off they do, Mr Speaker, then it is important that they should be educated in the full sense of the word and if it is going to be a governable community in the democratic sense then education is of the utmost interest to us politicians. Mr Speaker, I think that the work of the Brothers and of other teachers has contributed to what Henry Brougham said "Education makes people easy to lead but difficult to drive, easy to govern but impossible to enslave." I think in the present circumstances of Gibraltar these words are particularly applicable. I look forward to meeting the Brothers that will come for the celebrations. I think that they will be well received. I am sure that the committee have hit on a bright idea and a good idea for the continuation of the memory of the Brothers here but I would like to see the Brothers themselves, and no doubt they will commit themselves, to this,

I would like to see the Brothers tell us before all the celebrations and so forth are open that we shall have a human contact with them, in other words, that they will not disappear never to be seen again. As I was walking into the House I met an old man who asked me "What is on at the House of Assembly?" I answered "the motion on the Freedom of the City for the Christian Brothers". Not being very well up to date with things he said: "Well, are you going to keep them here?" I think this is indicative of the feeling of the people of Gibraltar. It is fitting, dignum et justum, that if there is to be a parting it should be under the circumstances which we are debating at present, that they should go with praise, with thanks and with the greatest honour which this House can bestow.

Mr Speaker, if I may be permitted. There is a member of this House who is not present and he has in fact written asking that I should read out, with your permission, a note from him.

MR SPEAKER:

You can speak on your own behalf but I am unable to accept messages from anyone who is not present in the House.

HON M XIBERRAS:

Mr Speaker, I am sure if the Hon and Gallant Major Peliza had been here he would have said something in this frame.

MR SPEAKER:

That's it.

HON M XIBERRAS:

He would have said <sup>and</sup> needless to say Mr Speaker, that is why I am saying it, nothing could give him more pleasure than to support such an award which is more than deserved for the invaluable work which the Brothers have so magnificently carried out in shaping the Gibraltarian into a human being comparable in sentiments, outlook and behaviour to that of the most civilised in the western world and made them capable of meeting their equals anywhere in the globe. If he had been here, Mr Speaker, he would have added that for this great attribute what less can we do than to offer them our highest recognition for their devoted service over a century to our community. Thank you, Mr Speaker.



HON A P MONTEGRIFFO:

Mr Speaker, this House is not unknown on certain occasions for its boring repetitiveness but I think that on this occasion repetition is merited and will inevitably occur.

MR SPEAKER:

And will not incur the wrath of the Speaker.

HON A P MONTEGRIFFO:

My first experience with the Christian Brothers goes back to the my very first day in school and to my very first subject which was drawing. I was told about two or three times never to press the pencil when one was drawing and I thought that that was just what I was doing but before I knew where I was, Brother Healy, who was the Christian Brother who first taught me came round, touched my shoulder and as a I looked back he slapped me in the face and said, "I told you not to press the pencil." In those days children, I think, didn't get as heated up as they get today when somebody punishes them, I don't think they get the anxiety neurosis that psychiatrists tell you nowadays that you can develop if someone punishes you. So I went home and told my father about it in the hope that he would give me an explanation. And he did, he gave me another slap and he said "You must have pressed the pencil." So immediately it dawned on me that that Christian Brother was showing as much concern for me as my father was doing and this is the word "concern" that has been mentioned in this House by most of the speakers that have already spoken. Concern not only for the individual at school, concern for the family and concern for extramural activities when there was no stadium, etc. We had to rough it in what is now the airfield. There is a Chinese proverb which says that "After the emperor comes the teacher." I don't think that in our society we can accept that type of philosophy but I think that in the context of Gibraltar we can certainly say that the Christian Brothers have won the respect, the affection of all Gibraltarians and a place in their hearts forever. They have shared with us the good and the bad of life in Gibraltar. In fact, I think it was the Hon Mr Xiberras who said that they are also sharing the cemetery side by side with our own people, and if he didn't mention that I would like to mention it myself. Patrick O'Donovan, that British journalist, described a teacher as "a function that cannot be exactly defined. It takes so long, it is so indirect, it is so generous, it is so firm and so gentle, it is a vocation for men who care!" Mr Speaker such description befits the work the Brothers have done in Gibraltar in an admirable manner. They are a Christian Order yet they never attempted to proselytise and this contributed to a spirit of respect and tolerance amongst all religions in Gibraltar which is proverbial in our city. Most of them were Irish yet they taught us the principle of loyalty which made us so attached to Britain and the British way of life. At no stage during my connection with the Brothers did they ever attempt to erode that loyalty which we have always shown to Britain and the more British way of life. That again is a credit to them in times which were much difficult and much more controversial politically in the international sense than now. As educationalists they produced men for the crafts that we needed, for the professions, for industry, for the civil service and what I think is more important men who would be capable and able when the time came to take up the struggle for the emancipation of the Gibraltarians. So even in this respect, because of the education and character formation we got from the Brothers, we can say that we have today this House of Assembly. There may not have been a House of Assembly if those who cared about education 50 years ago and 100 years ago hadn't taken the interest they took because no one else did. For all this I think they deserve a place in the history of Gibraltar because they are a part of the history of Gibraltar and there is no better way of



perpetuating this memory in Gibraltar's history than by granting them the Freedom of the City of Gibraltar.

HON A W SERFATY:

Mr Speaker, when I was recently in Ireland I didn't miss any single opportunity of paying tribute in Dublin, in Limerick, in Waterford, <sup>out</sup> in Cork, to the work of the Christian Brothers in Gibraltar and I tried to find a little more about them and I found of course that the creation of the Christian Brothers was to fill a gap in less enlightened days when the authorities didn't give that importance to education, to fill a gap in Ireland for the education of the people. This is exactly what they did in Gibraltar and if only for that we must pay tribute to them and what we are doing today is more than deserved. Of course I went to the Christian Brothers school for the first time 57 years ago after spending a few years in the Loreto Convent and I think it would be fitting on a day like this also to mention the debt Gibraltar owes to the Loreto Nuns. I must say that I have very happy recollections of my years in the Christian Brothers School. Mr O'Toole Mr Fitton, the famous P C Murphy - and I owe whatever I know, I think, to the Christian Brothers. There were several generations in my family who attended the Christian Brothers School and I think I said several months ago here that I was delighted to see my grandchild walking up the steps of the school which I had walked up 50 years ago. I will finish up by saying that I fully support the motion.

HON F J ISOLA:

Mr Speaker, I am sure you must be impressed by the remarkable lack of bias that has been shown on this motion by Hon Members supporting it. You wouldn't have thought for one minute that most of the Members here are ex-pupils of the Christian Brothers. On the other hand, Mr Speaker, I think perhaps the biggest tribute that one can make to the Christian Brothers is the remarkable unanimity there has been by all the ex-pupils of the Christian Brothers and, generally, by the people of Gibraltar in expressing appreciation for the work they have done for Gibraltar, by asking them to accept the Freedom of the City. It is not often, I think, that ex-pupils think so highly of their teachers. This is a fact. One comes across ex-pupils of schools and you get people saying, "Well, I am not going back to that school again if I can help it" and so forth. And yet one of the remarkable features of the Christian Brothers in Gibraltar and certainly as far as contemporary Gibraltar is concerned, is that there is this tremendous unanimity by past, present, - regrettably not future pupils - in acclaiming the great work they have done for education in Gibraltar, in acclaiming the work they have done for the people of Gibraltar. This remarkable unanimity, as I have said, is something that I am sure will give the Christian Brothers great comfort and great satisfaction in the work they have done for Gibraltar. I don't think they expected any thanks for what they have done. I think that what they have done for Gibraltar they have done voluntarily and out of the great sense of dedication and purpose one finds in that Order. Mr Speaker, I am one of the few people who can perhaps be objective in this. I am not, unfortunately, not through my own choice, I am not an ex-pupil of the Christian Brothers but I was privileged to be associated with them for quite a long period of time as Minister of Education for about 10 years and I must say that I learnt to admire the Christian Brothers during that period of time. At the beginning I was rather young and I almost felt the pupil/teacher relationship. I must say they did seem to have undue influence on me for a period of time because of course one was struck always by their great sense of dedication and by their great desire to help their pupils and to help, generally, the population of Gibraltar. There is a real case of ful

integration within the community of Gibraltar by an outside Order. If we got this sort of integration within our own community in all aspects Gibraltar would be such a much better place to live in and a much better place to fight for and a much better place to look forward to in the future. Mr Speaker, I do not think for one minute that we are bestowing the Freedom of the City on the Brothers merely because of our own personal recollections and our own personal associations with them, I didn't know some Members went back as far as 57 years, I don't know whether the Hon Mr Serfaty is going to stand again, in 25 years time but he goes back over half a century, it is quite remarkable and I think we ought to express appreciation to him, too, for being with us for so long. But, Mr Speaker, I think that we wouldn't be bestowing the Freedom of the City purely and simply because of our own personal experiences. I think we all have certain sense of history in us and we cannot but confer the Freedom of the City on the Brothers after such a tremendously long period of service of dedication to the people of Gibraltar over so many years. Unfortunately, what has happened with the Christian Brothers is what happens with a lot of teaching Orders. I think that as the western world has become more civilised their need is greater elsewhere and this is something that we can understand in an Order that is dedicated in the way it is we can understand that their services are now required by others. But we mustn't forget nor do we forget in bestowing the Freedom of the City on the Brothers that when we needed them, and I don't think we needed them that desperately in recent years, when we really needed them before the 2nd World War and before the 1st World War they were making a great contribution to society in Gibraltar in affording education at a period of time when Governments did not have the social conscience that they have today and paid for education as they do today I think it is that period of time that we must also recall today perhaps moreso than <sup>any</sup> other period of time because it is I suppose certainly in the case of the Hon Mr Serfaty and I presume in the case of other Members of the Government, it was really in the period before the war that the post-war Gibraltarian, the backbone of the people who stood up to the Spanish restrictions in 1963, were born and educated. The youngsters in this House, Mr Speaker, of course, will not remember that period of time, but it is at that period of time, at a very vital period of time in Gibraltar before the 2nd World War, they were giving their services in such large numbers and with such dedication to the people of Gibraltar, I think it is the least that we can do and perhaps it is very little and it is funny that we are offering them and giving them the Freedom of the City of Gibraltar and it is something that I hope and I am sure they will be very happy to accept and will be most precious to them in the years to come but I do not think for one single minute that any single Brother expects any return <sup>or</sup> any payment of the huge debt Gibraltar owes them at all. I think their great sense <sup>of</sup> public duty, public service and dedication to the people of Gibraltar and the satisfaction that they must have of seeing how the people of Gibraltar appreciate it is indeed enough compensation for them. But I think it is right Mr Speaker, and I have very great pleasure in supporting the motion before the House that the people of Gibraltar should attempt in some small way to <sup>mark</sup> their name and have it recorded forever in the annals of this great City.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I can honestly say that my school years, as my colleague Mr Canepa has said were not the happiest years of my life. I never enjoyed school probably because I was never a good student but I look back to the year 1945 when my first teacher was Brother Shearon, a most wonderful human being who tried to teach me as much as he could but failed miserably. My schooldays were not happy but my relationship with the Christian Brothers was a happy one. I can still remember every one of them, and there were quite a few of them, with some affection and I can still see them in my mind how they looked, 20 years ago. I think there are a few things that the Christian Brothers tried to impart to me and to the pupils of my time and this was the question of the community spirit and team spirit. I can always remember in particular when we were

playing football and somebody scored a goal and unlike what happens now where there is a mass of kissing and hugging etc, etc, all we were allowed to do was to shake hands and this was just to show us that the chap who scored the goal was not the important chap it was the whole team that had scored the goal and this is the kind of education that the Christian Brothers tried to impart on us and this is what I remember about them. I also remember the fact that a lot of us were very poor and it was due to them and their organising abilities and the way they used to bring out money from everybody that they used to take us out to outings into Spain. My first outing further away than La Linea was to Getares and it was thanks to the Christian Brothers and I still cherish those trips to Spain with them. I think that it has already been said by the older Members of this House the contribution they gave to Gibraltar when education was non-existent. The rich did have an education but the poor did not and the Christian Brothers contributed to part of the education of the poor free of charge. I think probably one of the things that strikes me most of the civil service in Gibraltar, and we have very loyal Heads of Departments and people in very senior positions in our own civil service and looking around here now I can see at least three of them, and it is they who have received the education from the Christian Brothers who run the day to day business of Gibraltar and run it very loyally indeed. The only thing that may be probably wrong with part of the education of the Christian Brothers is that they produced too many politicians. Thank you, Sir.

HON M K FEATHERSTONE:

Sir, like the Hon Mr Peter Isola I didn't have the privilege of being taught by the Christian Brothers but I did have the privilege in a very small way of being one of the colleagues for a time I taught at the Gibraltar Grammar School and I remember the first day I went there when break came I was invited down to take coffee with them and I was the only lay man in their staffroom and I was immediately accepted and treated as one of them and given every facility and every privilege that they could give me. Sir, Gibraltar owes, as has already been said, a very great debt to the Christian Brothers. I believe initially the Brothers that came here came from the Irish Province and later it became the English Province and if you go around Gibraltar and you meet some of the older citizens of Gibraltar you can immediately tell which Brother taught them once they start talking about figures because if they came from the Irish Section they will tell you that they have a number of "tree thousand tree hundred and tirty tree". Well, nobody in this House I think has met that section of Brothers because they all seem to say "three thousand" but I remember my father-in-law telling me anecdotes of the Brothers of his time and you could see from the way he told it how much he and his brother also respected the Christian Brothers and what a debt they owed to them. Tennyson has said "the old order changeth giving place to new. One good custom God fulfils himself in many ways, less one good custom should corrupt the world". I am not saying, Sir, that the Christian Brothers who are indeed a good custom will corrupt Gibraltar but I think in their hearts they have come to the conclusion that their work in Gibraltar has reached its climax, they have got to know where they set out, they have put the Gibraltarian independent, they have built up an education system in Gibraltar which can now be handled by the Gibraltarians themselves and the Brothers feel that they should, with graciousness, bow out and obviously dedicate themselves to other areas where there is still greater need. Sir, our education system is today on a very good footing, we have got our Comprehensive School set off on the right track by a Christian Brother as Headmaster and the whole system of our teachers, of our education which owes such a debt to the Christian Brothers is going the right way and will continue in the right way as long as they remember the precepts that the Brothers have given them of teaching not only for the sake of teaching but in the moral and spiritual sense as well. As others have said, Gibraltar owes a great debt to the Brothers and there is no better way I feel that we can honour them than by giving them the Freedom of the City. This is something I am sure they will cherish, they are Freemen of Gibraltar and I am sure that any Brother who ever comes back to Gibraltar at any time will be most welcomed and most happy to be received here. Thank you, Sir.



HON H J ZAMMITT:

Mr Speaker, Sir, I would like to echo my views and to say how one fully supports a motion of this kind particularly when it refers to the Brothers. I think that Members have mentioned that it would be difficult to pinpoint a particular Brother and that we are conferring the Freedom of the City to the Order as a whole and therefore I think and I agree that one should not be personal about one's fondness to particular members of the Order. But it is very difficult not to do so. I cannot, like my colleague the Minister for Tourism, go back 57 years but I vividly recall the period the Hon Major Frank Dellipiani mentioned because I was in the same class as Major Dellipiani and I recall equally the physical strength of Brother Shearon who I think would have done remarkably well in the field of sport, particularly boxing. A man of tremendous dimensions, tremendous power but if I use the word love I think I would not be exaggerating, loved by all his pupils. In fact, Mr Speaker, I am compelled to say that during one of my visits to England some years ago I happened to be in Manchester and I was told that Brother Shearon had left the Order and was somewhere in Manchester and I had the entire Police Force looking for him and I found him. I hadn't seen Brother Shearon since my mother had died way back in 1947 and the memories that came to my mind were quite unbelievable and it turned out not as a handshake but probably the opposite to what Major Dellipiani said about the football goal scoring. We did embrace Mr Speaker. It was a moment of very great sentiment for me I also had the pleasure of meeting another ex-Brother, Brother Fearon not very long ago and I think that what I am trying to say by this Mr Speaker is that in the case of the Brothers there is much more than a teacher/pupil relationship. There is a little beyond appreciation, there is an affection and there is within the affection a degree of love that could well stem from gratitude, I can recall, like Major Dellipiani, the many sour instances where one today realises that their endeavours were for one's best interest. But I think, Mr Speaker, that in the past week or so when it has been rumoured of the intention of granting the Freedom of the City, what Mr Canepa mentioned here is that not one person in Gibraltar has as far as I know made any murmur against it. Everybody is delighted at the conferment of the Freedom of the City, in fact, as has been mentioned even by Members here, we feel that it probably isn't enough. Mr Speaker, I would like to end up by saying that in this House there are Members not of the Catholic faith and it is a matter of pride that I think that people of different religions can stand up and speak so highly about the Brothers and my recollection of the Brothers in my own education was that they never instilled any form of fear or any form of hate upon any other religion and because of that possibly today we find our community being possibly unique in living so amicably with different religious sectors. We all respect each other and I think the Christian Brothers have performed no small part in this particular field where religion on many occasions has put fire to gun powder. Mr Speaker, I think like everybody else one can only say to the Christian Brothers "thank you," a word that is a too often used possibly sometimes without meaning and as I said earlier on I think personally that no matter what we can do, how we can honour them, any honour to my mind is far too small.

HON I ABECAZIS:

Sir, may I in <sup>my</sup> self taught English join my colleagues on both sides of the House in praising the Christian Brothers for the wonderful work they have done in the educational field in Gibraltar. I say my self taught English because unfortunately during my school days the world was in a turmoil, we were all evacuated and I was evacuated to Northern Africa where I received a French education but I remember very vividly when I came back in 1945 the tremendous work that the Christian Brothers had done in Gibraltar prior to the war and after the war. They didn't teach me anything,



not through their own fault but through the fault of the war, but I am grateful as a Gibraltarian for the work they have done, for having taught my children and for the work they have done, generally, in the field of education and if only for that I support the motion.

HON. DR. R. G. VALARINO:

Mr Speaker, I would like to publicly associate myself with all the remarks made here today especially with my contemporary, Mr Adolfo Canepa, and I heartily agree with him that those seven years were the happiest of my life. I believe that this is the best way of honouring the Christian Brothers and I have great pleasure in supporting the motion before the House.

MR. SPEAKER:

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

HON. CHIEF MINISTER:

Thank you, Mr Speaker. It is not a difficult task and I think it will be carried. I did make a point in my original remarks not to reminisce - I see other Members have been doing that - if only because all my teachers are now dead, though I am not as old as my friend Mr Serfaty, but there are many good friends who are alive whom we look forward to seeing in the course of the celebrations. There are two points I would like to make that have arisen out of the various remarks of the same sentiments expressed and particularly the one made by my colleague Mr Montegriffo and my colleague Mr Zammitt. I think that this pride we have in Gibraltar of all communities living together happily which is an example to the world, we owe very much to the way in which the Brothers have brought up children of all denominations. I remember proudly telling Spanish visitors some years ago that I had been taught by the Christian Brothers and that they had never tried to proselytize me and they said that they didn't do their duty. I said that perhaps in Spain that would have been a duty certainly it wasn't in Gibraltar and we are proud of it and I am equally proud to have the opportunity of being in the position I am today as an ex-pupil of the Brothers to move this motion and also to say that I have been honoured by the Brothers in their accepting my advice over the years in matters connected with their Order. In the circumstances, Mr Speaker, I commend the motion to the House in the certainty that it will be carried by acclamation.

MR. SPEAKER:

Before putting the question and without any chance of being accused of bias and without having the right to say anything as Speaker, I will on this occasion make an exception and say that I also benefitted by the education the Christian Brothers gave me perhaps at the most important period of my life, my very elementary education before I went to school in the United Kingdom, and in Tangier when they together with us, were forced to leave Gibraltar, for two years in my senior education when I took the then Higher School Certificate. Therefore may I be allowed to join with the sentiments which have been expressed by every single Member of this House.

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

HON. CHIEF MINISTER:

I will now move Mr Speaker that the House do adjourn to Tuesday the 12th of July at 10.30 a.m.

This was agreed to and the adjournment of the House to Tuesday the 12th July, 1977 was taken at 12 noon on Friday the 24th June, 1977.

TUESDAY THE 12TH JULY, 1977

The House resumed at 10.30 a.m.

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 Zammitt - Minister for Housing and Sport  
The Hon A P Montegriffo, OBE - Minister for Medical & 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 & Public Works  
The Hon J K Havers, OBE, QC - Attorney-General  
The Hon A Collings - Financial & 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.

COMMUNICATIONS FROM THE CHAIR.

MR SPEAKER:

I would like to take this opportunity to bring to the notice of the House that I have received a letter from the Brother Provincial of the Congregation of the Christian Brothers, who has asked me to read it to Members and I propose to do so. It is addressed to the Speaker and it says:

Dear Mr Speaker,

Once before you did me the honour of communicating to Hon Members of the House of Assembly the gratitude of the Christian Brothers for kind mention made of them. I would ask the favour, on behalf of the Christian Brothers, of another act of your generosity.

The Local Superior of the Brothers, Br C U McNamara, was present when the House unanimously adopted the Resolution granting the Freedom of the City of Gibraltar to the Congregation of Christian Brothers. He has told me of the warmth and the depth of feeling with which the motion was sped on its way to such a happy conclusion. He confesses his inability to convey the atmosphere of the House.

Proverbially, print is judged to be cold; but the Brothers and I have now had the opportunity of reading the official Record of the Proceedings of the House and we have been deeply moved by the words of tribute paid to the Congregation, and have breathed the warm-hearted atmosphere in which they were spoken. I cannot hope to rival the eloquence of Members of the House - nor the diplomatic skill which you yourself, Mr Speaker, deployed in tribute. The simple words of thanks which I would like conveyed to the Hon Members of the House of Assembly, Gibraltar, contain a wealth of gratitude and of affection for the people of Gibraltar who spoke through their representatives, and of the pride of the Congregation in being enfolded by them.

I am, Mr Speaker,

Yours deferentially and, with sincerity,

(sgd) D F O'Brien

(Provincial)

#### DOCUMENTS LAID.

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

The Prison (Amendment) Regulations, 1977.

Ordered to lie.

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

The Hospitals (Fees and Charges) (Amendment) Rules, 1977.

Ordered to lie.

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

The Postal Order (Amendment) Regulations, 1977.

Ordered to lie.

The Hon the Minister for Education and Public Works laid on the table the following document:

The Educational Awards (Amendment) Regulations, 1977.

Ordered to lie.

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

The Jury (Amendment) Rules, 1977.

Ordered to lie.

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

- (1) The Report of the Principal Auditor on the Accounts of Gibraltar for the year ended 31st March, 1976.
- (2) Supplementary Estimates No.2 of 1977/78.
- (3) Supplementary Estimates Improvement and Development Fund No.1 of 1977/78.

Ordered to lie.

ANSWERS TO QUESTIONS.



MR SPEAKER:

The Honourable the Chief Minister and the Hon the Financial and Development Secretary have given notice that they wish to make statements, I will therefore call on the Hon the Chief Minister.

HON CHIEF MINISTER:

Sir, in accordance with established practice, I rise to make the statement on the affairs of the Gibraltar Regiment. This statement covers the period from 1 April 1976 to 31 March 1977.

The establishment of the Volunteer Reserve is 191 ie at full strength.

In addition to the six annual training camps held in Gibraltar during the period under review, a total of 103 members of the Regiment drawn from the Light Troop, the Light Air Defence Troop and the Infantry Company held training camps abroad at Larkhill, Manorbier and Otterburn. Weekend and evening training continued to be held in the usual way and the Regiment once again participated in exercises run by Fortress Headquarters. It also organised its own recall, the Regimental Day Parade, and participated in Remembrance Sunday and the Ceremony of the Keys. Also, a number of the Regular members of the Regiment and volunteers successfully attended courses both locally and in the United Kingdom. All ceremonial salutes except one were fired by the Regiment.

The Gibraltar Regiment Association met twice to deal with a number of matters affecting the Regiment.

A team from MOD visited the Regiment in May 1976 and settled pay and pensions for 1975/76. A further review will be carried out this year.

The Corps of Drums continues to receive instruction from the Bugle Major of the 2nd Battalion Royal Green Jackets and the Bugles again performed in public on a number of occasions.

The Regiment continued to take part in communal activities.

I am sure the House will join me in taking this opportunity to express our best wishes for the continued success of the Regiment.

HON MAJOR R J PELIZA:

Will the Chief Minister give an undertaking that he will keep a watchful eye when the pay review takes place as he announced here in his statement.

HON CHIEF MINISTER:

Apart from taking an interest the Hon Member sitting on the left of the Hon Member who asked the question doesn't allow me to forget it.

HON MAJOR R J PELIZA:

Another point I would like to raise, Mr Speaker, which perhaps is not included here but I wonder if the Chief Minister will give some thought. It is a very simple question, Mr Speaker, and I know the Chief Minister is not going to give me an answer but at least he might be able to give it a thought and that is now that the Regiment as a Volunteer Force is so well established and I think has the popular support of practically everybody in Gibraltar, I have heard no dissenting voices anywhere anymore, could the Chief Minister give thought to the possibility of starting a Cadet Corps?

MR SPEAKER:

I am not going to allow discussion on this matter which does not arise from the statement and is a controversial matter.

HON M XIBERRAS:

On housing, have any approaches been made to the Government from the Gibraltar Regiment with a view to engaging the support of MOD in respect of housing for members of the Permanent Cadre?

HON CHIEF MINISTER:

Yes, and there are good prospects.

HON M XIBERRAS:

This doesn't appear in the statement, in fact?

HON CHIEF MINISTER:

No, because this has arisen since the statement which coincides with the financial year 1st April/31st March.

MR SPEAKER:

I will now call again on the Chief Minister to make his other statement.

HON CHIEF MINISTER:

At the last meeting of the House I said the House would be given an explanation as to the legal position regarding Engineer House. The property was put up for sale by the Ministry of Defence in 1965 on a freehold basis and Messrs Dayfenn Ltd successfully tendered for it for £45,000. As the result of representations made by Government to the Secretary of State the MOD agreed that Government should take the property over at a price of £45,000. The Government then negotiated with Messrs Dayfenn, on the basis of a 999 year lease on condition precedent that the approved development was carried out in accordance with the conditions contained in a building agreement. This agreement stipulated that if the approved scheme was not commenced or completed within the period prescribed therein Government would be able to resume possession of the site.

The purchasers entered into an agreement in 1967 and paid Government the sum of £45,000. There was a subsequent purchase by the Company of the Old Model Room adjoining Engineer House in the sum of £2,000 subject to the same conditions as in the main agreement.

Government was later obliged to take action against the Company for breach of the agreement and resumed possession in March 1974.

The legal position is that under the 1967 Agreement Government, having re-entered, is bound to put the property up for re-sale and is bound to pay all the proceeds of the re-sale (less the expenses of the re-sale) to Dayfenn.

Re-sale may be by auction, tender or private contract and if the first attempt is unsuccessful Government must try again until the property is sold. There is no right for Government to develop the site itself although it could do so by agreement with Dayfenn-- in such a case Dayfenn would no doubt ask Government to pay such sum as could be obtained on the open market. Although Government has discretion as to the conditions which it imposes the Attorney-General is satisfied that Government cannot depart from the basic principles of the Dayfenn Agreement ie a lump sum down and a nominal rent thereafter. The Attorney-General is also satisfied that Government cannot reduce the area of the site other than for example by reserving part for widening of the highway.



Government cannot impose conditions which would make the use to which the site is put materially different from that to which Dayfenn were to put it e.g. it cannot require that a substantial percentage of the site be not built upon but used as a pleasure garden to which the public has access.

HON MAJOR R J PELIZA:

Mr Speaker I wonder if the Chief Minister could give dates, I think we have heard a lot about what has been happening but I thought that there were passages where he said certain things were happening but I can't remember the date.

MR SPEAKER:

In 1967 Dayfenn paid £45,000.

HON MAJOR R J PELIZA:

This is the point, Mr Speaker, if I may say so. As a result of representations made by Government to the Secretary of State the MOD agreed that Government should take the Property over at a price of £45,000. We have no date there.

MR SPEAKER:

In 1965.

HON MAJOR R J PELIZA:

I have a feeling that something happened in between and this is why I am coming to the dates because without the dates it is very difficult.

HON CHIEF MINISTER:

If you look at the statement, paragraph 1 and paragraph 2, you will see that the purchasers entered into the agreement in 1967. The position is, though the agreement is no doubt unsatisfactory in every respect, the position is that it would have <sup>been</sup> much more unsatisfactory if the Government had allowed the purchasers to have purchased the freehold and would hold today the freehold of all that property for £45,000 and it could well have happened the same as with the Leanse site just opposite the Headquarters of the TGWU, it could have stayed there for years without development. It was in the sense of the fact that they had been

successful tenderers for the freehold that at the time of the negotiation, no doubt, the so called purchases were in rather a strong position. The other point that I would like to make, and this goes to my recollection personally of the events, and that is that by the time these people were prepared to operate, by that time the difficulties with the labour force had already started by about early 1969 and this was what put a stop, so they said, to their ability to develop the site and in fact they have done nothing of the kind.

HON MAJOR R J PELIZA:

Mr Speaker, I have a recollection that during my time in Government we were getting very near to the stage of having re-possession of the site and I remember seeing representatives of the firm concerned coming to Gibraltar and we sort of giving them a final date and I am surprised that then there was a long delay during which obviously nothing happened and Government was later obliged to take action for breach of the agreement to resume possession in 1974 which is a long period of time.

HON CHIEF MINISTER:

I can explain that. Partly, I can explain what happened. A very prominent firm, Higgs and Hill came along in between who wanted to develop it, who wanted to come to terms with Dayfenn on the basis that they would be allowed to develop. I think they asked for about 6 months and then they asked for an extension of another 6 months to keep the option open to see whether they would develop it. Higgs and Hill being a big company, I remember that they were given an opportunity to see whether they would develop it taking it over from Dayfenn and that was responsible for an element of delay until, as I say, we took possession in 1974. I think, perhaps, the Attorney-General may be able to help me with the dates.

HON MAJOR R J PELIZA:

So it would be right to say that if action had been taken there and then and Higgs and Hill had not been given a chance, the site would be in possession of the Government today.

HON CHIEF MINISTER:

It is in possession of the Government but it would never have been under different conditions as it is today.

HON ATTORNEY-GENERAL:

I do know this, that Dayfenn were trying desperately to raise finance to back their development. Government, I think, very reasonably gave them a chance to do so because Government was in no way prejudising its position. It would have preferred not to have to re-possess itself of the land, it would have preferred that the development should take place, but once it became clear that Dayfenn were not going to raise this finance then, in 1974, Government repossessed itself of the land. If it had re-possessed itself in 1971 it would have been in exactly the same position as it was in 1974, the terms of the 1967 agreement would have applied then as they do now.

HON MAJOR R J PELIZA:

I remember, of this I am sure, during my time, when the representatives did come to Gibraltar, in fact they brought bonds with them to show that they had the financial ability to go on with the development, and these bonds were not accepted. Wouldn't it have been, I think, prudent seeing now the nature of the approach of the developer that obviously they did not have the financial backing that they said they had, even if it meant going back to the position that we would have been in 1974, wouldn't it have been prudent to take action there and then and go back to the much stronger position then than we seem to have been in 1974?

MR SPEAKER:

Order, I am afraid that under statements we can only ask questions seeking clarification. I think I have allowed a fair amount of latitude but we mustn't debate what would have been the right thing to have done and what would have been the benefit of having acted before.

HON M XIBERRAS:

Mr Speaker, would the terms under which the Government or the second party after the Government sold the property and so forth, would the terms of the agreement preclude that Government itself attempting to take over the site through compulsory purchase, because it appears to me that this site is far too valuable for the people of Gibraltar to be cheated out of it. Perhaps I should withdraw the word "cheated", for the people of Gibraltar not to be able to enjoy it directly by the terms of this agreement.



HON CHIEF MINISTER:

It would have to pay the normal payment provided under either the Town Planning Ordinance or the Acquisition of Land Ordinance, I forget which of the two, and that has a relation to local market.

HON ATTORNEY-GENERAL:

I haven't got the Acquisition of Land Ordinance here but before Government could even exercise its powers under that Ordinance, there have got to be very stringent reasons for so doing. Merely because a site would be extremely desirable and extremely useful it cannot acquire for those grounds. I would be foolish if I tried to recall what the provisions of the Acquisition of Land Ordinance are, but it does not give a Government power to take a site merely because it is going to be a jolly nice site to have, if I might put it that way.

HON M XIBERRAS:

Whoever was responsible for this original agreement it has to be adhered to by the Government, I appreciate that, but given the nature of the statement which appears to be to indicate that Government has arrived at some firm decision on the matter, would it not be fair to the House that we should have an opinion as to how the Land Acquisition Ordinance might be made to apply to this particular site, for instance, on the grounds of public interest? This is a very important site and it appears that the original terms of the Agreement might be satisfied in ways other than by the non-application of the Land Acquisition Ordinance.

HON ATTORNEY-GENERAL:

Even if it was possible to acquire this site under the provisions of the Land Acquisition Ordinance, we would still have to pay for the site what Dayfenn would be expected to get in the local market and if we could not use the Land Acquisition Ordinance it is still open to us, of course, to negotiate with Dayfenn, but they are going to demand, as the price for relinquishing their right to a sale, the amount which they could get if the property was put up for sale. You cannot get the land cheaper by reason of using the Acquisition of Land Ordinance.

HON M XIBERRAS:

Wouldn't it have been fair to the House to have set out the possibility on the Land Acquisition Ordinance a bit more explicitly; this is the point. The other point is, Mr Speaker, does the statement preclude, for the purpose of clarification, a Government body or a Government finance body tendering for or joining the auction for the site, in other words, setting up a corporation or something to that effect. I am of course very loath to see this prime site move away from Government control.

HON ATTORNEY GENERAL:

I see no advantage in setting up a corporation which would have a different identity from Government purely for the purpose of purchasing this site because if Government wants the site then Government should or can make an offer to Dayfenn at any time but Dayfenn are certainly going to demand what they would get in the open market. Part of the other trouble, of course, is that the Official Receiver in the United Kingdom has interest in this because one of the shareholders of Dayfenn has gone bankrupt and he, the Official Receiver, wants to make quite sure that that shareholder of Dayfenn gets as much out of Dayfenn as he can.

HON CHIEF MINISTER:

I would like to draw attention to a matter which I said off the cuff last time when the matter was discussed and I said that the House was owed an explanation. I would like to quote what I said then: "I think that we owe to the House an explanation of the legal position - which has been given - the situation in which the position stands and the right of the original people who purchased the property have and the extent of which these have been curtailed - curtailed by town planning requirement - of course. It would not be fair to say at this stage that we are going to legislate to overrule a contract of Government because I don't think that this is proper, however unfortunate. That doesn't give confidence to other people coming for developing if they see that any particular deal can be overruled by legislation. All you can do is to avoid it happening again."

HON J BOSSANO:

Can the Chief Minister give an explanation about that last point about overruling a contract by legislation when I asked him whether he was contemplating introducing a method of taxing capital gains of a speculative nature such as the holding of land undeveloped

for a number of years which is a thing that is taxed almost throughout Europe. I cannot see what the connection is between overruling a contract and introducing a tax because obviously if a tax is introduced today, if the Government has got a Bill done in this House to introduce a certain level of Estate duty, then the unfortunate people who die after January will be paying a level that they would not have paid if they died in December. I don't think that it is a question of overruling a contract. If the Government decides as a matter of policy to tax speculative gains, then if the sale takes place after the legislation is introduced, it is taxed, if it takes place before it is not taxed.

HON CHIEF MINISTER:

If the Government were to consider introducing a Capital Gains Tax it would have to consider it in the context of the general economy of Gibraltar and not to overrule one particular unfortunate contract. One of the attractions that are less now in view of the fact that taxation is no longer small as it is in the Isle of Man and the Channel Islands, is the fact that there is no capital gains. If it is necessary it would be introduced but we are not thinking of that and certainly it would be most unfair to bring about a tax for everybody because something has turned wrong in respect of one particular contract.

HON J BOSSANO:

I made this point in the previous statement and I am almost certain that the Hon and Learned Chief Minister said that certainly it was something he would look at when we discussed it before. I am not talking about introducing across the board capital gains tax I am talking about taxing gains made by speculation, that is, by buying property and leaving it idle or by buying land and leaving it idle and doing nothing with it. This is something that is taxed, for example, even in tax havens.

HON CHIEF MINISTER:

We have taxed empty properties but I would like to say that the Hon Member is accumulating memories, wrong memories, and trying to strengthen his case like that because he did say last night, perhaps Mr Speaker your memory will serve me as well, to the effect that the Government gave a commitment that before they allowed the thing to be put on sale again they would look at the possibility of introducing legislation in order to tax this windfall gain to the original developer who has done nothing except a disservice to Gibraltar by having the place underdeveloped so many years. I have a distinct recollection of the Chief Minister saying that they were looking at that when I suggested tax when the matter was previously discussed, and I said; "I cannot imagine my saying that we would tax".



HON J BOSSANO:

I can still remember it Mr Speaker, even if he cannot imagine it.

HON ATTORNEY-GENERAL:

One further point. If you do introduce a Capital Gains Tax, it doesn't relate back to the time when the property was first acquired, it relates to the capital gain between the time the legislation was introduced to the time the property is parted with. Certainly, when they introduced capital gains tax in the United Kingdom that was the position, it is not retrospective. The only case where they have acted retrospectively in the United Kingdom to do away with the right which raised a tremendous rumpus was when Burnah Oil got a judgement against Government for hundreds of millions of pounds for the destruction of the oil fields in Burma and then Government immediately introduced legislation giving them a complete indemnity. That was not at all popular.

HON MAJOR R J PELIZA:

Mr Speaker, I was going to ask whether the Government is now in a position to say that this is a vicious circle which they can't get out of and they are going to leave the situation as it is or are they really going to take practical steps and do something within a reasonable time to get this land back for Gibraltar for development? It seems, Mr Speaker, from what I read that if the developers come out and bid again and get the land, they can stay put once again. This is what I understood, that we are in a vicious circle from which we cannot get out.

HON ATTORNEY-GENERAL:

The terms and conditions under which the property will be put out to tender have been drafted and, I think, finalised now and although as I have said they have got fairly closely to follow the original agreement with Dayfenn in order not to reduce the value of the property, they are much less restrictive as far as Government is concerned and there will be a condition in the new Agreement that if the developers fail to develop the property, Government can re-enter and then repay to the developers the amount of money which the developers have spent on the purchase and thereafter spent on the building. There will be no incentive to the developer to sit tight and let the thing accumulate in value because he won't get any more if he does that.

HON J BOSSANO:

Even now, Mr Speaker, any developer that tenders for this property is

effectively protected against loss because in the event of his not fulfilling the terms of the contract the Government comes in and repays all the investment and therefore they can't lose they can only make a profit on this deal. If the property is put on tender next week the successful tenderer is required to develop it within a period of time. If that doesn't happen, the Government can step in and take it over but in doing so they have got to pay to the tenderer the money the tenderer paid for the property plus ~~any~~ money the tenderer has spent on the property so therefore the tenderer cannot lose. If he develops it he can make a profit, if he does not develop it he recoups all his investment.

HON ATTORNEY GENERAL:

With the amount of money that is going to be expended on a site of this nature you are going to find nobody who is going to take the risk of having Government re-enter because he, the tenderer, has been unable to carry out his commitment unless he is going to get back what he spent. That, I think is fair to say, is the way things go today.

MR SPEAKER:

I think we have gone far enough on this matter. It is always possible to make this the subject matter for a debate.

HON J BOSSANO:

But by then, Mr Speaker, the thing will be all over, presumably. If now the thing has reached a state where it is on the point to going to tender and the House is about to go into summer recess, in September we may be again in a position of regretting what has already happened and it would be a very sorry thing after we have talked for so long at so many meetings on this matter, if that happened.

MR SPEAKER:

I am sure a motion can be moved.

HON CHIEF MINISTER:

Surely the new conditions of tender, so long as we buy out the interests of the original purchaser by the tendering system or the auction system or whatever it is, then the conditions are surely ours to put. It is for the Government to put conditions and not for the new purchaser. The only interest that we have to safeguard under the Agreement is the investment of the original company.

HON J BOSSANO:

Well Mr Speaker, the Hon and Learned Attorney-General was talking about the new conditions that are going to be attached to the new tender document. As I understand it, the only difference that there is between the old one and the new one is that under the old one the difference between the £45,000 and whatever is realised accrues to the original firm and that there is nothing that can be done about and it is all very unfortunate. But notwithstanding that, the new firm applying for this tender which could well be the same firm because there is nothing to preclude it applying, bids for the property and if for circumstances beyond its control it doesn't in fact fulfil the requirements of the tender, doesn't lose anything, it is not risking anything because it puts up whatever it wants to put up, it may preclude somebody else getting the property and there is no penalty. If they don't develop the Government steps in and pays back everything that has been invested. It is a gilt edged investment.

HON MAJOR R J PELIZA:

Should not the Government introduce a penalty into the contract. I think that in fact that was what was done when they came to see us in my time when we demanded, I believe, £15,000 in repayment as a deposit should they fail to develop, I am speaking from memory now but I think that is what happened then and if it was possible then it should be possible now.

HON CHIEF MINISTER:

I can give an undertaking that we will consider the matter very seriously before any commitment to tender is taken and also take into account not only the views expressed there but the views which I share fully.

MR SPEAKER:

I now call on the Financial and Development Secretary.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, in the course of the debate at the last meeting of the House on the Leader of the Opposition's motion that the statement of Reallocation Warrants be debated, I undertook to provide further information about the reallocation of funds authorised by Reallocation Warrant No.18 of 1977.

The Warrant in question, which was the *raison d'être* for the Honourable Member's motion, authorised the reallocation of an amount of £10,000 provided under Subhead 68 of Head 20 for the construction of a new Quarter for the Foreman of Waterworks, to a new



Subhead 81 of the same Expenditure Head to enable the Matron's Quarter (formerly known as the Porters Lodge, KGV Hospital) to be extended.

The extension was first mooted by the Public Works Department in December last year. Having initially sought an additional appropriation for the work, which the Treasury rejected on the grounds that it was too near the next budget estimates to consider new work which ought properly to be considered in the context of the following year's work programme, the Department then proposed that the funds provided for the construction of a quarter for the Foreman of Waterworks should be used and submitted a formal application for the reallocation of these funds.

The Department was asked to state why the proposed quarter for the Foreman, Waterworks was not being built; whether it would still be necessary to build it in future and whether, if the work were to be agreed, the extension to the Matrons' Quarter would be completed before 31st March 1977. Having regard to the circumstances of the application and the purpose for which the reallocation was being sought however, I also informed the Department that irrespective of the answers to these questions, I was not prepared to consider any reallocation of funds unless the proposed extension had the approval of the Government in Council of Ministers.

The Public Works Department's answers to the three questions, given on 28th December 1976, were as follows:-

- "2. " . The need for a new quarter for waterworks staff originally arose when it was proposed to convert an existing quarter at Tank Ramp into a home for delinquent girls. This was subsequently carried out elsewhere. However, by this time, the quarter at the top of Tank Ramp, below the Willis's Road water catchment area, stood in the way of a proposal for a link road from Willis's to Castle Road. It was therefore decided to pursue the idea of a new quarter in order to proceed with plans for the link road referred.
3. At the stage of investigating the possibilities for the Tank Ramp urban renewal scheme (June 1976) it was decided that the scheme could incorporate the required link road down Tank Ramp itself. Not only was this a more practical proposition but it also enabled the cost of the road to be absorbed under ODM funds. There is therefore at present no requirement for a new quarter for waterworks staff.
4. The proposed works at the Matron's Cottage are not that extensive and provided we can make an early start they should be completed before March 31 1977."

Council of Ministers was made aware of the Department's reply on 12th January and called for a comprehensive and detailed report on all works for which financial provision had been made in the Estimates under Head 20. It was also decided to instruct the Department to revise its plans for the proposed extension of the Matron's Quarters in order to reduce the scope of the work involved.

In the light of this detailed report Council of Ministers agreed in principle on February 9th to the extension subject to the cost not exceeding £10,000. Revised tenders for the work were received on February 25th, two of which were below the stipulated maximum, and on March 2nd Council formally approved the carrying out of the project.

By that time it was not possible to complete the extension by 31st March and the House will recall that the Minister for Education and Public Works moved during the Committee Stage on Head 22 the addition of a new Subhead 8 - Improvements to Porter's Lodge KGV - with re-voted provision of £3000.

Finally I might add that arising out of this case the Government issued two departmental directives -

- (1) the authority of Council of Ministers must be obtained for any proposal not to proceed with a project for which financial provision has been made in the Estimates;
- (2) the prior approval of Council of Ministers must be obtained for the preparation by the Public Works Department of plans for any works of a capital nature for which no provision has been made in the Estimates.

The purpose of the latter directive is to ensure that the limited planning and technical resources of the Public Works Department can be concentrated on approved development projects.

HON J BOSSANO:

I am grateful to the Hon Member for the detailed information.

#### BILLS

#### FIRST AND SECOND READINGS

THE WEIGHTS AND MEASURES ORDINANCE, 1977.

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to make new provision with respect to Weights and Measures and for connected purposes in the interest of fair trading 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, the Weights and Measures which are used in trade at present are controlled by the Police by virtue of Section 242 of the Criminal Offences Ordinance (Cap 37). In fact, the Weights and Measures Law as it stands at the moment forms Part 14 of the Criminal Offences Ordinance and in addition to that, Sir, the United Kingdom Weights and Measures Act of 1878 applies to Gibraltar although that Act has itself been replaced by the Weights and Measures Act of 1963 in the United Kingdom.

Mr Speaker, if the purposes of any Weights and Measures Legislation is a) to provide truthfulness in trade by securing uniformity or standardisation of the units of weights and measures and b) to have some control over the weighing and measuring equipment used in trade and c) to provide protection against the giving of short weight, measure or number, then there is a need obviously to introduce a statute which will match up to modern times and which it will be possible to operate by the necessary qualified staff. What is required in that case, Mr Speaker, if those principles are accepted, is a simple yet comprehensive legislation controlling weights and measures and I believe, Mr Speaker, that the Bill before the House now satisfies those conditions. Since there is provision for the Gibraltar reference standards to be compared with the United Kingdom primary standards, at least once in every ten years, the accuracy of these reference standards will be maintained and passed on to our working standards which are those which are used outside and then from there to the equipment which is in use by traders. It must be stressed, Mr Speaker, that Weights and Measures is a matter of international concern and it is a matter which is taken for granted in countries where the twin considerations of import and export are paramount. Now, Sir, insofar as the metric system of weights and measures is concerned I think it is worth remembering that it has in fact been lawful in the United Kingdom since 1897 and in fact metric weights and measures have been permitted to be used side by side with the Imperial system. In fact according to the Metrication Board more than 99% of the world's people live in countries that are either metric or are going metric. Insofar as membership of the EEC is concerned the Member States are required to use metric units for trade and other purposes, almost exclusively, by January, 1980, at the latest. The Weights and Measures Bill now before the House, Sir, does not prevent the removal of one system in favour of the other



just when a cut-off date has been decided upon, that would be done by a suitable Legal Notice, published in the Gazette. We are already partly metric in Gibraltar, Sir. For instance, petrol stations have been for some time dispensing petrol in litres. I think I should also remind the House that we are rather fortunate in having received a couple of years ago as a gift from the West Yorkshire Metropolitan County Council, sufficient standards to serve as the Gibraltar reference standards and these have been compared with other legal standards in the United Kingdom as recently as 1975. We are hoping that new working standards will be received here during the next few weeks, in fact, I wouldn't be surprised if they were already at Waterport, awaiting eventual de-blackening. As these are the standards which are taken outside and used to check traders' equipment, provision has been made for their comparison with the reference standards and adjustment will be made, if necessary, every six months. The Bill defines the yard in terms of the metre primarily because the international prototype metre is a more accurate physical measure. It also, for reasons of accuracy, defines the pound in terms of the kilogramme and separate clauses have been made in the Bill to distinguish between weighing and measuring equipment which has previously been stamped or which is to be used outside Gibraltar, and other equipment which requires to be stamped as fit for use for trade in Gibraltar. The other salient features of the Bill are 1) if prepacked goods are sold by weight or measure, the net weight or measurement is required to be marked on the container in the prescribed manner, and it is Clause 13 of the Bill which provides for this. Clause 16 provides that short weight measure or number and deceptive packaging are included in the penal provision. Thirdly, Sir, the power of entry and inspection are given to qualified inspectors of weights and measures who will be appointed by the Governor, this is done under Clause 17. Under Clause 24, Sir, weighing or measuring equipment which is false or unjust or which has been used fraudulently, is liable to be forfeited and a person convicted is liable to a fine of £500 or six months imprisonment. Clauses 27 and 28 provide for various defences in matters, for instance, when an offence was due to a mistake or an accident or where an offence was due to an act or the fault of another person. Provided, of course, that the defendant can prove due diligence. Sir, on the implementation of the provisions contained in the Bill, not only will we be ensuring that all weighing and measuring equipment in Gibraltar is tested for accuracy, but that a stamp will be impressed on all trade equipment which will show that it has, in fact, been passed as fit for use for trading purposes in Gibraltar. The stamp will, as a matter of interest, be in the form of a crown with the letters GIB beneath it, and it is totally unconnected with publicity by the

Tourist Department. In due course, Mr Speaker, regulations will be made to ensure the use of proper materials in the construction of weighing and measuring equipment and these regulations will also cover petrol pumps and other measuring instruments and the regulations will specify how each should be tested and what margins of error will be allowed and other interrelated provision. It is also intended, Mr Speaker, to provide by regulations if necessary for fees for stamping, weighing and measuring equipment as well as for adjusting traders' weights and measures and this it is intended could later be done by Order and will probably be based on the Weights and Measures Regulations, 1976, of the United Kingdom. I think, Mr Speaker, that those are the salient features of what is a rather long piece of legislation and which is rather complex and technical. I don't pretend that I myself will be in a position to answer all the queries which Hon Members opposite may have. I hope that, perhaps, between us, myself and the Attorney-General, could deal with that. I commend the Bill to the House.

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

HON M XIBERRAS:

First of all, this is the type of legislation which, I would imagine, no civilized community can do without but I am concerned, Mr Speaker, with the provisions of it because I have been the butt myself of the accusation from Hon Members when they were on this side of the House, that in the interest of doing something good for the community I was landing the community with a heavy burden in terms of beurocracy and so forth, I think that it is a fair proposition at this particular time, despite the fact that I agree entirely that a spade should be a spade and a pound should be a pound and so forth, I agree entirely that public safeguards are needed yet I rather suspect that the Consumer Protection Officer may, in the course of his work, come to the Minister responsible with a series of propositions such as the one which the Minister brings to the House at present and having been through this matter myself with the Statistics Office and so on when it was started, I think it is my duty to point out that these desirable pieces of legislation must be tempered in their implementation by an awareness of the cost to the public purse. Therefore I would rather see the Minister argue the very compelling need that we have for this kind of legislation rather than to state the fact that this was the general thing that was expected of a community such as Gibraltar. For instance, on the question of stamping, Mr Speaker, I appreciate that concern for the taxpayer, and taxpaying is a universal pursuit

these days, has led the Hon Member to announce that a charge might be levied for the stamping of the various instruments used for weighing and measuring and I think this is only fair. At the same time we are also going to impose an obligation on the Licencing Department, another part of the Government machine, to collect yet another sum of money along with many pieces of legislation for which I was responsible, the Accommodation Ordinance and the Labour from Abroad Ordinance, the Trade Licensing Ordinance and so on, so much so that one almost spends ones time, if one is employed in that line, paying for the various licences which are due at one time or another. I feel that this is the sort of consideration which might enter the Government's mind and I take this opportunity of saying it. There is a feeling that so many things, so much paperwork and so forth has to be complied with these days and, in the end, one wonders as to what extent we are really putting to right something which is really wrong. I think that this is the case or appears to be the case in trade licensing where we do have an apparatus, we do have in fact fifteen complaints dealt with and we have a committee and we do have a good number of officials employed in this and I think that perhaps we could be a bit imaginative as to how the desiderata of the Bill are in fact implemented. Mr Speaker, I wonder whether the Minister will tell us who is going to be responsible for seeing that the provisions of the Bill are carried out because could we not very well be approaching a stage where we pass legislation and (a) if need is not really a compelling one and (b) once it is in the Statute book little is done to see it enforced. If the general idea that the rule should be there in order to apply them when necessary but the Government is not going to mount an expensive and all-out campaign chasing a phantom of which there is no evidence that it is there, then, perhaps, certain clauses in the Bill might be changed. That is one point I would like to make and the other point is, is this business of cigarette smoking and it being injurious to health, does this, come within the scope of this Bill. It came to my mind that the Hon Member mentioned the word deceptive, or could it come within in the scope of the Bill. When the Hon Member mentioned the word defective and I seem to recall that the argument for putting the Government warning on cigarette packets was, in fact, that it would be deceptive not to let the public know what they were letting themselves in for. Perhaps the Hon the Minister for Medical and Health Services might enlighten the House on this point but, generally, I would support the Bill subject to some assurances that the points which I have mentioned would be borne in mind.

#### HON. FINANCIAL & DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I did not intend to intervene in this and I know perfectly well that my Hon colleague on my left will be able to adduce a whole range of cogent and compelling reasons why weights and measures in a sophisticated community is not a luxury but an



essential. I will merely just suggest to the Hon Mr Xiberras one reason, and that is that if a pound of butter or whatsoever is price controlled at a particular price then, unless you have a system of weights and measures, you do not know whether you are getting a pound or more or less and this is one of the most vital reasons why it is for the protection of the consumer that he knows that he is getting a pound or a quarter of the pound or whatever. Similarly with liquid measures, similarly with anything. I happen to know because I have been told by the previous Consumer Protection Officer that on test purchases of various goods around the town there was a wide disparity between what purported to be one pound and what in fact was sold. It was not always less, sometimes it was more but nonetheless it was not in many cases a pound it was something other than a pound. That, I would suggest to him, is one reason why weights and measures legislation is important. I shall leave it to my colleague to deal more fully with the question that I think the Hon Member was referring to, I think he was getting into the field of the Trade Description Act which is something quite different, of course, from weights and measures.

HON M XIBERRAS:

My argument is not that there should be no weights and measures legislation but (a) that we should know how it is going to be implemented, at what cost to the public, and by which department of Government and, secondly, whether all the provisions are necessary. For instance, I referred to the question of stamping, collecting, receipts and so forth but obviously I knew in fact that a pound is not always a pound and I said that from the beginning.

HON FINANCIAL & DEVELOPMENT SECRETARY:

I would only say that if the Hon Mr Xiberras had said that at the outset I would not have intervened.

HON J BOSSANO:

I would certainly agree that there is a very real need to introduce legislation which will protect the consumers and I think that perhaps while it is very necessary at the onset of the legislation to have the necessary machinery to make sure that the law is not ignored, I think if one starts from the right footing then, in fact, it may not be necessary to keep constant vigilance all the time. I think once people realise that they are running the risk of going foul of the law unless they are careful to give customers what customers are paying for, the thing will find its own level.



HON A J CANEPA:

Mr Speaker, quite honestly I haven't seriously given thought to the need to justify bringing this sort of legislation to the House because I would have thought that the need was obvious. In fact, I think it is correct to say, Mr Speaker, that such Weights and Measures legislation as there is in Gibraltar now cannot be described as being other than archaic. This is something that was highlighted in the Dame Elizabeth Ackroyd Report which, notwithstanding the problems that she raised in trying to advise the Government on prices and notwithstanding the problems that the Government has faced in that field since then, her report was nevertheless a breath of fresh air. It brought to our notice our complete and utter deficiencies in the field of consumer protection and her whole report which was described by the Hon Mr Xiberras as affording perhaps hardly more protection than a paper hat in the rain, her whole report is completely.....

HON M XIBERRAS:

If the Hon Member will give way. That is not in fact the case. It was what the Hon Member made of the report that I referred to as such.

HON A J CANEPA:

Here we are trying to make something of it now, Mr Speaker. Her report was very much slanted from the point of view of the consumer because let us not forget that for very many years she had been the President of the Consumer Council in the United Kingdom. Sir, as I said before our legislation is archaic and it is a pity that in Gibraltar at present and for very many years, the concern of the consumer, the concern of the public has been almost totally directed to the field of prices and price control and we wrangle and we fight in the Consumer Protection Unit over pennies with the traders and the trader, perhaps, get very irate with the Government about it and then, of course, in turn, the Government, when it has to authorise increases, becomes very unpopular with the public. But perhaps we do not realise that prices is only one aspect of the matter and that quality and quantity is perhaps as important a field of consumer protection and they are matters which are just as important for the consumer as the price. Because one thing is for prices to be high, another thing is for prices to be high when you are getting goods of poor quality or when you are getting goods which are under weight and we have got to educate the public to be rather more discriminatory about the other aspects, quantity and quality, and this is what is proposed now with this piece of legislation. It is one thing to pay a high price for a pint of beer, for instance, of draft beer which is controlled, and it is another thing to pay a high price and to be sold short measure. It is one other thing for the housewife to pay, say, 68p per lb for controlled beef and quite another one to pay 68p and instead of getting 16 ozs to get 13 or 14 ozs. I didn't want to stress at all the extent to which the public can be cheated in this respect

because, quite honestly, I do not think that if the authorities in Gibraltar, if successive Governments have done little about the question of weights and measures over the years and if as a result some traders, the unscrupulous trader, who is probably the minority, have a result of that been, I won't say encouraged, but he has got used to unfair trading because the weighing equipment that he uses isn't what it should be, I don't think that it was fair for me to use that and to overstress the extent to which I was using that as a reason for bringing this legislation. We do not intend to implement the legislation in a draconian way, we do not intend to hit the trader over the head and to make life impossible for him. The trader has got to be helped and educated and the consumer has to be educated and the trader has got to be helped by the Government to develop a code of fair practice and this is the way that it will be approached. The responsibility for this legislation will lie with the Consumer Protection and Trading Standards Department and the people directly involved will be trading standards inspectors who were formerly called inspectors of weights and measures and we are recruiting two of those from the United Kingdom in the first stage and already Members may have seen, following circulation of vacancies within the Government they may have seen in the press invitations to interested people, young people, probably, because the initial qualifications must be fairly high, to apply for employment with the Department with a view to going to train in the United Kingdom for a three-year course and then coming back and working in the department. The need, I think, for stamping equipment is obvious. How else do you verify that equipment has been tested and adjusted and either found to be correct or if found to be incorrect adjusted so that it is correct? The need is obvious and it must be by stamping the equipment that will be tested by the Unit.

HON M XIBERRAS:

Sir, is it intended to stamp all kinds of equipment to examine that?

HON A J CANEPA:

We are talking about the scales that are used by retailers and also the bigger scales which wholesalers are using. But it won't be possible to stamp all equipment. For instance, my Hon Friend Mr Featherstone, in discussion in the Council of Ministers in the Draft Bill, highlighted the question of the jewellery trade where very very fine instruments are used. There, perhaps, it is impossible for that to be stamped because it is too small but, generally, it will be the equipment that is being used by retailers and by wholesalers. Let me say, Mr Speaker, that some of the fears or some of the worries which the Hon Mr Xiberras has put across here this evening were perhaps in the mind of some of my

colleagues in Government and if their eyes needed to be opened to the need for this legislation, that one done very, very ably by the previous Consumer Protection Officer shortly before he left Gibraltar when he came to expand upon and to elucidate us on a very valuable report that he left us. He highlighted how, through his personal experience in Gibraltar, he had been able to observe the extent to which there was a danger that the public could be taken for a ride because the equipment was faulty. It doesn't require an expert to know that, for instance, a lot of the equipment which in bygone days we used to see the Spanish fish vendors carrying around couldn't really be accurate, it was out of the question for that equipment to be accurate, and this is what has got to be put right. I think that the legislation has been tempered by the knowledge of the reality of Gibraltar. The present Consumer Protection Officer is a man who through most of his career has been working in African countries and helping them to develop a system of weights and measures and knowing the problems and the deficiencies which exists in these countries where the set-up is not as sophisticated as in the United Kingdom, I have no doubt that he is not landing us with a piece of legislation which in its implementation, will raise problems or which will be draconian in what its provisions are or in the manner in which it is going to be implemented. I think I can assure the Hon Member opposite that this will be done with a view to helping the trader. The aim of the Consumer Protection Officer is not to take people to court, not to prosecute, but to prevent the need for prosecution. That is the policy which we adopt on prices where we persuade people and we warn them rather than take them to court and that is what will be done with this Weights and Measures legislation. I am quite confident, Mr Speaker, that I can commend the Bill for the House.

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

HON A J CANEPA:

Mr Speaker, I want to give notice that it is intended to take Committee Stage and Third Reading of this Bill at a subsequent meeting of the House.

THE GROUP PRACTICE MEDICAL SCHEME (AMENDMENT) ORDINANCE, 1977

HON A P MONTEGRIFFO:

"Sir, I have the honour to move that a Bill for an Ordinance to amend the Group Practice Medical Scheme Ordinance, 1973, by raising the contribution payable thereunder, 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 P MONTEGRIFFO:

Sir, I beg to move that the Bill be read a second time.

The contributions to the general Group Practice Medical Scheme, since free medicines were introduced, have not been touched except for an increase of 6p to cover free treatment for in-patients in the hospital. Since this system was introduced the cost per item has jumped from 59p to the present level of £1.10p. In fact, during the last four months and as I stated in my Budget speech, the trend appears to be that we shall be spending in this financial year £250,000 or £35,000 more than originally estimated when the estimates were finally approved. If we add some of the other expenses of running the Group Practice Medical Scheme, the total expenditure will be £319,000 while we are collecting approximately £219,000, a deficit of £100,000, and would still have pending claims from the chemists both for an increase of the cost per item and the opening of chemists after normal working hours to say nothing of the still unsettled biennial review of 1976. Here I would like to pause for a moment and on the question of the pending claims from the chemists, I have just received news today that we are getting help from the Costing Department of the Ministry of Health in order to investigate such claims which in any case would not become operative till about the first week of December if the claim is proved correct. For the last six months a contractors' committee run on similar lines to those in the United Kingdom, composed of doctors, chemists, and officials, has been making certain suggestions in an attempt to cut in over prescribing and the issue of certain medicines like effervescent calcium tablets etc, - just for example - for which there are equally effective but cheaper alternatives. These suggestions have been tried but meanwhile the bill goes on mounting. The question of prescribing a range of ten to twelve generic drugs as suggested by the House during the Budget debate in lieu of proprietary medicines is being studied but it has its problems. Firstly, Professor Arnold Beckett of the office of Health Economics, issued a warning that some of these generic drugs are not always as efficient as the proprietary ones and, secondly, as the price depends on the quantity....

HON M XIBERRAS:

Sir, is this about Gibraltar or generally speaking?

HON A P MONTEGRIFFO:

Generally speaking. Secondly, as the price depends on the quantities bought and they have to be brought from different firms it is not as easy to have a proper costing at hand as with proprietary medicines for which prices are issued monthly by the trade in what is called the



Red Book - nothing to do with Mao. However, the contractors' committee is trying hard to find some sort of formula through which we may be able to introduce some of these generic drugs particularly like in Jersey those which we are sure will have the same efficacy as branded ones but again I am advised that the savings will be marginal because the range is limited. Government does not expect that the Group Practice Medical Scheme should be self-paying but on the other hand it is not prepared to allow this particular scheme to run wild and thus find ourselves in the same position we did with the Public Utility Undertakings. We must strike a happy balance and place the scheme financially on an even keel always accepting that the taxpayer must share some of the burden because we believe that income tax is not only a means of distributing wealth more equitably but also of enabling the burden the community must share for the social services it receives to be shared in a more equitable manner. That is why the short Bill before the House which requires the contributions to go up weekly by 5p for the employee and 5p for the employer will bring in a year a further £50,000 leaving a balance of £50,000 approximately to be met from General Revenue. This we are going with the hope that at least for a reasonable period there will be no need to increase contributions further provided that the present deficit will not rise too steeply during the course of the next two or three years. For this purpose we hope, and, indeed, the Government appeals to the general public not to abuse the scheme and to the doctors to show a certain amount of restraint in prescribing without in any way depriving people of what they are rightly entitled to. The new contributions will become operative as from January 2nd, 1978, and the reason why I am bringing this Bill now and asking the House to allow it to go through all its stages, is because the order for the new insurance stamp must be placed before the end of July. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON M XIBERRAS:

Mr Speaker, on the question of the financing of the Group Practice Medical Scheme the Minister has given us some figures which points to a £100,000 deficit which the measure before the House will cut-down to £50,000. I think he has adduced two basic reasons for the increase in cost, namely, the chemists' later opening, so I understood. I simply can't hear Hon Members properly today for some reason perhaps because of the open windows I have great difficulty in doing so, and secondly and this I thought I got quite clearly, and that was the question of the certain representations made by the chemists.

HON A P MONTEGRIFFO:

What I said was that the price per item had gone from 50p when we first started to £1.10p in the last three or four months. It has been gradually catching up and that is the basic reason and I am saying that despite the fact that we are raising £50,000 and having another £50,000 deficit, we have still got to take on top of that whatever comes out of the biennial review and this enquiry which is going to help us whether the chemists are entitled or not entitled to whatever they are asking for. I am saying that the price of the medicines as such have gone up tremendously now from 50p from <sup>when we</sup> first started to £1.10 now this will bring a deficit to the fund of £100,000 I am asking to raise contributions to collect another £50,000 but I am warning the House that that deficit of the other £50,000 that are left pending to be raised from revenue might be more because of the claim for opening the chemists outside normal working hours, because of the claim that is pending for extra money per item from the chemists are because there is a Biennial Review.

HON M XIBERRAS:

I am very grateful for that because that was in fact the question that I wanted to get answered, Mr Speaker. So I take it that the claim by the chemists is still not taken into account. This is what I was trying to find out because otherwise, Mr Speaker, I don't know whether I would have agreed or not. I know that this is an emotional subject, the increasing of a charge of this kind. I do not think that 5p increase by the first of January comes around next year is an excessive amount by any manner of means. I think that a lot of use is made of the Group Practice Medical Scheme and I wouldn't begrudge the Minister his 5p extra on this matter but I am concerned, Mr Speaker, generally, by the way in which the Minister has argued his case in relation for this 5p increase and I am not always, even at estimate time, not always clear how the Medical Department draws up its balance sheet, as it were, and in this occasion I feel that 10p, taking both contributions into account, I think is more of a round figure than anything else. Am I right in saying this? And yet when the Minister gets involved with claims from chemists and so forth I am surprised by the neatness of the calculations which are produced. I wonder whether I have made a point there or not.

HON MAJOR R J PELIZA:  
would

I like to make a small contribution on this matter. It is obvious that it is desirable that the medical scheme in Gibraltar should improve as we go along. We cannot expect to get it for nothing and

therefore it is reasonable that from time to time, due to the cost of living and perhaps also if improvements could be introduced, it is natural that we should be asked to make a higher contribution. However, I don't think we want to make this an easy habit and the Minister believes that every time that there are difficulties perhaps in finding the right wholesaler or retailer or source of purchase it is too easy, I think, if the money is forthcoming not to ensure by every possible means that we are getting the best possible price. I am not well aware and perhaps the Minister could give an explanation later in this summing up, how the medicines or drugs that he was referring to are obtained. I would like to know whether it is in fact necessary because we are making purchases from the cheaper sources. This is what I want to know and are there any savings we can bring about by cutting middlemen perhaps and this, Mr Speaker is what I am trying to arrive at. I am not fully aware how this is done at the moment. Perhaps the Minister could explain and then when the time comes for voting I shall do it with a clear conscience as to whether I am supporting him or not on this measure. I know he says that there was an increase in the cost of medicines, I fully understand that. I also fully understood that perhaps after the Biennial Review again the cost will go up but what I am not satisfied is that being confronted with higher prices the Minister has done his best to find out if he can reduce those expenses, not necessarily by getting the manufacturer to bring the price down if he is getting it from the manufacturer, that is another thing I would like to know, or whether this is going into more than one hand and therefore by the time it reaches the selling point the price has been augmented quite unnecessarily. The way that I think a businessman would look at it bearing in mind that he has to offer it for sale and therefore he has got to be competitive. I think sometimes in Government we seem to forget about those small issues but which are very important because eventually the Government pays more for it. I hope that the Minister can give an explanation of how this is worked out. I have heard from him, for instance, that some medicines are purchased direct from the chemist. Is this necessary? Can they be imported directly from the manufacturer and held in stock in the hospital? I don't know, and therefore I would very much like, Mr Speaker, if the Minister could enlarge on those points before I make up my mind finally.

HON A P MONTEGRIFFO:

Mr Speaker, first of all I would like to thank the Hon Members for having given me such an easy passage on what is not, as the Hon Member Mr Xiberras says, a popular measure. I appreciated that.

Secondly, I would like to correct the wrong impression of the Hon and Gallant Member when he mentioned the question of pricing. The question of pricing is based on the manufacturer's price which is quoted in the famous Red Book, that is, the trade price which the wholesalers offer to the retailers and then we pay the retailer .....

HON MAJOR R J PELIZA:

If the Hon Member will give way. I thought that that sort of thing had been done away with in England deliberately to create competition and therefore there was no question of the manufacturer setting out a price precisely to avoid that situation whereby the price suggested by the manufacturer is the one that the buyer usually gets it and I think this is, in fact, in England illegal.

HON A P MONTEGRIFFO:

If we were buying from the hospital there are certain things we can do but we are not buying from the hospital. If the Hon Member is encouraging me to nationalise the chemist industry I would be very pleased to do that, in fact, I almost did it once. What happens is that we buy from the chemist. We price the item according to the red book, the chemist then gets 16% because they basically buy from wholesalers and then they get 35p per item. We do not work on a percentage basis so whether the item is £10 or whether the item is £5 or £1, we pay 35p per item. I am not fully satisfied that the system which they try to sell to me of how they work it in Britain is a correct one in Gibraltar where we do not issue medicines from the hospital as they do in Britain and where we only issue basically for two weeks. We also issue for a month but only for people who are chronically ill. They have got these perks plus the further perk of being paid within three or four weeks of getting the bill. Therefore what I have decided with them in negotiations which date back to about a year and in which Mr Xiberras came into it at some stage or other, that no increase should take place until December when this man comes along and this man is not only going to come along and see for himself and listen to all parties concerned and see if the formula they are selling me is exactly the same as the UK or whether that is appropriate to Gibraltar, but he has also offered to send me an inquiry team which is now inquiring the whole of the National Health Service in Jersey.

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



HON A P MONTEGRIFTO:

Sir, I would like to give notice that the Committee Stage and Third Reading of this Bill should be taken at a later stage of this meeting.

HON MAJOR R J PELIZA:

As there doesn't seem to be any urgency for this Bill to go through at this time could we leave it for the next meeting rather than later in this meeting?

HON A P MONTEGRIFTO:

The question is that the stamps have got to be ordered now.

HON MAJOR R J PELIZA:

Mr Speaker, I personally would like to see this going through because it is necessary. On the other hand I am not sure that I am doing the right thing simply because I have had no time to think. If I had time to think from now to the next meeting I might have enquired further and, perhaps, I could have introduced an amendment at the Committee Stage. I wonder if the Government could give thought to the question of allowing more time for legislation to be thought over.

The House recessed at 7.30 p.m.

WEDNESDAY THE 15TH JULY 1977

The House resumed at 10.40 a.m.

THE LAND (TITLES) ORDER (AMENDMENT) ORDINANCE, 1977.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Land (Titles) Order (Cap 82) 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 ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that this Bill be now read a second time. Under the Land (Titles) Order all wills and deeds other than leases for a period of less than three years, are required to be registered in the Supreme Court. As can be appreciated some of these may run to very considerable length. At

present, Section 9 of the Order provides that every will - it is a will in fact which disposes of land, inter alia - and deed has to be presented to the Registrar of the Supreme Court together with a copy. This Registrar is then required to check the copy with the original and thereafter to file the copy in the Registry. He then endorses the Certificate of Registration on the original and returns it to the person who presented it. As Members will appreciate, the checking of the copy with the original requires a most meticulous comparison and in the case of a long deed or will this can take a very considerable time. Not only is it unsatisfactory to persons dealing deeds and wills that they should have to wait a long time before getting back the original certified as registered, and there is a considerable backlog at the moment, but also the checking is an unnecessary waste of time of the Government officers concerned. Section 9 was enacted before photocopying was ever thought of and it is now clear that with present photocopying techniques and equipment, copies can be made of documents which will last virtually till eternity plus a day. Clause 2 of the Bill therefore revokes the provision requiring all wills and deeds to be checked with their copies before they can be registered. Clause 3 will enable the Chief Justice to make rules of Court governing the method of photocopying of originals and all matters incidental thereto. This will therefore save an immense amount of time for everybody concerned. Mr Speaker, I commend the Bill to this House.

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

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

HON ATTORNEY GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in this meeting and, with the leave of the House, today, if it be so reached.

This was agreed to.

THE PATENTS (AMENDMENT) ORDINANCE, 1977.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Patents Ordinance (Cap 119) by providing for the registration in Gibraltar of certain patents granted in countries which are parties to the European Patents Convention and for matters incidental thereto 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 ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that this Bill be now read a second time. Our legislation relating to patents provides for the registration in Gibraltar of a patent granted in the United Kingdom. There is no provision for the registration of a patent granted elsewhere. New legislation is being enacted in the United Kingdom as a result of Her Majesty's Government becoming a party to the European Patents Convention whereby a patent granted in a country of another party to the Convention can be registered in the United Kingdom. Once it is registered there it has full force and effect as a patent granted in that country. What we are now doing, we have been invited to consider this by Her Majesty's Government, is to provide that a European patent, which has been registered in the United Kingdom, not granted, but registered in the United Kingdom, can, if necessary, be registered in Gibraltar and that is the sole purpose of the Bill. There is one incidental clause which provides for the documentation, if I might put it this way, which must be forwarded with a European patent before it can be registered here. It would seem this is a common sense step. I think all the members of the European Community are members of the Patent Convention, we are not bound to enact this legislation but it can only be beneficial to us. Mr Speaker, I commend the Bill to this House.

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

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

HON ATTORNEY GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage of this meeting and if the Members of the House agree, today, if it be reached.

This was agreed to.

THE MISCELLANEOUS AMENDMENTS ORDINANCE, 1977.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to make minor miscellaneous amendments to various Ordinances 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 ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that this Bill be now read a second time. All of us, perhaps I should say the great majority of us, make mistakes from time to time. From time to time when dealing with various Ordinances it comes to notice that in the 1964 reprint there were certain errors either typographical or of omission and it is clearly desirable in those circumstances for these to be put right. I think, perhaps, if I could deal very briefly with each of the clauses and I apologise for taking the time of the House but I think it only fair that I should do so. Clause 2 relates to section 94 of the Criminal Justices Administration Ordinance and it starts off: "When at the time of any proceedings in court an accused person appears to be of unsound mind the court, notwithstanding that it is alleged...." It is quite clear that this is wrong. It is where the chap is of sound mind at the time of the trial but was of unsound mind, perhaps, at the time the offence was committed, the Court can hear the case. It has already dealt with the circumstances where the man is of unsound mind at the time of the trial and this is, again, a typographical error which we are putting right. Clause 3 again relates to the Criminal Justices Administration Ordinance and Section 135 provides that the procedure in the Supreme Court, unless otherwise provided should be in conformity with the law and practice for the time being observed in a Court of Assize in England. That was fair enough when this Ordinance was enacted but Courts of Assize have now been abolished, they were abolished in 1970, and we now have Crown Courts and it is the procedure of those Courts which we follow in Gibraltar when there is no specific provision. Still on the same Ordinance, the Criminal Justice Administration. Clause 4. In 1970/71 there was abolished in the United Kingdom, the difference between felony and misdemeanour. We made consequent changes in Gibraltar but this particular section, Section 139, is a section which missed the eye of the draftsman at that time and it still talks of felonies and misdemeanours so now we are making it quite clear that all offences are tried as if they were misdemeanours. Clause 5 is a change in the Criminal Offences Ordinance dealing with the possession of offensive weapon. A person who has a weapon adapted for causing injury to a person or intended by him for causing injury, is guilty of an offence, but the words used at the moment are "intended by the person having it with him for use by him." He must have it for intending to cause injury, nor merely for a normal use. So if the Hon and Gallant Major Peliza has a knife with him which he is going to use for gutting fish, that is a perfect



defence but unless the word "such" is put into this particular section the Hon and Gallant Major could be laying himself open to proceedings. I think it fair to say that a court would take notice that the draftsman had made a slip and say "We must read the word "such" into the section," but it is clearly preferable that the matter should be put beyond doubt. Clause 6 deals with the Elections Ordinance and this is a wrong cross reference in section 48(4). Section 48 deals with breaches of official duty and in particular subsection 4 says: "Nothing in this section should affect any person's criminal liability under section 45." It was section 45 before the revision but under the new Ordinance it is section 47 which relates to infringement of secrecy and this amendment by clause 6 is doing no more than making matters comprehensible and correcting, as I say, this cross reference. I now come to clause 7 and the Port Ordinance and this is an error of omission. The Schedule to the Port Ordinance reads; "The Port of Gibraltar should include (a) that area of water and the foreshore adjacent thereto that is commonly known and recognised as the Port registered and anchorage ground of Gibraltar, (b) Port Waters, (c) all that area commonly known as Waterport, as well as Waterport Wharf and those parts of the North Mole together with all buildings and erections thereon." What was left out were the words which appeared in the original Ordinance; "leased to the Government of Gibraltar and as more particularly delineated and coloured in red on the plan deposited in the office of the Surveyor and Planning Secretary." An error of omission slipped the draftsman's eye and we are putting that back. This relates to the parts of the Port which are leased to us by the Ministry of Defence. Lastly, in clause 8, there is an amendment to the Traffic Ordinance where a subsection is wrongly referred to as '4' when, in fact, it should be '5'. Mr Speaker, I commend the Bill to this House.

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

HON J BOSSANO:

Mr Speaker, strictly speaking it is not on the merits of the existing provisions in the Miscellaneous Amendments Bill but what I would like to do is to take an opportunity to say that I shall be moving an amendment to the Ordinance at the Committee Stage by adding a new clause which will have the effect of amending the Landlord and Tenant Ordinance in order to extend the existing protection that tenants have under that Ordinance by limiting the properties that are exempt from this protection on a moving basis rather than is the case now to properties built on a particular date. This is a matter which I raised at a previous meeting of the House and which Government said they were looking at the whole thing of protection of tenants. I feel that since we are coming up to the summer recess and this is the last meeting of the House, and since this is something, in fact, which, while I agree the whole question of protection of tenants is one that requires a great deal of thought,

I would like the House to remember that whilst we are all thinking about it there are individuals who are suffering by virtue of the existing inadequacy and anybody can find themselves out in the street while the House is in its summer recess because the existing provisions are inadequate. I feel that by carrying out this minor amendment to the existing law we are, in fact, only amending the letter and not the spirit of the law if we consider that when the original provisions were made it was intended to protect tenants of property built before a particular date and then the law was passed making property built after that date completely free as regards the right of a landlord to take possession. If we have a particular period of time after the construction of the property as the, shall we say, free period when the landlord is free to do what he likes with the property, that continues the incentive effect that the original provisions of the law was designed to provide but it limits that incentive effect to the number of years so that in fact every year the property that would no longer be free would be moving a year forward. The free period would be available to the same extent as it was originally whereas at the moment you could get a situation where properties that are well passed their rate of return and are, perhaps, in as bad a state and very little different in value from those that are controlled, are not controlled by virtue of the fact that they were built 24 hours later. We have, I think, an anomalous situation in that there is unlimited protection on one side of a specific point in time and no protection at all on the other side. I feel that the spirit of the protection, the spirit of the law, would continue if we put the provision in terms of a period of time and we said that any property built in the last x number of years could still be free but, of course, x number of years would move forward daily.

HON CHIEF MINISTER:

Mr Speaker, I think this is a very serious and fundamental change and I would like, perhaps, even if we leave the Committee Stage to the adjournment, if the Hon Member will give me the proposed amendment for me to consider in order to be able to give a considered yes or no, because it is not a matter which can be easily agreed to just across the table. I appreciate the point and the proposal that we made that we would be considering that has been and is being studied. Also being studied are the other aspects of the Landlord and Tenant (Miscellaneous Provisions) Ordinance in respect of business premises of which there is also a considerable amount of abuse in some respects. We have been considering that, there was a paper on this latter part and earlier on of the other part and a considerable amount of research has been made on this but even if I have to say no, I would like to say no, if I have to say no, with consideration and not just because I have not had time,

HON P J ISOLA:

Mr Speaker, the Hon Leader of the Opposition, in putting forward his proposal of which we will no doubt hear a little more, of course, is anxious to protect people who might find themselves in the streets during the summer recess. I would certainly like to reassure him that there is little chance of that because the Court takes almost as long a period in recess as the House does and it is unlikely that this would occur. As far as the substance of the amendment is concerned, I think there probably is a need to look at the Landlord and Tenant Ordinance but I would suggest it makes life hard for most people, with respect to the Hon and Learned Attorney-General, if we put amendments into the Miscellaneous Amendments Ordinance because people forget the existence of the Miscellaneous Amendments Ordinance and tend to forget that the law has been changed and I would suggest that the practice of amending an ordinance in the Miscellaneous Amendments Ordinance should not be encouraged to be extended to amendments of substance of Ordinances. I know it has been done, I know it was done with the Housing (Special Provisions) Ordinance in which we objected to it but I think as long as the position that the Hon Leader of the Opposition wants to protect is, in fact, protected by the fact that the Courts are in recess almost as long as the House, I would recommend to him that this sort of amendment should really come into a proper Landlord and Tenant Amendment Ordinance. But as I say, the point is academic because nothing is likely to happen during the time that the House is in recess but I think it is important that we should not encourage, however worthy the amendment might be, we should not encourage too many amendments of substance in the Miscellaneous Amendments Ordinance. I think that tends to make life difficult for everybody involved in the process of the law, as well as the layman, I might say.

MR SPEAKER:

I am sure the Hon Member is exclusively referring to matters of practicability. As long as we have an amending Ordinance before the House, and I have said this before, any Member is free to present amendments to any other Ordinance.

HON P J ISOLA:

I agree, Mr Speaker, but when I say that it makes life difficult for a lot of people I am not just talking of the people associated with the process of the law like the Judiciary and the lawyers because I suppose we should know and we just look at all our miscellaneous amendments to see if there is any difference, or

any change, but the ordinary layman, for example, who wants to know what the Landlord and Tenant Ordinance says, buys a copy in the Secretariat and would not have this amendment easily available. He would look at the law and would be misled. A layman who just wants to read a law, not just Landlord and Tenant, it could be the Public Health Ordinance or anything, it does make life difficult for them if he has to go through all the miscellaneous amendments ordinances that ~~have~~ been passed over the years to be absolutely certain he has got the right law. So I would not, myself, encourage major amendments in Miscellaneous Amendments Ordinances.

HON CHIEF MINISTER:

The point that was made last time was taken by the Government but in this case it happens to be a very suitable way of correcting the errors but, of course, it leaves open for any Member to try and reduce Income tax or increase Income Tax in a Miscellaneous Amendment Ordinance by a small amendment in the Committee Stage if we are not awake to the dangers.

MR SPEAKER:

If there are no further contributors I will call upon the Hon and Learned Attorney General to reply.

HON ATTORNEY GENERAL:

The point made by the Hon and Learned Mr Peter Isola is, I think, with respect, not a particularly good one. Anybody buying a copy of an Ordinance in the Secretariat would have the original Ordinance and not the Ordinance as amended. If he is going to look to find out what amendments have been made by subsequent ordinances to that Ordinance, let us take the Landlord and Tenant (Miscellaneous Provisions), he gets an index and we publish this index each year. The index will show, let us take the Criminal Justice Administration Ordinance, that will show (a) the original Ordinance, (b) the year and number of any ordinance which is a Criminal Justice Administration Ordinance amending bill and (c), it will also show any miscellaneous amendment Ordinance which has amended that particular one. All you need, and you would need it in any event, is to get an index which would also include under every Ordinance which is amended by a Miscellaneous Amendments Ordinance that particular Ordinance. I think it is justifiable in producing an Ordinance of this nature because in this particular case we would have to have six separate Bills before this House which does seem to me to be a waste of time and provided, I accept this, provided the amendments are not matters of substance it is, in my submission, justifiable. I think that is generally accepted. Mr Speaker, I beg to move.



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

HON ATTORNEY GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a later stage of this meeting but, I think, in view of the points brought forward by the Hon Leader of the Opposition, I shall not ask that it be today.

MR SPEAKER:

Perhaps I shall take this opportunity to ask the Hon the Leader of the Opposition to give ample notice of his intended amendment so that Members can have an opportunity to study it before it comes before the House at the Committee Stage.

THE CARRIAGE OF GOODS BY SEA ORDINANCE, 1977.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the law with respect to the carriage of goods by sea 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 ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that this Bill be now read a second time. For over fifty years, as a result of an international agreement of The Hague in 1924, there have been generally accepted rules relating to Bills of Lading. These rules were incorporated by Act of Parliament in the United Kingdom in 1924 and in Gibraltar by the Carriage of Goods by Sea Ordinance, 1926. It is now Chapter 17 of the Revised Edition. In 1968, a protocol agreed internationally in Brussels amended the 1924 rules. The two main amendments being the increase of the limits of liability and the extension of certain defensive and limits of liability of a carrier to his servants or agents. This protocol has been ratified in the UK and legislation giving effect to it came into force last month. The protocol will be extended to Gibraltar as soon as the present Bill becomes law. There is no reason why the rules applicable to bills of lading for the carriage of goods from Gibraltar should be different or should not be the same as those in other countries. Indeed, to have different rules, and they would be different if we didn't pass this Bill because our old rules would apply, would cause problems. There is

a provision that any Bill in force at the moment or as a result of a contract made before the coming into force of the Ordinance, shall be subject to the old rules, there is no problem there, and once again this would seem to be a sensible measure to ensure that our legislation regarding commerce is the same as that which prevails throughout most, if not all, of the countries of Europe and, indeed, countries outside Europe. Mr Speaker, I commend the Bill to the House.

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

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

HON ATTORNEY GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a later stage in this meeting and today if all Members so agree.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1977-78) (NO. 2) ORDINANCE, 1977.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that an Ordinance to apply further sums of money to the service of the year ending on 31st day of March 1978 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 beg to move that the Bill be now read a second time. Sir, the purpose of this Bill is to appropriate out of the Consolidated Fund a further sum of £135,681 and to appropriate out of the Improvement and Development Fund a further sum of £12,300. The purposes for which these additional sums are required are set out in detail in the Schedule of Supplementary Estimates which I tabled at the commencement of these proceedings, and, in accordance with our procedure, those schedules will be the subject of such detailed comments and questions as the House may wish to make when we reach the Committee Stage of this Bill. I would only, I think, add two things. First of all, there is a minor change in the format in which the Supplementary Estimates Schedule has been prepared. It is now divided into two parts. Part A contains all the what I might call normal Supplementary Estimates, that is to say,

estimates presented to this House for the first time, and Part B contains details of, in this particular instance, the only two cases in which use has been made of the Contingencies Fund and sets out the reasons why I thought it necessary to use that Fund. The other slight change, of course, is that the Improvement and Development Fund Schedule is now completely separate. Mr Speaker, I beg to move.

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

HON J BOSSANO:

Mr Speaker, perhaps first of all I can say that in the Remarks column there is in fact a wealth of information in fact which I think makes the task of the House much easier and will do away with a lot of unnecessary questioning and I am glad that the remarks that have been made in the House, rather than in the column, in the past have borne fruit. I would like to take this opportunity of congratulating the Hon the Financial and Development Secretary for the detail that there is available. I would also like to give notice that I propose to move an amendment to the Part 2 of the Bill dealing with the Improvement and Development Fund and presumably to the Schedule as well.

MR SPEAKER:

You mean Part B, don't you?

HON J BOSSANO:

No, no, I mean part 2 which gives the totals and presumably I will have to move an amendment to the actual detailed breakdown of how the sum is made up. I propose to move an amendment to Head 107 part 2 of the Schedule. I am wondering whether in doing so, since I understand that the stencilled sheet giving a detailed breakdown forms part of the Bill, I should move an amendment.....

MR SPEAKER:

No, it does not.

HON J BOSSANO:

It doesn't? So I don't have to amend that I just move the amendment. Well then, perhaps, in giving an explanation when the time comes at the Committee Stage I could make reference to it. The amendment I propose to move, Mr Speaker, would have the effect of adding a subhead to Head 107 and the reason why I wish to do this is in fact because the item I propose should be added to this with a token vote of £100 which the Government can use at a later stage if it wishes....

MR SPEAKER:

We are getting rather confused.

HON J BOSSANO:

I am talking about the Bill itself. It provides £10,300 for Government Offices and Buildings which, according to the detailed breakdown that we have, is made up of a new item for the conversion of the Red Ensign Club. I propose to add to Head 107 a new subhead 15 with a token vote of £100. The reason why I wish to do this, Mr Speaker, is because the item that I propose should be added is the provision of a workshop and amenity centre.

HON CHIEF MINISTER:

I think the Hon Member is honestly misguided. I do not think that members of the Opposition can move increases in votes at all.

HON J BOSSANO:

I was under the impression that we couldn't move in cases of taxation, Mr Speaker, but increases in expenditure I would have thought we can. If we can reduce expenditure, surely we can increase it. My understanding is, Mr Speaker, that members of the Opposition cannot move amendments to increase taxation but we can increase expenditure. The problem of raising the money still is the Government's. Anyway, perhaps, Mr Speaker, if I cannot do it if I am allowed a certain latitude now I might be able to convince the Government to do it for me.

MR SPEAKER:

I think the relevant section of the Constitution is section 35 which reads: "Except on the recommendation of the Governor signified by the Financial and Development Secretary or by a Minister, the Assembly shall not - (a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding in the Assembly makes provision for imposing or increasing any tax, rate or duty, for imposing or increasing any charge on the revenues or other funds of Gibraltar, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Gibraltar; or (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Assembly, would be to make provision for any of the purposes aforesaid." It is a question of not being able to move anything for the increase of taxation.



HON CHIEF MINISTER:

That goes to the root of Parliamentary control and executive power of the Government as different from the Legislature.

HON J BOSSANO:

But I am not seeking to raise taxation, Mr Speaker, so the matter does not arise.

HON CHIEF MINISTER:

Unless he wants to make a contribution from the funds of the Transport and General Workers' Union in England who, I think, own millions of pounds we would be able, happily, to accept it.

HON J BOSSANO:

Mr Speaker, I can tell the Government how to get the revenue from another head if that is what they need.

MR SPEAKER:

If you can do it in a way that is not going to impose an extra charge or burden then you can do so.

HON J BOSSANO:

Mr Speaker, I seem to remember on many occasions when the Opposition has urged increased expenditure on a number of items and moved amendments to increase expenditure. This is the first time I hear that the Opposition has not been able to do this.

MR SPEAKER:

Anyway, you have given notice. I will go further into the matter and when the time comes if I have to make a ruling I will.

HON J BOSSANO:

Mr Speaker, the proposal is to include in the Schedule a new subhead with a token vote of £100 so that, in fact, the provision is in the Estimates for the construction of a workshop and amenity centre for that section of the Public Works Department that is stationed in the Laguna Estate. This is a matter which has been under negotiation between the representatives of the TGWU in the Government section and the Government for a number of years and, in fact, although there has been, at management level, commitment in principle to the

provision of this workshop and an area has been surveyed and plans drawn and so on because it is recognised, both by management and by the Union, that the present arrangements are highly likely to interfere with the efficient working of the Department because there are, for example, no toilet facilities there and people have to walk miles to the nearest toilet. Basic facilities that the Government provides, generally speaking, throughout its different workshops are missing there because a number of years ago when the amalgamation of the City Council and the Public Works Department labour forces took place there was a re-distribution into different areas so that the different housing estates would have a part of the Public Works Department assigned to them. When this distribution took place in the other areas facilities have been provided. For example, the most recent addition to the facilities have been the construction of an excellent workshop and amenity centre at Catalan Bay. The one at the Laguna has been pending for a considerable amount of time and in the latest meeting of the Works Council the only reason that was given for it was that no funds had been provided in this year's Estimates. I can also inform the House that at a previous meeting of the Works Council which was three months ago the information given to the trade union representative was that it was impossible to put it in for last year's Estimates but that an effort would be made to put it in to this year's Estimates. I feel that if a token vote is there then if at some stage the Government is able to proceed with this plan, then they have the commitment, in principle, already included in the Estimates and all they have to do is to increase the amount necessary for that. Alternately, if they do not want to do it and it is a matter of policy not to provide these facilities, then they should come out and say it openly instead of keeping people living on hope year after year that the amenity centre is going to be provided but that it hasn't been provided in this year's Estimates, it is going to be provided in next year's Estimates and then year after year. The matter is on record and there are minutes available. I am sure that the Minister for Public Works, who may not be well informed about the actual details of this, can obtain the information from his Department and find out that this is being a very longstanding commitment in principle and that, generally speaking, when it gets to the crunch the argument that is put forward is that there is no provision in the Estimates. I feel this is an opportunity to make such a provision. The other thing, Mr Speaker, is that there is a site due for construction which came out to tender in the course of this last week which was for the provision of offices at the North Front Distiller. To my knowledge this was not provided for at Budget time and it is not provided for in this Supplementary Bill. I think that if the money is not being provided for elsewhere the meeting of the House should not be allowed to go by without provision being made here. In view of our

commitment to parliamentary control I think it is undesirable that tenders should go out and that the building should be constructed and then the House should be asked to provide the money. If we have an opportunity to provide the money now I think we should be asked to do it now.

HON CHIEF MINISTER:

Mr Speaker, the question that has been raised by the Leader of the Opposition about the workshop will not be more advanced by the provision of £100, if it were possible for him to move it, than with the case that he has made for us to go into the matter as far as I am concerned. I understand that there was originally a provision in the last year's Estimates and that at some stage priorities made it to be put aside for the time being. I understand also that there has been a requisition from the Public Works' Department for an initial £5,000 to start with the work and it is now in the process of being considered by the Treasury. If that is the case and the case has been made out and the place is required and there is material available and the labour available to do it together with other works which are very important, I am sure that it will take the priority it deserves. I can give that undertaking of looking into it now. I think that the question of getting the long procedure of seeking approval under the Constitution for a token one really is too cumbersome for a matter which can be raised as the Hon Member has indeed raised it in the way in which he has done and which I will take due note of. I can assure him that there will be no impediment. With regard to the other one about North Front, well, I don't know anything about it. I will look into it and I will give an answer later. Probably it is being made out of a virement or something, I do not know.

HON J BOSSANO:

In view of what the Chief Minister has said I am prepared not to proceed with my proposed amendment but I think it would be useful if you did look into this matter and gave a ruling on it.

MR SPEAKER:

Without making a ruling just now, I think the Hon Member would be free to move what he wants. It would entail expenditure but what you will not be able to do is to bring in a motion. In other words the Government may say that there is no authorised expenditure for this particular item and therefore it cannot be done. In any event I will make a ruling before the end of this meeting.



HON CHIEF MINISTER:

I think it is essential to have a ruling for the guidance of the Leader of the Opposition and members generally.

MR SPEAKER:

When one reads the particular section it is clear it must be legislation which is directly involving the creation of a charge, not the expenditure of money. But in any event one has to go into these matters which are fundamental matters affecting the Constitution and the rights of Members and I will most certainly go into the matter and give you a ruling before the end of this meeting. If there are no other members who wish to contribute to the general principles and merits of the Bill I will call on the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, we shall await your ruling with great interest. I would only say this; that of course this expenditure will be firstly a charge on the Improvement and Development Fund which, unless my Hon and Learned colleague corrects me, is nowhere mentioned in the Constitution. Secondly, however, the financing of the Improvement and Development Fund is entirely dependent upon three sources, monies which are granted or loaned to the Government of Gibraltar by the United Kingdom or any other international donor or lender, monies which the Government raises through public borrowing which, of course, is a direct charge in relation to repayment and interest on the revenues, and, thirdly, such contributions from the Consolidated Fund as the House may, from time to time, appropriate. Likewise, of course, that affects the general budgetary balance and hence the possible charge on the revenues. With that, Mr Speaker, I shall await, as I said, your ruling on this matter with great interest. I appreciate the remarks by the Leader of the Opposition in relation to the detail which we have recorded. It followed from remarks which he himself made at a previous meeting, I think the previous meeting to this one, although he was at that point referring, I think, to re-allocation warrants. However, the sense of his remarks we have noted and we have, as he has said, expanded quite considerably on the explanation in the hope that the additional funds which are thought and which are described in detail here, the House will, at a glance, be able to see much more clearly why we are coming to the House requesting an additional appropriation. Mr Speaker, Sir, I beg to move.

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 this Bill be taken at a later stage in this meeting and if it is the pleasure of the House, today.

This was agreed to.

COMMITTEE STAGE.

HON ATTORNEY GENERAL:

Mr Speaker, I beg to move that the House should now resolve itself into Committee to consider the following Bills clause by clause: The Social Insurance (Amendment) Bill 1977; the Employment Injuries Insurance (Amendment) Bill 1977; the Non-Contributory Social Insurance Benefit and Unemployment Insurance (Amendment) Bill 1977; the Group Practice Medical Scheme (Amendment) Bill 1977; the Land (Titles) Order (Amendment) Bill 1977; the Patents (Amendment) Bill 1977; the Carriage of Goods by Sea Bill 1977 and the Supplementary Appropriation (1977/78) (No.2) Bill 1977.

THE SOCIAL INSURANCE (AMENDMENT) BILL, 1977.

Clauses 1 to 15 were agreed to and stood part of the Bill.

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

THE EMPLOYMENT INJURIES INSURANCE (AMENDMENT) BILL, 1977.

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

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

THE NON-CONTRIBUTORY SOCIAL INSURANCE BENEFIT AND UNEMPLOYMENT INSURANCE (AMENDMENT) BILL, 1977.

Clauses 1 to 5 were agreed to and stood part of the Bill.

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

THE GROUP PRACTICE MEDICAL SCHEME (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.

## THE LAND (TITLES) ORDER (AMENDMENT) BILL, 1977.

Clause 1

HON ATTORNEY GENERAL:

I beg to move that Clause 1 of the Bill be amended by the addition, immediately after the figures "1977" appearing therein, of the words "and shall come into force on a day to be appointed by the Governor". Once we do away with the necessity of comparison of deeds and Wills, then at that stage the rules must be enforced relating to the procedure for photocopying. These rules are made by the Learned Chief Justice and he has informed me that at the moment there are one or two loose ends to be tied up. The size of the paper, for example, and the exact procedure to be followed. The position, therefore, is that if this Bill were to come into force upon publication which will be, if this House passes it, next week, there would be a gap, there would be no rules covering the position and therefore once the rules are ready, made by the Chief Justice, approved by the Governor, then they will come into force and the Bill will come into force at the same time.

Mr Speaker then put the question in the terms of the Hon the Attorney General's amendment which was resolved in the affirmative and Clause 1, as amended 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.

## THE PATENTS (AMENDMENT) BILL, 1977.

Clauses 1 to 4 were agreed to and stood part of the Bill.

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

## THE CARRIAGE OF GOODS BY SEA BILL, 1977.

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

Clause 3

HON ATTORNEY GENERAL:

Mr Speaker, I beg to move that Clause 3(4) of the Bill be amended by the deletion of the word and figures "Article 17" appearing therein and by the substitution therefor of the words and figures "Article IV bis". This is a printing error, there is no Article 17, in fact, in the Schedule but there is an Article IV bis which is a term I only came across about ten years ago but this is, I understand, a fairly common expression in treaties of this nature.

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

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

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

THE SUPPLEMENTARY APPROPRIATION (1977-78) (NO.2) BILL, 1977.

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

# SCHEDULE

## PART I - CONSOLIDATED FUND.

Item 1, Head 2, Consumer Protection Unit was agreed to.

Item 2, Head 8, House of Assembly was agreed to.

Item 3, Head 9, Housing.

HON J BCSSANO:

May I ask the Minister for Housing whether he considers that with the provision here for the numbers explained in the Remarks column he is going to be able to adequately cover the work of four districts in view of the fact that he is proposing to augment the numbers of labourers attached to the districts by two and in fact the Department is divided into four districts.

HON H J ZAMMITT:

Yes, Mr Speaker, as is known the Warden structure is still relatively new. We have seen it function over the past year or so with a certain amount of merit and the intention here is to augment the structure to see how it continues to perform and, if need be, I will come back to the House if there is a requirement for maintaining the high standard which the Warden structure has so far been able to show.

Item 3, Head 9 - Housing was agreed to.

Item 4, Head 10 Income Tax Office.

HON M XIBERRAS:

The needs of the public will be taken into account fully, I gather?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is primarily the reason for seeking new office accommodation. The public is, I will not say seriously inconvenienced, but they are

certainly inconvenienced and that particularly applies to employers raising queries about PAYE and, indeed, barristers and accountants who seek consultations with the Commissioner.

HON J BOSSANO:

May I ask whether, in view of the fact that the Government is now proposing to rent offices, they are still intending to proceed with the £100,000 modifications at St Jago's that was provided for in the Improvement and Development Fund in the Estimates where, I think, at least part of the offices, if not all, were going to be intended for the Income Tax Office. Is it that they are going to use the St Jago's offices for something else or are they thinking now of not going ahead with that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I am not fully responsible for the allocation of office accommodation but it is my understanding that Government will be going ahead with the conversion of St Jago's into office accommodation. It is also my understanding that this is, of course, going to take some little while anyway and, thirdly, the final decision as to who is going to occupy the space at the end of the day is a fluid matter and although the Leader of the Opposition is perfectly correct, it was originally thought that space would be provided in St Jago's for the Income Tax, the point is that the congestion in the office now cannot wait for St Jago's to be completed.

Item 4, Head 10 - Income Tax Office, was agreed to.

Item 5, Head 15, Medical and Public Health was agreed to.

Item 6, Head 16, Police was agreed to.

Item 7, Head 17, Port was agreed to.

Item 8, Head 18, Post Office Savings Bank and Philatelic Bureau was agreed to.

Item 9, Head 20, Public Works was agreed to.

Item 10, Head 22, Public Works Non-Recurrent was agreed to.

Item 11, Head 23, Recreation and Sport.

HON M XIBERRAS:

I think it would be unfair to allow this one to pass without any comm-



after the big debate we had the last time on expenditure. I think that the public is owed some sort of explanation about how the Minister fared in organising this Jubilee tournament in view of the debate that we had on the losses incurred by GFA last year and Members would be failing in their duty if they did not raise the matter and ask the Minister for an explanation.

HON H J ZAMMITT:

I didn't quite get what the Hon Member is seeking to obtain from me, Sir. If he is asking as to my intervention this particular year in the Jubilee Football Week I can say it was a Government thing because of the Silver Jubilee. It was not a venture as last year where the GFA had responsibility. It was purely a Government responsibility of providing these two games.

HON M XIBERRAS:

I was seeking from the Minister a comment as to how things went with the festival. For instance, Members on this side of the House were critical of expenditure of large sums of money without there being Gibraltarian participation in this. The tournament this year which I supported myself, was very entertaining, I watched one of the games, but nevertheless a very costly affair and, I think, the Minister should inform the House as to whether it is his intention to carry on along these lines for the future or whether the loss incurred now of £3,060 has made him think again of the wisdom, I am not questioning the desirability, but the wisdom of embarking upon these schemes where there is no Gibraltarian team participation and which, it appears to me, that for better or for worse, they appear to be doomed to financial loss in the future. I appreciate that this is a subject very close to the Hon Member's heart but I think that the House is entitled to ask questions about this and to see whether the Minister has in fact changed his mind about this matter or whether he has a different way of doing things so that the House is not asked to vote these rather large sums. I think it was £6,000 last year and £3,060 this year. I also appreciate that the Jubilee is a special occasion and that therefore the losses involved this year might normally be charged in isolation from the rest. But since we are talking about football, I think that the Minister should now see the writing on the wall about this and we should urge him to use his funds in a different direction in order to raise the standard of football in Gibraltar rather than to provide a spectator sport. Perhaps the Minister could comment on this.

HON H J ZAMMITT:

Yes, Mr Speaker, I would like to tell the Hon Member opposite and all members of the House that I have not changed my mind this year. I think last year's tragedy that occurred convinced me that the people of Gibraltar did not want to see football and I was more than convinced. In fact, Mr Speaker, I repeat what I said earlier on that had it not been for the event of the Silver Jubilee celebrations there would have been no football in Gibraltar of an international flavour. What I disagree with the Hon Member about is that he has tried to imply that should there had been a Gibraltarian flavour we would have had somewhat more attendance, and I would refer the Hon Member that we have had many teams in the past five years from abroad, mostly from UK, and the same response has occurred. The public of Gibraltar do not want to go to watch football at the Stadium. I very much doubt, as I have been reminded, Mr Speaker, and I wish I could find out how many Gibraltarians will be making their way via the back door to see Stoke City in La Linea in a couple of weeks' time. But, nevertheless, what I would say, Mr Speaker, is that I can commit myself fully and totally that football teams who wish to come to Gibraltar will be very welcome providing its costs Government absolutely not a penny. We cannot continue to bring out teams which, I must say this publicly, Mr Speaker, come here through sheer contact and through sheer hard work by many of our friends in UK because it is no secret that I have had approaches from very well-known football teams in England asking us for sums of £15,000 for one appearance. So when one gets the occasion of having a football team over here which to an extent, Mr Speaker, provide a certain amount of tourism and touristic value to Gibraltar, I wouldn't say that one has to be grateful but I do appreciate that we do get what would otherwise cost four or five teams the value of a visit to Gibraltar. However, having said all that, I am and I have been convinced since the 1976 fracas, that Gibraltar does not want football and I sincerely say, Mr Speaker, I don't think they even want football even with a Gibraltarian flavour. There have been many cases where we have had the local side playing with all divisions including the FA and the response has not been as overwhelming as one would have expected. I only hope that the impetus that we have in other sports continues, but, as I say, had it not been for the Silver Jubilee, there would not have been any football of international flavour in Gibraltar at all.

HON M XIBERRAS:

I think I should reject outrightly that I have said that if there had been Gibraltarian participation there would have been a better attendance. It is not in fact what I said. What I

implied was that losses of this kind might be, in my opinion, justifiable if there were Gibraltarian participation. In other words, if sport here, generally, were developing but I do not think it is justified if it is simply there as a spectator sport. The other thing is that since this is a vote in celebration of the Silver Jubilee I wonder what use could have been made by the Committee of £6,000 in promoting the general celebrations for the Jubilee. In any case I cannot say that I am glad that the Minister has taken that decision. I would like to see international participation, it is the question whether one can afford it or one cannot afford it and whether one can justify it or can not justify it and I think that in the circumstances the Minister's decision not to proceed with this kind of entertainment is the right one and I would urge him not to be discouraged about football, generally, and to put his funds into coaching, into encouragement of local teams, even visits to United Kingdom and so forth, so that the standard of football can rise and the GFA can have the support of the Government.

Item 11 - Head 23 - Recreation and Sport was agreed to.

Item 12, Head 24, Secretariat

HON P J ISOLA:

I presume that one of the persons to be accommodated is the Crash Architect. I presume we did approve these in the Estimates, this is not an additional architect coming up? If he is he is very welcome but is this architect being used exclusively for the Crash Development Programme and how are we getting on with the Crash?

HON A W SERFATY:

I suppose the Architect is now busy with the Crash but that is not going to be the only work he has to do because the Crash Programme is only part of the Development Aid Programme and there are other projects which have to be pushed through like the Public Works Garage and others. As to his salary, I understand that there is enough provision.

HON P J ISOLA:

What I really want to know is, does that make our Architects five or six?

HON A W SERFATY:

Five.

Item 12 - Head 24. Secretariat, was agreed to.

Item 13, Head 27, Treasury.

HON J B PEREZ:

On Item 83 Deputy Governor v Stephen Wall - Libel Action, I think the House is owed an explanation on this sum of money before one votes in favour. I would have thought that the action brought by the Deputy Governor is one of a personal nature and I don't see why we are being asked to vote this money. Perhaps an explanation could be forthcoming.

HON CHIEF MINISTER:

It has been the practice that when any public officer finds himself compelled to go to Court, or be taken to Court, by virtue of his office, as it is in England, in England Treasury Solicitors and Treasury Counsel deal with these matters, in fact as it happens, one of the senior Counsel who came for this case told me he had been specifically briefed in one case by Treasury solicitors in respect of Lord Carrington when he was libelled as Minister of Defence, so that is the practice if it is a matter that the person is libelled by virtue of his office because otherwise if it is justified then of course, his office is in danger and therefore it is in the interests of the Government that people who are, whilst in office, accused of impropriety in the course of their office, that they should defend them. They do it at their risk because if in fact it is justified, they lose that. I have here a letter from the Deputy Governor himself who has said: "I am writing to confirm that I am taking all possible steps to recover both the costs and the damages awarded to me in the Supreme Court last March in my libel action against Mr Stephen Wall. As you know Mr Wall has left Gibraltar and I have therefore petitioned the Court to declare him a bankrupt. The Court has placed the matter in the hands of the Official Receiver. These steps are designed to enable me to reimburse the Government in full the costs not recoverable from Mr Wall as taxed by the Court." So that any amount of the damages that he receives, the first will be towards the difference between the cost that can be collected from the other side and the cost to the Government and that if successful as in fact there is some chance that he will be successful, of a man of apparent means, we will be reimbursed to that extent.

HON J BOSSANO:

Mr Speaker, is the Hon and Learned Chief Minister saying that in fact the Government accepts responsibility for its 3,000 employees



in the event of anybody making any accusations against any Government worker in any capacity related to his work and that if any individual in any Government Department in future wants to take somebody to court, for example, if somebody accuses the Housing Manager of accepting bribes or accuses the Director of Public Works of using materials or something, or even a workman, anybody in the 3,000 workers is free to take whoever accuses him of anything to court at Government expense. Is that what he is saying?

HON CHIEF MINISTER:

If there is a prima facie case, of course. It cannot be widely used but if in the view of the legal advisers of the Government, anybody is, prima facie, improperly libelled by virtue of his office, then, of course, the Government would consider that. This was also done, I think it was in the case of the previous administration in the case of a previous Financial Secretary, Mr Charles Gomez, who was libelled by "El Calpense", a substantial paper, and action was taken. A libel writ was issued but eventually there was an apology and the matter was settled out of court. In that case it was agreed that the claim should be dealt with by the Government. May I just make one further explanation because I think it is only fair. This is an important and heavy vote and one must take every possible precaution. The amount which is now going to be used is £4,500 which are UK Counsel's fees which really one would hardly expect the local instructing solicitors to defer from their own and they have been pending for some time. The bulk of it, of course, as Hon Members who are in the profession know, will not be paid until the taxed bill is produced which eventually is recoverable from the other side.

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

The Hon A J Canepa  
 The Hon M K Featherstone  
 The Hon Sir Joshua Hassan  
 The Hon P J Isola  
 The Hon A P Montegriffo  
 The Hon Major R J Peliza  
 The Hon A W Serfaty  
 The Hon M Xiberras  
 The Hon H J Zammit  
 The Hon J K Havers  
 The Hon A Collings

The following Hon Members abstained:

The Hon J Bossano  
The Hon J B Perez  
The Hon G T Restano

The following Hon Members were absent from the Chamber:

The Hon I Abecasis  
The Hon Major F J Dellipiani  
The Hon Dr R G Valarino

Item 13 Head 27, Treasury was passed.

PART B

Item 1, Head 17, Port was agreed to.

Item 2, Head 27, Treasury was agreed to.

Part 2. Improvement and Development Fund.

Item 1, Head 106, General Services was agreed to.

Item 2. Head 107, Government Offices and Buildings.

HON P J ISOLA:

I should like to add on this one, wasn't this building put up for tender and if it was has the Government purchased it?

HON A W SERFATY:

This building went out to tender as a hostel but eventually the Government decided that it required it for its own purposes for housing civil servants, particularly single expatriates and others, and this is what is now being done or at least when the blacking is over and the Public Works Department are able to carry on with the work.

HON A P MONTEGRIFFO:

Sir, one of the reasons why we are taking over the Red Ensign Club at least on a temporary capacity is because we have got to transfer the personnel at the moment housed at the Sisters' Quarters which comes under the programme of modernisation, flatlets and some houses. They are going to be converted into three or four houses and flatlets and instead of putting this personnel into a hotel, which would have been very expensive, we are transferring them to the Red Ensign Club.

HON P J ISOLA:

I agree with the idea of the Government retaining the building but I would like to be obviously assured that this is going to be for a foreseeable period of time because obviously you can get a furnished flat, for example, for about £1500 a year. I heard the Minister talk about it being temporary, we can be assured, I would imagine, that with an expenditure of something in the order of £10,000 the Government intends to keep the Red Ensign Club for these purposes for at least a period of 3/5 years.

HON A W SERFATY:

I can give that assurance because there are teachers and others coming, single people, who will be housed there. For years I am sure this building will be used.

HON M XIBERRAS:

For the record, Mr Chairman I enquired some time ago of the Attorney-General in respect of this, because it seemed to me that there was some confusion in the presentation of the intentions of the Government in respect of the Red Ensign Club in the course of various debates in which this has come up in the House. Originally, it was a quid pro quo for something else, for the Stevedoring Company moving out of the Port area and this was said at the time when the Bill ending the connection of the erstwhile uses of the Red Ensign ceased when the lease was transferred and therefore what I would like to know, perhaps the Attorney-General can tell the House, is what exactly has transpired since then, how is it that the Government is now making use of these premises?

HON ATTORNEY GENERAL:

The Bill before the House was to terminate the Red Ensign Club Committee and that Committee surrendered its lease to Government in payment for, I think, about £6,000 which accounted for the improvements which the Committee made to the Club. It could only revert to Government of course because Government was the landlord and it was Government's intention to make the Club available as a hostel for a private concern. My understanding is that for some reason the negotiations did not come to fruition. And so, that having been the case, Government has this piece of property of which it has always been the landlord, and which now the lease has terminated and it is for Government to make the best use of it as they see fit.

HON M XIBERRAS:

Mr Speaker, in connection with the proposed deal at one time whereby this private concern was going to move out of accommodation which it held at the time in exchange, as I understood it was said, in exchange for use of the Red Ensign Club, whether the side of the deal that remains unresolved is the subject of another deal or is the firm remaining in the same building which was the purpose of this original deal?

HON ATTORNEY GENERAL:

I do not think it is correct to say, with the greatest respect to the Hon Member, that it was the purpose of the original deal to effect an exchange. It was one of the possibilities which Government had in mind when it agreed with the Red Ensign Club to allow them to surrender the lease. It was one of the possible uses to which the Government might make of the building that there could be a transfer of use. It could have accepted the surrender irrespective of any decision at that time as to what it was to do with the building.

HON M XIBERRAS:

The point is that the Bill itself was not aimed at giving effect to the deal, I agree, but the offer that was made and it was put to the House to this particular private concern was, in fact, to gain possession of another building which this firm had and the Government needed.

MR SPEAKER:

I think the Hon the Attorney-General was trying to explain that the obtaining of possession by Government of the Red Ensign Club had no connection whatsoever with the user that Government was going to make of this building once it had obtained possession.

HON M XIBERRAS:

I have quoted the Hon and Learned Attorney-General a passage from Hansard which shows that what I am saying is, in fact, correct, I quoted it over the telephone and gave him the reference about this. My sole concern in this, Mr Speaker, is to establish why it was that the Red Ensign Club, when Government recovered it, was not put out to tender as it might have been put out to tender, unless Government was going to gain something in exchange and now, if Government has lost the advantage it was seeking to have, why it is that Government is taking on itself and we are asked to vote this expenditure.



HON A W SERFATY:

When the Government decided that the Port Office should be moved, as it will, to the northern end of the western arm this coincided with the lease of this company you are referring to, the Stevedoring Company, terminating on that particular building. So an offer was made to the Stevedoring Company that they should move to Red Ensign Club. They have not accepted that offer so the Government is now proceeding to solve its problems in the Red Ensign Club of housing teachers and others.

MR SPEAKER:

That is what we shouldn't talk about. We have established that there is no connection between the Red Ensign Club now and what is going to happen to the building which up to recently was occupied by the Stevedoring Company.

Part II - Improvement and Development Fund was agreed to.

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

Clauses 2 to 4 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 Social Insurance (Amendment) Bill 1977; the Employment Injuries Insurance (Amendment) Bill 1977; the Non-Contributory Social Insurance Benefit and Unemployment Insurance (Amendment) Bill 1977; the Group Practice Medical Scheme (Amendment) Bill 1977; the Land (Titles) Order (Amendment) Bill 1977; the Patents (Amendment) Bill 1977; the Carriage of Goods by Sea Bill, 1977, and the Supplementary Appropriation (1977/78) (No.2) Bill of 1977, have been considered in Committee and agreed to, in the case of the Land (Titles) Order (Amendment) Bill, 1977, and the Carriage of Goods by Sea Bill, 1977, with amendment, and I now move that they be read a third time and do pass.

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

PRIVATE MEMBERS' MOTIONS

HON M XIBERRAS:

Mr Speaker, I have the honour to move the following motion standing in my name. "That this House urges the Chief Minister to ensure that comprehensive talks are held with Her Majesty's Government, before it is agreed to hold talks between Her Majesty's Government and the Spanish Government on Gibraltar." Mr Speaker, the motion apparently was opportune to the point and has been overtaken by events of the last couple of days. I believe that, in fact, the Spanish Foreign Minister announced yesterday that talks would be held between himself and Dr Owen at some place to be determined in Spain and that the main subject would be Gibraltar. This I heard on Spanish television last night in the late night news. Mr Speaker, this motion was submitted to the Clerk about two weeks or so ago and it was in anticipation that there might be an announcement of this kind that I put it. Mr Speaker, the motion is completely in line with my policy as enunciated during the elections. I recall, though I can not quote directly, my election speech on television in which I said that it would be unwise to proceed on talks between Britain and Spain before we had got our relationship with Britain, our working relationship with Britain, once again on a sound footing and to the satisfaction of both parties concerned, namely Britain and Gibraltar. Mr Speaker, the doubts and uncertainties which have arisen in Gibraltar as a result of the Hattersley visit are not shared by all but are shared by sufficient number of people to warrant the number of motions that have appeared on this subject in previous meetings. My motion today is circumscribed to something very much smaller though no less important, namely, that I ask the Chief Minister to ensure that comprehensive talks are held between Gibraltar and Her Majesty's Government before Her Majesty's Government agrees to talks on Gibraltar with Spain. I believe the spirit behind that is still of very great importance despite developments. Another development, apart from the Spanish Foreign Secretary's statement, has been the visit of the Hon and Learned Member opposite, the Chief Minister, to Mr Judd and therefore I also have a question asking for information about that visit. The Chief Minister told us in reply that he was satisfied, that he had spoken to Mr Judd on behalf of his colleagues in the Government of Gibraltar and of the people of Gibraltar whom he represented and that is a position which one must accept. But the Hon Member knows that the House has always been interested in knowing the exact state of our relations with Britain, has always wanted reassurance not only from the Chief Minister of the day but also from Members of Parliament and British Ministers and that this reassurance should be communicated in the clearest terms possible. I do not think the Chief Minister had a very good occasion to make absolutely clear what had transpired between Mr Judd and himself because we were dealing with a question in the House and it is not really

possible to make a comprehensive statement in answer to a question especially if Hon Members on this side have not put specific points to him. Therefore, I would say that the Chief Minister's statement earlier does not obviate the need now for the Chief Minister to expand upon the nature of his interchange with Mr Judd and, in fact, would not preclude his agreeing to this motion. Mr Speaker, much of the Hattersley difficulties I would hope are in the process of being overcome. I would hope that this is the feeling of the Government and I would hope that this is the feeling of all Members of the House, that we can progress to a position with the British Government who were in fact in the person of Mr Hattersley responsible for those uncertainties that were felt in Gibraltar, we could progress to the point where assurances could be given to the people of Gibraltar and to the leaders of Gibraltar that that interpretation of the Hattersley memorandum which quite a number of people put on it was not, in fact, the correct interpretation and that the people of Gibraltar can forget the Hattersley visit, the Hattersley fracas, as quickly as possible. I do not think that anything concrete has been done to date to allow the people of Gibraltar to discard their misgivings completely. I feel that a lot remains to be done and it should all be done before serious talks begin on the question of Gibraltar between Her Majesty's Government and Spain. Mr Speaker, the main assurances I would seek from Britain in this context are assurances in relation to Britain's attitude to Gibraltar in connection with Spain's now announced intention to apply for membership of EEC and for membership of NATO. This trend of thought which has been expressed in the House has been gathering momentum and we now have also an event subsequent to the putting of this motion on the Order Paper, namely, the programme announced by the Spanish Government in relation, not only to NATO and EEC, but specifically in relation to Gibraltar and how they intend to pursue the matter. Obviously, the Spanish Government has decided upon a certain line, a certain policy towards Gibraltar, it has made this policy public and there has not been, not even for the Chief Minister, a chance to discuss this line in person with Ministers in London. Mr Speaker, I feel that I should make it absolutely clear that in seeking talks with Her Majesty's Government before Her Majesty's Government agree to talks with Spain, I am not seeking in any way a confrontation with Her Majesty's Government and I am not seeking in any way to put forward specific constitutional proposals which are the subject matter of discussion in Committee. I think it is a very natural request that if our future is to be discussed, as apparently it is, between British and Spanish Ministers, or even officials, and even if it is merely in the context of the normal discussions prior to the United Nations deliberations on the question of Gibraltar,

it is only natural, I say, that there should be a frank interchange of views and assurances given and agreement on lines to be pursued between the Government of Gibraltar and Her Majesty's Government. It is only natural, it is not born of any resentment, it is not an attempt to create a split, it is an attempt to get our lines of communication absolutely clear and to seek no more and no less than what the people of Gibraltar are entitled to and that is the certain knowledge that in the new developing situation in Spain, Her Majesty's Government's policy towards Gibraltar is such as the people of Gibraltar, the elected leaders of Gibraltar, the House of Assembly of Gibraltar, could give their consent to. It is something which has happened before and it is no unnatural or unusual request. If there is a special interest on this occasion, it is because of the discussions on Hattersley, because of the changes in Spain, because those events that were forecast some years ago of Spain's gradual integration into Europe are now in the embryonic stage, they are actually moving along these paths, they have actually announced that they intend to apply for membership. Any agreement which Her Majesty's Government may reach with the Spanish Government as regards the way the matter is to be dealt with in the United Nations is of concern to the people of Gibraltar and this policy should be known to at least the Chief Minister of Gibraltar before the policy is embarked upon and is actually implemented. I would say, Mr Speaker, that I would not be prepared to accept the meeting that the Chief Minister had with Mr Judd as a substitute for talks, now that talks have been announced. The Chief Minister, in fact, did not give me an indication, I did not get an impression, of the importance that was being attached by the Spanish side to the meeting that is due to take place. I understood that it would be routine talks, I also got the impression that it would be at the level of officials. But for the Secretary of State to meet the Spanish Foreign Secretary, according to the Spanish Government, and the Chief Minister not be in a position to tell the House this a day before the Spanish Government announces this decision, through CIPRA, is not a very satisfactory state of affairs and the House has always been jealous of its position in this respect and has always tried to ensure that the Chief Minister, at least, and others, are kept informed of developments affecting, or which might affect, the future of Gibraltar. The Chief Minister, perhaps, could throw some light as to whether he was aware that the meeting to be held was in fact at the level of Foreign Secretaries and whether he was aware that the meeting was due to take place in Spain. Dr Owen, of course, has gained, no doubt rightly, a reputation for a man of decision and a powerful man. He has just been President of the European Council of Ministers and as such he is used to taking decisions and we can take it that it would not



be contrary to his general performance in other affairs that he should postpone a decision merely because he has not had sufficient authority to take it. He is a man of considerable authority within the British Government. I have no doubt that no decision would be taken which would affect the people of Gibraltar immediately in an adverse way but at the same time it is good to have consultation and the clearing of the lines of communication before the British Government puts forward a policy on our behalf. The motion, Mr Speaker, which I commend to the House, therefore simply seeks something which is natural, which is not put forward in a spirit of antagonism, which is put forward in a spirit of defending the legitimate rights of the people of Gibraltar. It is not an attempt to corner the Chief Minister in any way, it is simply a reminder that this is an important stage in the development of Anglo/Spanish Anglo/Gibraltarian situation generally which might affect Gibraltar and that therefore we must be on our toes, alert and fully confident and able to reassure the people of Gibraltar that we are in a position to be confident about the future of these talks in the United Nations and elsewhere if they are held. I commend the motion to the House, Mr Speaker.

Mr Speaker then proposed the question in the terms of the Hon M Xiberras' motion.

HON CHIEF MINISTER:

Mr Speaker, I intend to answer for the Government, and, in fact, for myself so if there are any other views that Hon Members wish to make before I speak I would welcome them and be able to deal with them.

HON J BOSSANO:

Mr Speaker, I agree with much of what the Hon Mr Xiberras has had to say about the desirability of the people of Gibraltar being kept informed of what is going on. I certainly would not like to see it limited to the Chief Minister knowing what is going on. I feel everybody in Gibraltar has got an abiding interest in what is happening in Spain and how this might or might not influence Her Majesty's Government's attitude to the future of Gibraltar and, consequently, the more shrouded in mystery developments are, the more liable they are to distortion by rumours which might be quite unfounded and which can only harm, I think, the cause of wanting to keep Gibraltar from falling into Spanish hands. I think, in fact, that the last motion that the House passed concerning the question of consultation

with the representatives of the people of Gibraltar before talks took place was quite explicit but it didn't seem to be entirely acceptable to Her Majesty's Government. I think the reply that came from the British Government was that whilst certainly they would keep consulting us and so on it was really their responsibility to deal with our foreign affairs and I think the letter was couched in diplomatic terms and it is always very difficult to pin down anything the British Government says. This is a letter that His Excellency the Governor wrote to the Chief Minister as a result of the motion that was passed the last time. Whilst, if one looks at it one way it would seem that the letter was saying "Yes, OK we will go along with what the motion says", if one looks at it another way it would seem to be saying "Well, what you want in the motion goes further than the British Government is prepared to go". But, as I say, it is very difficult to pin down the British Government when they have probably a team of experts in the Foreign Office whose sole purpose in life is to make sure that they cannot be pinned down. But I think it is mostly happening at this end to be always in a situation of getting the news first from the Spanish news media and then having to have it confirmed. It is an embarrassing position to put it at its mildest and I think it is something that really the point ought to be pressed home because it is quite inconceivable that a Spanish Ministry should make an official statement over the official news media unless the thing had been cleared well before with the British Government, otherwise they would be opening themselves to a situation where they made statements and presumably the BBC would be coming out with denials. I haven't heard it myself but what the Hon Mr Xiberras heard on television cannot in fact have been made without this thing having been brought to the notice of the British Government and the British Government having had the opportunity of bringing to the notice of the Hon and Learned the Chief Minister. We do know, Mr Speaker, that in the answer to the Hon Mr Xiberras' question the impression was clearly created that this was just a routine thing of official contact just to keep on the exercise going before the United Nations, just like the last time when I was told virtually half an hour before the talks took place, again the thing was said that it was just a routine thing. If these things are so routine I cannot understand why they appear to be so sensitive. A matter that is routine is by its very nature not a sensitive thing and one can make a statement a month beforehand, and say; "Next month is when the routine talks are due again," and nobody pays any attention to it but if, in fact, the whole thing is clouded in mystery and then all of a sudden there is a dramatic announcement by the Spanish news media, then if there is nothing

more to it than mishandling, an awful lot of people in Gibraltar are going to put two and two together and come up with five and that is a bad thing. I certainly support entirely the statements and the sentiments expressed by the Hon Mr Xiberras that the thing is being treated in a way which is very, very disturbing and that it cannot be allowed to go on. It is no good us standing here meeting after meeting complaining about the thing and our complaints are just washed aside because if at this stage we are complaining about something as simple as using the proper means of communication to keep us informed instead of having to rely on switching over to the other channel, if we cannot get progress on such a simple thing as that, what are our hopes of getting progress on the more fundamental issues when the time comes that we have to really talk business. So I really think the thing should be taken up very strenuously with the British Government and it shouldn't be allowed to carry on like this.

HON MAJOR R J PELIZA:

Mr Speaker, I am extremely glad that my Hon Friend Maurice Xiberras has taken up the matter at this last House of Assembly meeting until after the summer recess so that the Members of this House be given an opportunity to express their views as to the situation that has arisen now that Spain has turned democratic and certainly in world opinion and in British opinion it is a much more reasonable kind of Government and therefore we ourselves, whether we like it or not, have got to adopt a more reasonable attitude, too. But adopting a more reasonable attitude doesn't mean to say in any way that we should give up any of the fundamental points on which our security is based. Also I think a right that we have as a community in connection with any negotiations that may take place in the near future. One must say that this part is not very encouraging. I fully support the views of my Hon Friend Joe Bossano about the announcement of the talks. Mr Speaker, you well know that I knew that talks were going to take place even before this meeting started by the nature of the question that I put before the House which, of course, was disallowed. It was common knowledge about three weeks' ago. A number of correspondents were saying so already, in radio, television and newspapers. Therefore, this was coming and there was no secret about it. Why, therefore, has the Leader of the Opposition and Mr Xiberras to whom undertakings had been given that they would be informed of events such as this, not been informed? Is there any reason why they have not been informed and doesn't this call for a strong protest from all the Members of this House. I do not know whether the Chief Minister himself was told before, that we do not know, that is up to him

to tell us later. But, surely he cannot possibly agree that two Members of this House to whom His Excellency the Governor had given an undertaking to consult them on any issues such as this have not been even informed, let alone consulted. Obviously if this is the attitude just for simple passing of information which is obviously not taking place, how can any Member of this House feel sure that they are being consulted on any issue at all connected with any Spanish approach to the problem in the near future? This, therefore, creates an atmosphere of lack of confidence and it is the last possible thing, I think, that we want to see happening as the moment of truth, as I would like to call it, approaches, and the moment of truth is not very far. But, whilst this can be said in connection with the Foreign Office for which perhaps we have very little that we can do other than protest here and I think and hope, in other quarters, it is unforgivable that we ourselves are not united and ready to meet the situation. Look at the constitutional position of Gibraltar today. Can we say that since Hattersley rejected the unanimous proposal of the elected Members of Gibraltar, can we say that we are now in a position to say we are pleased we are united on this and this is the position that we are going to take in relation with the British Government? Because it is absolutely vital that the constitutional issue of Gibraltar should be resolved before there are serious negotiations with Spain otherwise if we are not careful it is the Spanish Government which is going to dictate the type of constitution that we are going to have in Gibraltar and for this I am afraid and I must say it, the blame must go to the Chief Minister. Yes, he may laugh, but he is the man who has created the delay by putting out questionnaires which I think were childish and this is the very reason why I haven't answered it.

MR SPEAKER:

Order. I will allow you to refer to the constitutional position as it stands in Gibraltar now. I will not allow you to go into the controversy as to whether we are going about it in the right way because all that the motion is asking is that there should be talks between the Gibraltar Government and the British Government before there are talks between the British Government and the Spanish Government. To the extent that any reference to the constitutional position of Gibraltar is relevant I will allow it but let us not go into the controversy as to whether they are going about the constitutional amendments in the right way.

HON MAJOR R J FELIZA:

What I am saying is that it is absolutely vital, Mr Speaker, that there should be some urgent attention given to the constitutional issue and that we should forget about questionnaires. I think we have had about thirteen years now of this issue very much in front of our eyes. We have lived through it for thirteen years and if we ourselves do not



know what we are really after, what we want, I just cannot understand it. I expect us here to be able to arrive at a decision and this is what we have not done in the past twelve months and this is what I suggest we do as soon as possible and without delay so that if there are talks, comprehensive talks, as my Hon Friend is asking between us and the British Government, we know exactly how we stand and we hope that we will all stand together and that no one will at the last moment drop his position because that will not do Gibraltar any good whatsoever. I think this is very much a question of united we stand and I think we shall win and divided we shall obviously fall and unfortunately I think we shall be easy prey of our enemies. Equally, I think, we are seeing already, Mr Speaker, important events, very important for Gibraltar, going by not to the satisfaction, I think, of what the people in Gibraltar would expect. We have, for instance, the question of the direct elections to the European Parliament which would have strengthened the position of Gibraltar very much in relation with the position with Britain if we had been able to elect a member to the European Parliament, a British Member of the European Parliament. We just do not know what will happen now. Suppose that after the talks, it was agreed that we should somehow cooperate more with our neighbours and it was suggested that we should elect a Spanish member to the European Parliament? I do not think that certainly at this stage would be in our interests, but it could happen. Equally, Mr Speaker, the question of UK citizenship.....

MR SPEAKER:

No. With due respect to you we are not going to go through the field of everything that relates to Gibraltar under this motion. I cannot allow it.

HON MAJOR R J PELIZA:

My friend, in his motion, is asking for comprehensive talks with the British Government, Mr Speaker. If the British Government has said very clearly that the question of free entry into Britain will be allowed for as long as the present circumstances with Spain continue.....

MR SPEAKER:

I don't think it has been suggested that the talks that the British Government is going to have with Spain will affect the right of entry into England of the Gibraltarians.

HON MAJOR R J PELIZA:

But it could, Mr Speaker.

MR SPEAKER:

I think we must bring the discussion within the orbit of the question before the House. We must not use any question before the House to discuss any matter which one feels one should ventilate. One is free to do that and I keep on saying it, one is free to do so if you move a motion on the matter.

HON MAJOR R J PELIZA:

Mr Speaker, if we are going to talk to the British Government, as a people, we have got to put all our points. This is one of the points which I think and I feel is vital that the elected members of Gibraltar again should resolve so that when they do see the British Government on the comprehensive talks that we are going to have, we know how we think and we are all united. I am now pointing out the dangers of not having arrived at that position before we hold the comprehensive talks and I think, Mr Speaker, that is very relevant and I do hope you will allow me to go on with one or two points which although I will not go deeply into them, I think it should be necessary to point them out so that the elected members are conscious, as I hope they will be, when meetings take place, and I hope they will not take very long after this meeting, when meetings take place between the Chief Minister and I hope, if not all the elected members, a selected number of elected member, to try and proceed and prepare the approach in these comprehensive talks which my Hon Friend is suggesting with the British Government. There are three other points which I will touch on and that is NATO, vital to Gibraltar, otherwise we may find ourselves with a Spanish Admiral in the Dockyard, and this is very true and very relevant, the EEC, the position that we affirm that Spain should not be allowed in unless they open the frontier and, finally, the Council of Europe on which I believe already the Spaniards will be participating in and which I think again we must raise our objection that they should not be allowed to participate in this until they respect the rights of the people of Gibraltar to live here peacefully.

Mr Speaker, these are vital points, very important points which I think it is vital that we should resolve. Up to now we have been caught snoring, not napping, snoring, and I think it is time we woke up now and got ourselves together, produce a comprehensive policy that we can all follow and support and on that basis, Mr Speaker, then we can proceed and approach the British Government and hope, by all means, that if talks take place that they will be successful. As to the actual talks if they were

to take place, in this respect I think that the position that I adopted when I was Chief Minister and that my Hon Friend enunciated as part of his policy subsequently as Leader of the Opposition and which I understand from what he said today still are his views, certainly are my views. And that is, again, that if there are talks with the Spanish Government and if this is one of the points that are going to be put to the British Government in which there will be participation from the Gibraltarian side, I am saying if there are, but it is better to note all these things otherwise they might be forgotten. If there are talks I think the point is that again it should be a united approach and finally whatever decision is taken it should be put to the people of Gibraltar to accept either by an election or a referendum but that eventually it is the wishes of the people of Gibraltar that will stand. There is little doubt whatsoever in everybody's mind, and we are all very conscious that there is going to be movement. There are going to be changes, changes, we hope, for the better. I think, generally, people expect that and I am one of those who feel confident that they will be for the better but in doing so we have to proceed cautiously and certainly prepared with a united policy.

HON G T RESTANO:

Mr Speaker, I fully endorse the motion and in doing so I would like to make reference to the motion which was unanimously passed last December in this House and refer to one particular subject within that motion and that was that we were told at the time that the previous talks were routine. This time, of course, they are more than just routine talks and the motion asked the British Government to keep the leaders of this House fully informed as to what happened at such talks. In routine talks, in fact, we have never been told exactly what happens we are just told they are routine. What in fact is spoken, even if decisions are not taken we don't know, and I would impress most strongly on the Chief Minister if he makes representations, that the elected members should be kept absolutely fully informed as to what happens in these talks that are going to be held between the two Foreign Secretaries.

The House recessed at 1.00 p.m.

The House resumed at 3.30 p.m.

HON J B PEREZ:

Mr Speaker, I would like to begin by associating myself with the views expressed by members of this side of the House in supporting the motion by the Hon Member, Mr Xiberras, calling for talks to be held with the British Government before the British Government has talks with the Spanish Government. I say I would like to

associate myself because I feel that many of the points have been very valid and I do not want to repeat the points raised by Members on this side of the House. However, Mr Speaker, there is one point which I would like to emphasise which I do not think has been emphasised already which is my own personal view on this matter and why, in fact, I support the motion of these talks. Mr Speaker, throughout the years the people of Gibraltar have, quite clearly and categorically, expressed their wishes to remain British and that sovereignty over Gibraltar should not be given over to the Spanish Government. In all honesty we have had quite a bit of support from other countries in Europe, from the British Government, but I feel that one must be realistic and face the fact that most of this support which has been forthcoming has been due to the fact that Spain had Franco. Franco was a dictator and the support that the Gibraltarians got was this: How could they expect any country, with full liberties and respect for human rights, give these rights up and come under a dictator. In fact, we were truly justified in this but, Mr Speaker, we must now face the recent developments that have occurred in Spain. We must face that Spain is now becoming a democratic state within Europe and the whole picture, I believe, is starting to change. I do not believe that we will get the same support today with a democratic Spain or as much support from other European countries, as we got when Franco was head of the Spanish Government. In fact, Mr Speaker, the Opposition party in Spain, the PSOE, has been advocating giving Gibraltar a special status, sovereignty being Spanish, but nevertheless a special status. I know, Mr Speaker, that going back to the Castiella proposals this is one of the things that was proposed to the Gibraltarians ie having a special status for Gibraltar but, in fact, this was treated as a joke because it was inconceivable that Spain would give us a status which they didn't themselves give to their own citizens. But now this offer could well be considered by other European countries and this is why I feel that we could lose some of the support that we used to enjoy when Franco was in Spain. This is why I feel, Mr Speaker, that it is time the Gibraltarians should reiterate our position and reiterate our wish, that is, our wish to remain British and that sovereignty over Gibraltar should not be given over to Spain. Mr Speaker, I am fully aware that if one goes into the arena of party politics there are certain differences of opinion. There are people like myself who are advocating the decolonisation of Gibraltar, there are others who wish to be integrated with Britain and there are others who wish to remain as we are but nevertheless, Mr Speaker, I think we can all say we are united that we wish to remain British and I think this is a point that must



be put across once again prior to any talks between the British Government and the Spanish Government, by Members of the House of Assembly, ie, the representatives of the people. Mr Speaker, I believe that the time for Gibraltar is now crucial. Spain has its eyes set on Europe, on joining the EEC, on joining NATO, and we must not forget the American presence in Spain who exercise a great influence there. We must be very careful because we are an insignificant 25,000 people and we must be very, very careful that we are not trodden upon by others. Mr Speaker, I anticipate that the Hon and Learned Chief Minister in speaking on the motion will say that the talks that are being held between the British Government and the Spanish Government are merely in connection with the resolution of the United Nations because I have heard the Hon and Learned Chief Minister say this over and over again. He has also said that the question of sovereignty has never been, neither is it intended to be, on the agenda in these talks. But, Mr Speaker, why is it that we always have to learn of these talks through the Spanish television? Why are we not informed beforehand? It could be that the Chief Minister knew about this but how about the rest of the Members of the House of Assembly and the people of Gibraltar. We have a right to be kept informed and not learn of the talks from the Spanish Government. There is also another thing, Mr Speaker, in connection with the talks and that is that I cannot believe for one moment that the Foreign Minister or whoever is the representative of the British Government who attends these talks, sits around a table and if it is in Spain has a glass of sherry and then leaves without discussing anything. I think the people of Gibraltar have a right to know what is going on and this is why, Mr Speaker, I urge the Chief Minister to consider seriously the motion at present before the House, that is, to ensure that comprehensive talks are held with Her Majesty's Government before it is agreed to hold talks between Her Majesty's Government and the Spanish Government on Gibraltar. We must, once again, bear in mind the recent developments in Spain and reiterate our position.

HON P J ISOLA:

I am glad to hear the Hon Member of the Gibraltar Democratic Movement speaking the way he has done on the wish of the vast majority, overwhelming majority, I would say, of the people of Gibraltar, to remain British and on the need to ensure that steps are taken by all Members of the House to ensure that this

is not only safeguarded but also guaranteed. I think it is refreshing to hear this sort of talk coming from the, if I may say so without any undue sense of paternalism, coming from the younger generation. I think that when one hears this sort of talk one appreciates that it has always been worthwhile, that our struggle in standing up to Spain, standing up to the restrictions over the years with possibly a silver lining on the cloud, is most encouraging. I think the pressures on Gibraltar are on all the time. I think that as he has said himself the fact that we are a small people is in many ways a disadvantage. When you are talking of world politics or European politics, European Community, of NATO and so forth, the interests of 25,000 people could be in danger, and on this I agree he is right, the pressures are great. On the other hand, Mr Speaker, that is on the negative side and we must be watchful about that and resist it, but on the other side I think there is now, in the person of the British Foreign Secretary and in the person of the President of the United States, President Carter, a certain amount of respect for human rights, there is an awakening that human rights have to be respected above everything else. And when you get a Government like the government of the United States, a government with wide interests, with great responsibilities in the world being prepared to risk the displeasure of the other major super power, Russia, in its defence of human rights, I think that we can take a little heart here, I think that is something on the positive side, that is something on our side. But I think, Mr Speaker, the real strength of the people of Gibraltar lies possibly in the fact that they are a small people, that they are in a small part of the world, and as long as that small people is a united people on the matters that really affect us and that is the sovereignty of Gibraltar, what shape our future will take, then I think that Gibraltar does have a chance and has a good fighting chance of coming out at the end comparatively unscathed. But as the Hon and Gallant Major Peliza said in his address to the House we do need a united Gibraltar, we do need unity on all sides of the House and I agree that my own attitude to the motion the spirit of which I concur with is that, yes, we must have talks with Britain before Britain has what I would call substantive talks with Spain. I do not think, frankly, there is a need to have talks with Britain every time a British official has talks with a Spanish official or a British Foreign Secretary meets the Spanish Foreign Secretary socially. I don't think frankly there is a need to have talks every time, but I think that

in the context of Europe, the context of NATO, if the British Government is contemplating talks with Spain and I think it will do, generally, not just Gibraltar but Spain's position in the EEC and so forth, I think there is a need for comprehensive talks with Britain on the part of Gibraltar representatives. But, of course, Mr Speaker, if the British Government said tomorrow; "Right, let us have the talks now," who was going to put forward the Gibraltar point of view? What is the Gibraltar point of view? If the Hon and Learned Chief Minister and the Leader of the Opposition and possibly some other person, I would hope my Hon Friend here on my right, for example, were to go to London and talk with the British Government, what guarantee do they have that what they are saying have the support of the people of Gibraltar having regard to the events that have occurred in Gibraltar in relation to constitutional advancement and constitutional discussion. We have the attitude of the principal union in Gibraltar representing over 6,000 members actually walking out and saying; "We don't want anything more to do with the talks." You have the Gibraltar Trades Council saying that because they represent all sorts of unions they cannot put a view forward. These are things that we must consider because the Hon and Learned Chief Minister can go to England and the Hon Leader of the Opposition can go to England and my Hon Friend here on my right can go to England and talk but the British Government can say; "Are you sure you have got the support of everybody in Gibraltar? Can I refer you to this communique from the Transport and General Workers' Union or that communique from the Gibraltar Chamber of Commerce, or these letters in the Chronicle." What do they say then? "Forget that, ignore it." Mr Speaker, I would say, yes, you should ignore it because the people who speak for the people of Gibraltar are the elected representatives of Gibraltar but that, Mr Speaker, involves us in taking another decision and that is when we talk of the future of Gibraltar now and these discussions that we are at present holding should we, as elected members and I think we must take the responsibility, we must all share in that decision, will we then say; "Right, we will now specifically exclude all representative bodies because we are the elected representatives of the people of Gibraltar. We stood for election and we speak for Gibraltar, nobody else." Do we take that step? It may be the step to take if that is going to be the only step in which we can achieve unity. Or are we going to say what we said and what the representative organisations asked us to do and that is everybody representing all the various interests of Gibraltar to come in? This is the sort of decision I think that we have to make and we have to make before we start having talks and rushing off and just coming back with assurances of A, B, C, D and E and F, and therefore I would take up.....

HON J BOSSANO:

If the Hon Member will give way. I think there is an important distinction to be made between the sort of forum that the Hon and Learned Chief Minister started after the election to sound out opinions of different groups in Gibraltar as regards possible constitutional changes which is one thing where I think the more opinions you have obviously the better position you are in to try and come up with something that is likely to meet with the greatest degree of support to represent the widest cross section of opinion, and another thing is to ask to be consulted before talks take place between Britain and Spain regarding Gibraltar, which is something that can happen quite unexpectedly and there unless we return to the Greek city states and we have meetings in Casemates and people govern Gibraltar that way which might be something that is possible to do in a place the size of Gibraltar but I think, requires a highly sophisticated electorate, I think we have to assume that we have been elected not just to act as messengers but also to take the responsibility for taking decisions on other peoples behalf and if we take the wrong decisions then we pay the penalty the next time the elections come round.

HON P J ISOLA:

I am very glad to hear those words from the Leader of the Opposition Mr Speaker, and I think he is right. But, of course, the reason why I was speaking in the vein that I was speaking was because of the phraseology of the motion and that was "comprehensive talks." As far as I can see if the British Government is going to talk to Spain I think there is very little that we can say, really. We know what we want, at least, this is one of the reasons why we are having the constitutional talks. As far as Gibraltar is concerned we know what we want, it is perfectly simple, we want to retain British sovereignty over Gibraltar, we do not wish to give up any of the inalienable rights that we consider we have arising from our British citizenship, arising from our occupation of Gibraltar, as it were, I think the British Government knows all this. I understood my Hon Friend's motion to go a bit further than that. We are talking about comprehensive talks, what is the future, what are we looking forward to? There is what I thought was the purpose of the constitutional discussions that have been held in the Chief Minister's office which have got off to a rather difficult start, let me put it that way. We had somebody who said he represented half the people of Gibraltar walking out of the discussion which left us a bit in difficulty. But if we are talking of that, Mr Speaker,



if we are talking of comprehensive talks, then I would endorse entirely what my Hon and Gallant Friend Major Peliza has said that we must have a united front and I think that to have a united front and a united view on these things we have to get together really and talk about it and see whether we have got a united front and then when we got together and see whether we have a united front we have to decide whether there is a need to go further, to have further discussions with anybody outside the elected representatives of the people of Gibraltar. But I think it is begging the question to merely rant and to merely say that we must have talks with the British Government unless we also have in our own mind a good idea of what we are going to say and what we are going to do and what we want in those talks and there, Mr Speaker, there the problem is in our court, the problem is in Gibraltar, not in London. We can blame the British Government for a great number of things but we cannot blame them for that. We cannot blame them for the people of Gibraltar not making up their minds through their elected representatives. That is our responsibility, that is a responsibility we have got to take and the decisions we have got to take we have got to be prepared to put to the test in a general election, I agree entirely with the Hon Mr Bossano. But we mustn't be taking decisions looking behind our back all the time, we must be prepared to take the decisions on what we think are fundamental issues and then stand by them and promulgate them and not be afraid of criticism. That is, Mr Speaker, on the question of having comprehensive talks with the British Government. On the question of consultation, I agree entirely with everything that has been said and I am sure there is no disagreement in this House that there should be consultation between the British Government and the elected leaders of the House. I don't think there is an obligation on the part of the British Government, which is responsible for conducting our foreign affairs, to make a public statement every day of every memo that passes between the Foreign Office and Madrid because if they did that then nothing would ever be settled nothing would ever be done and this happens in all the dealings of any Government with any other State. They cannot go telling everybody every little thing that is done and I think that we must accept. What we are entitled to have, I think, is that our elected leaders through their spokesman are consulted on matters that obviously have an effect on Gibraltar, that we are entitled to ask for and that we are entitled to insist on and we are also entitled to know, at least our elected leaders are entitled to know, when talks are going to be held. Whether the BBC gets there before the Spanish news media is, I am afraid, a problem we have had for many, many years. Unfortunately for Spain, Gibraltar is the foreign policy issue,

for Britain and the BBC, Gibraltar is not the foreign policy issue. There are many more important foreign policy issues and therefore the fact that the Spanish Foreign Secretary is going to have lunch or have talks with the British Foreign Secretary is of much greater interest to Spanish TV than it is to BBC TV, but if a British Foreign Secretary were to say that he was going to have talks about handing Gibraltar over to Spain, then that would become item one in the BBC news. I think these are things we have to live with in Gibraltar and we have to accept that we will get to know very often, I mean the ordinary people of Gibraltar will get to know, very often, of talks between Britain and Spain from Spanish television before they get to know from Gibraltar GBC. What we cannot accept and what we cannot tolerate is that the Chief Minister or the Leader of the Opposition or my Hon Friend here on my right, should get to know that there are going to be talks from the Spanish television, that is wrong, and on that I think we are all united and on that I think we should express our views in no uncertain terms about that. Even the Gibraltar Government doesn't tell the people of Gibraltar everything that goes on in the Council of Ministers. I am sure we would all like to know but they just do not tell them, that is the way Government works in a democracy. In a democracy, it may seem to be a contradiction in terms, but in a democracy there is just as much need for confidentiality as there is in a dictatorship because the business of Government cannot be carried on in public. I am sure my friend here doesn't publish to the whole of Gibraltar what goes on in his Union committee, no one expects him to do that, it just cannot be. So I think we must be careful not to give the wrong impression to the people of Gibraltar and to give the impression that we feel that every time there are going to be talks between a British Official or a Spanish Official that there should be an immediate public announcement in Gibraltar. What there is need for and there there is a real need, is for Gibraltarian elected leaders to be informed about it and to be consulted beforehand. One other point, Mr Speaker, on the question of routine talks. I think we must be careful here when we look at it as routine talks, we must be careful not to give the impression that these routine talks are treated necessarily as routine talks by the other side. I think that when the British Government speaks to the Spanish Government, for example, as they do every year before the United Nations deal with Gibraltar, that the Spanish Government does not regard it as routine talks by any means. We regard it as routine talks because we happen to know or we feel or we hope that it is a correct position that all the British Government is doing is talking in accordance with its obligation to talk in accordance with the United Nations Resolution.

That is why I don't attach importance to it and that is why a lot of elected leaders don't attach importance to this sort of talks which we consider to be inevitable. But this does not mean that they are necessarily routine, they are routine because we have lived now for 15 years with the Gibraltar problem and we are now able to distinguish between talks that are likely to affect us and talks the results of which we already know but they are nevertheless talks. As far as I am concerned and I am sure as far as most Hon Members are concerned, we expect our elected leaders to be informed whenever any talks of any kind take place between Spanish Officials and British Ministers or Officials. We do not expect public statements every time this happens but we do expect if there are going to be talks of substance on Gibraltar, then, of course, we do expect to be fully consulted and as I read my Hon Friend's motion he feels, I think that there is a lot to be said for this, he feels that the stage is coming when the democratic Government in Spain which, hopefully, will stay democratic, because of that we are not sure of, with a Democratic Government in Spain, with the obvious move that Spain must take to enter Europe and go into NATO, possibly, but certainly into Europe, with the obvious desire of the European democracies to get the other democracy in, what we want to be careful about is that Gibraltar is not forgotten in the process and that Gibraltar is not an embarrassment in this situation but that Gibraltar is a reality in this situation as a community with rights to which President Carter and the British Foreign Secretary, Dr Owen have, so eloquently spoken to. That is what has to be projected and that is why I think that in that context if that sort of talks are going to occur as it must occur and Gibraltar must come into these talks because we are a stumbling block to the Foreign Office, in that context I think that it is necessary for elected leaders of Gibraltar to have talks with the British Government before these talks take place and it is in that spirit, Mr Speaker, that I support the motion. Not in any spirit, and I would like to emphasize this, of distrust of the British Government. In the context of my Hon Friend Mr Perez's speech when he said we can expect more and more resistance from other countries with Spain becoming a democracy, is that there not therefore today, Mr Speaker, a greater and greater need to cement our relationship with the United Kingdom and to try and produce between Gibraltar and Britain a cordial relationship of mutual confidence and trust between the United Kingdom and Gibraltar rather than be party to a campaign or insinuations of distrust of being sold down the river and so forth. I think our approach must be positive but, Mr Speaker, for our approach to be positive then there is a need in Gibraltar for great responsibility from the elected leaders in Gibraltar to ensure that our stand is a united one and that it is a genuine united stand and not a stand which we sort of push

together just before talks with Britain. There is a need for that and to that I think all Hon Members have to play a part and I would hope, although I say this with less confidence, I would hope, Mr Speaker, that representative bodies would give the elected representatives of the people of Gibraltar all the support that they require and they need in their efforts to keep Gibraltar the way I hope we all want it.

#### HON CHIEF MINISTER:

Mr Speaker in the first place I would like to make one or two points clear. Because of certain things I have to say I want to make it clear that I only represent the people of Gibraltar in this House and in no way represent the British Government, the Foreign Office or anybody outside the people of Gibraltar. I am a bit concerned about the last speaker's remarks about the wording of the resolution which I found no difficulty in accepting at the beginning but it worries me that if what is intended by the comprehensive talks is talks covering not just talks about talks but about the future of Gibraltar then, I think, what the Hon Mr Peter Isola has said becomes very relevant that we must make much more progress in having a united view on this matter. I was very impressed, if I may say so, with the moderation and the circumspection that the mover proposed <sup>in</sup> his motion and equally impressed with the contribution of the Hon Leader of the Opposition and the small contribution of Mr Restano. I regret to say that the Hon and Gallant Major Peliza has as usual put the spanner in the works because from something that could have been a consensus he has made a wonderful exhibition of that personal antagonism that he has against me ever since June, 1972, which he cannot restrain and which makes him such a partisan and, if I may say so, such a clown sometimes by talking about Spanish Admirals in the Dockyard just before lunch. He did speak with some contempt about the efforts that are being made to try and have a Gibraltar consensus and talked about the childish questionnaire. Let me say, first of all, that it was on ~~that~~ ticket that this Government was elected in no uncertain manner and therefore we have the right to pursue that cause to the end. If it fails, well, we would have tried our best but I would still try despite the reluctance on the part of some people to answer obvious questions or perhaps they are not so obvious to some people that they have to think a lot about it or, perhaps, the questions, as my Hon Colleague on my left says, are not so childish after all because they go to the core of the matter and some people don't want to face the reality of the situation. Let me say that I take the point which has been made by several Members and if I may say so with particular emphasis by the Hon Mr Perez



which is a very valid one and that is that we have a completely new situation in Gibraltar arising out of the changes in Spain. Not only that, and I would like to refer to the statement I made earlier in reply to a question about my talks with Mr Judd, that they were held on the 8th of June and, in fact, we were talking about the elections on the 15th of June and in so far as Britain is concerned nothing very different has happened in Britain nor, perhaps, in Gibraltar but a considerable amount of things have happened in Spain in a month and a half which has transformed the country and therefore we have a new situation there and therefore though I rely on the continuing assurances given on the 8th of June, I take note and I think it is a very valid point. In fact, the most valid point that we have here is that there is a new situation in Spain and that we have to analyse the situation in Spain and I think that it has been partly analysed, if I may say so, very ably by Mr Isola regarding the news media in Spain what importance they give to certain matters and how we are very annoyed to hear about it. According to the report which had been heard yesterday and I heard one which has not been mentioned here and which I am going to mention because I heard it from the BBC from the Madrid correspondent, Gordon Martin, in the news this morning in which he made a report about this visit of Dr Owen to Spain because it said he was the only Foreign Secretary of a European democracy that had not yet visited Spain. The others had all gone to pay tribute or whatever it is that they do when they go on these outings but Dr Owen had not been to Spain yet. There was also talk about the fact that they would be having talks. This is what other Members heard on the media last night and of course Spain.....

HON M XIBERRAS:

If the Hon Member will give way. I think that this is crucial to the motion, Mr Speaker, what in fact the talks are about and I hope the Chief Minister will tell us what he thinks the talks are about. What I said was last night in the last edition of Telediario Ultimas Noticias it was reported that Señor Oreja had told the Spanish Agency Cifra that there would be talks with Dr Owen in an undetermined place in Spain and that the main subject of the talks would be Gibraltar. I appreciate that on the other side this may not be so but certainly as far as Señor Oreja is concerned, the main topic of discussion appears to be Gibraltar.

HON CHIEF MINISTER:

I am grateful to the Hon Member for specifying the particular information because I think this lends the picture to be put in its proper perspective and for us to take heed of what is happening in the proper context. Spain of course is news these days in every respect, devaluation of the peseta, the new Cortes, La Pasionaria shaking hands or embracing Suarez or the King or whoever it is, all a great change, - Euro communism is bringing about wonders - and, of course, Spain is news and very much so. And because Spain is news and because there are talks in Rome between Britain and Argentina about the Falkland Islands, and because there are talks in Washington between Britain and Guatemala and George Price over Belize, of course Gibraltar is more news still and Spain must be in it. There was no information this morning about anything to do with the news heard by the Hon Mover but I have made a point of finding out over lunch from the Foreign Office what the position is and I am in a position to say so and that is why I said at the beginning that I am not speaking for the Foreign Office but I have the right to know what the Foreign Office say about these matters and to inform this House and that is why I have made enquiries this afternoon immediately we left the House. The information I have, for what it is worth, and I am not giving it as my own information let me make it clear, that Dr Owen hopes to visit Spain soon in any case before the end of the year. No firm arrangements have been made, no dates have been fixed. - It is a slightly different accent. - In the event of a visit taking place, Gibraltar would be informed in advance. No question of Dr Owen going solely to discuss Gibraltar but Gibraltar is bound to come up and there would be prior consultations with Gibraltar. Now we know, in the context of what Spain says, what Britain says. I have no doubt in my own mind that in the context of the previous motion to which the Hon Mr Restano referred, if he will forgive me I had forgotten that he had been the Mover of it, but I have looked at the Hansard and I have also looked at the reply of the letter to see what the reply was, that was a very comprehensive motion, and it will be recalled that there was a statement by the Attorney General on behalf of the British Government which was reiterated in the letter. In so far as consultation is concerned, I find no difference in attitude now to before but in so far as facts are concerned we must be more concerned and we must be more conscious of the fact that other forces are working in Spain and that we have to be doubly careful about what happens. That I accept because it is a new situation that has arisen. We have to, under every circumstances. But if I may say so, I am going back to the Judd meeting of the 8th, it was not at my request that he said that the British Government commitments to

the right of the people of Gibraltar are inviolate and that is on record. It was not at my request that he used those words, that is their record of the meeting of what he said. I entirely agree with Mr Isola that what we have to do in this case is to keep united in so far as our attitude on this matter is concerned. This is essential, very essential, and I think that the sort of ridiculous remarks made by Major Peliza about having a Spanish Admiral in the Dockyard makes this from being a serious political matter into a farce or a circus of which he will be perhaps the best "Tofito".

The matter is too serious to talk in a hysterical way. I would have thought that his stay in England would have helped him to have a little more of the phlegm of the British not to get so excited over these matters when he starts talking, but it hasn't had any effect. In so far as the possibility of a consensus is concerned, of course, the problem is difficult. It is difficult. The Trades Council to whom I reported has said now "we represent so many people as workers that we haven't got a view", is of course different to the one when they said; "we, as the representative of all the workers know only one view, you must tell Britain to decolonise and they must say how it has got to be done." That is not the way that we are likely.....

HON J BOSSANO:

If the Hon Member will give way. Wasn't that deleted in that same letter to which he was referring?

HON CHIEF MINISTER:

I do not think so, unless, of course, the Hon Member drafted it.

HON J BOSSANO:

I did.

HON CHIEF MINISTER:

It was signed by Mr Matthews but I don't know how many letters are signed by people written by the Hon Leader of the Opposition in his many other capacities.

HON J BOSSANO:

Mr Speaker, I am sure that the Hon and Learned Member in his professional capacity writes letters for people the same as I do in my professional capacity.

HON CHIEF MINISTER:

I didn't know that he was the consultant of the Gibraltar Trades Council, one learns every day. I suppose the economic consultant. Anyhow, be that as it may, the letter said that there was such a varied opinion that they couldn't express one view. Of course they couldn't express one view. I, too, am very happy to hear the Hon Mr Perez speaking language that cannot be confused about his desire and his will of remaining British and remaining with a British connection which I think we would all like to feel that everybody is like that though unfortunately, and I am not referring to Hon Members in this House, there seems to be a little deviation in certain quarters, the extreme right and the extreme left, of which we must be ever careful. So that really, Mr Speaker, there is a lot of what has been said in the motion with which Members on this side of the House accept and agree, we do not dispute the motion. We do like to put the interpretation that the Hon Mr Isola has put because otherwise the motion would be lame until we have put our own house in order. I understood the word "comprehensive" was comprehensive talks in the wide sense. There was one point made this morning by Major Peliza which of course amused me considerably because he said that when there are talks Gibraltar representatives should be there. A bit of a far cry from his stand when he was Chief Minister when he said that Gibraltarian representatives should not be there....

HON MAJOR R J PELIZA:

That is not so, I haven't said that. What I have said, and I have said it here today, is that my position has not changed. That if there were representatives at the talks from Gibraltar, they should go there representing the views of all the elected members and that if any decision was taken when they came back that position had to be ratified by the people of Gibraltar and that position has always been my position when I was Chief Minister as well.

HON CHIEF MINISTER:

The Hon Member will excuse me but his view at one stage was very definitely against Gibraltarian participation in Anglo/Spanish talks. I remember him very clearly stating on television that the British diplomats were experienced negotiators and what were we going to do there next to those.



HON MAJOR R J PELIZA:

I have always said that the delegation from Gibraltar should be led by a British Minister, that I always said, and that if a Gibraltarian went he should go on those conditions and that the Gibraltarian should not be the only representatives but led by a British Minister, that is written down.

HON CHIEF MINISTER:

I do not think anybody, certainly not on my side of the House or in my party, has ever suggested talks with the Spaniards ~~ex~~aparte. What we have always advocated from the very beginning when it was not so popular, we have always advocated that Gibraltar had to be present at any place where the future of Gibraltar was being discussed. That has been our stand all the time when that was not the stand of certain people in public life. We have always said that Gibraltar must be there for that. I think Mr Isola has dealt with the point which was raised by Mr Perez in regard to the routine talks. Mr Perez said he was tired of hearing me say that they are routine talks. I don't know how tired he can be, there can only have been in his adult lifetime two or three so I don't know how soon he gets tired about these matters. It is an annual exercise and I agree with the description given by Mr Isola that so long, and I think this is what the part of that letter which the Hon Leader of the Opposition was mentioning about reservations, I think this is really what it mainly refers to. I have here the letter saying: "I have now been asked to reply that Her Majesty's Government's position on this matter was described in the Attorney-General's statement in the debate on 9 December at which the motion was adopted. As indicated in that statement Her Majesty's Government must reserve to itself discretion to conduct diplomatic business affecting Gibraltar. This may include talks conducted without prejudice to Her Majesty's Government well known constitutional and economic pledges or to the legal position of either side to see whether a common basis can be reached upon which substantive negotiations could be held with the Spanish Government on any aspect of the Gibraltar problem. Subject to this and in accordance with Her Majesty's Government's general practice, it is the intention to continue to inform and consult your Chief Minister and other representative leaders of the elected Members of the House of Assembly on these matters under the normal rules of confidentiality. If a stage should be reached at which it appears that there might be common ground permitting substantive negotiations with the Spanish Government, Her Majesty's Government would, of course, consult the Gibraltar Government". This is dated the 13th of April and already the old man has been dead for over a year. We were already hearing about the elections on 15 June I think on 13 April

so in so far as that is concerned there has been no change in the British Government's attitude. Another instance of the extent to which the Spanish news media impress people, and I don't doubt that the people are impressed, with the way in which they put across their news media about a talk between the Foreign Secretaries which they have mentioned as if it had happened two or three days ago, it happened on 30th May as I said in an earlier part of the question. It happened on 30 May in the question of the North/South Conference where they made their acquaintance for the first time. So that one has got to be careful on the one hand to see that our rights to consultation, our rights to have our wishes respected and remain inviolate, as the Minister said at the meeting, must continue whilst at the same time take a more sophisticated view of whatever news comes from Spain on these matters until we know all the facts as they are here now. We have now the assurance that if the Foreign Secretary goes to Spain there will be prior consultation with Gibraltar. He has said quite clearly he is not going to Spain to speak about Gibraltar but no doubt that would arise and therefore before any arrangements are made for his visit I take it from the word I have had over lunch from the Foreign Office that there will be the usual consultation. That, of course, in so far as the incident is concerned but in fairness to the Mover he moved the motion when that was not news and therefore there was a longer and more comprehensive intention in his motion. I accept that, so that it is not that by dealing with the Oreja/Owen or Owen/Oreja meeting, I appreciate that the Mover was not prompted by that which in fact was not news at the time but no doubt prompted to see that we keep the flame alive and that there is no deviation from the path which we have set ourselves in this matter. The only point about this and which perhaps the Hon Member might in his reply say something is that we would, I think, be depriving ourselves of the value of the motion, if it is passed unanimously, in so far as talks are concerned with the British Government, if he attaches the condition in the word "comprehensive" of a complete united view because the talks might well be called upon long before that has been possible. Other than that I have no problem in accepting, the Government has no problem, the elected members have no problem, in accepting the Motion. The Hon Member hasn't given an interpretation of the word "comprehensive", Mr Isola was afraid that it might have a certain connotation, what I am saying now is that I hope he does not stick to that connotation because then it will weaken the value of the motion because then it will be a pre-condition on our side which we may not well be in a position to comply before the time for the motion comes. I hope that is quite clear.

HON M. XIBERRAS:

Mr Speaker, I am very pleased that the motion will be supported by all Members of the House because I have no difficulty in giving the interpretation to the word "comprehensive" in my original motion which the Chief Minister is seeking. I would have thought that it was perfectly clear from my original presentation of the motion, that I was not in any way proposing that comprehensive talks of such a nature as to go into the constitutional problem and so forth, should be held before agreement was reached here within Gibraltar. A propos of this may I say that even though I myself can claim some sort of a mandate, having made this an almost single election platform in September, 1976. I feel that the Government of the day does have a say as to how this matter should be tackled and it should have the majority say. This does not mean that I would abdicate, nor would other members on this side of the House, abdicate their responsibility should the Government deviate fundamentally either in terms of timing or in terms of substance from their election manifesto. I would be the first to say, and I have said already, that I think that things are dragging rather and I think that things should be sped up. But in presenting the motion I made it quite clear that it was essentially the developing situation in Spain and of course the certainty or the almost certainty that there are going to be talks at a high level between the British Foreign Secretary and the Spanish Foreign Secretary that made me put forward this motion. Mr Speaker, whatever the Foreign Office says I think we are mature enough in this House and have sufficient experience of the problem to know that the Spaniards, if not the British Government must carry out a re-assessment of their attitude to Gibraltar. I think that another event which has happened since the motion was put forward has been the declaration of Government policy by Señor Camunas. We have heard that on television as well and there it was clearly stated that Spain was in favour of applying for membership of NATO and membership of EEC and that therefore the actuality of this problem and the closeness of a revision of the Spanish Government's policy towards Gibraltar could no longer be denied. Mr Speaker, whether Dr Owen wishes to make Gibraltar central to his conversation or not, we know that Señor Oroja is likely to do so. It matters little whether one has heard the information from GTV, from Spanish Television from BBC from Gordon Martin or anywhere else. We know a priori that the Gibraltar issue is bound to be a central preoccupation for the Spanish Government as soon as she begins to move closer to Europe and now we know that

the first steps of a formal decision by the Spanish Government has been taken. Therefore, Dr Owen will inevitably be faced with a policy which can be, I think, anticipated, which has been already indicated by Señor Camunas and which he should be prepared for and for which preparation he needs to have the views of the Government of Gibraltar and the elected leaders, I would say, of Gibraltar. It is no longer a theoretical question, it is a question of practical politics now that we should be absolutely at idom with Her Majesty's Government on this matter. Mr Speaker, it is because of the importance that I attach to this that I am grateful that the House will be able to support this motion unanimously but I cannot but decree the amount of useless crossfire that there has been on political issues and I cannot stand idle and watch this sort of talk on a motion of this importance. I would remind the Chief Minister that my Hon and Gallant Friend Major Peliza is elected or was elected last September, the people having the full knowledge of his circumstances and that therefore he has every right to express the views especially on this matter, every right to be heard in this House with the respect that becomes a Chief Minister of Gibraltar. I am aware that in his present position he has taken upon himself the role of infusing life into the House of Assembly but I do not think that for that reason he should be condemned at a quite different level by the Hon and Learned Chief Minister. Mr Speaker, about the position of the GTC and the TGWU I must make a quick reference. I do not think the Leader of the Opposition represents the GTC or the TGWU on this particular matter in this House and that any attempt of his either as an employee of the Union or as a friend of the GTC to assume that thereby he represents the view of the two bodies, in my judgement, will be completely invalid. The TGWU has taken up a stand of "independence or whatever" which I had no hesitation in declaring my opposition to in the press and that the GTC's approach which I think concerns Hon Members on the other side of having talks on the future of Gibraltar before we had decided what we wanted here equally I am not in favour of. Therefore my proposition now is talks about the talks, talks about the developing situation in Spain, talks about the tactics to be used, talks about the assurances that one needs in respect especially of the nearness of Spanish Membership of NATO and EEC. But I do not break faith with my position as expressed in Constitution Committee when the GTC made the representations to us. I still think we should persevere perhaps much more speedily than we are doing but we should persevere in our attempt to find a commonly supported constitutional position for Gibraltar, and that it would be dangerous to go to London divided on this particular issue. What is more, I feel that we must obviously try to achieve, in view



of the fact that there is going to be consultation with Gibraltar leaders before Dr Owen goes, we should try to achieve unanimity of views on the issues which are going to be discussed with the British Government before they happen. If the Hon and Learned Chief Minister recalls, that was the substance of the letter which in his reply to a question by my Hon and Gallant Friend he treated as rather inconsequential. There I told him that it seems to me that agreement on the constitution issue would be some time in coming however hard we tried and that therefore we had to try to arrive at a consensus amongst ourselves in the committee with the representative bodies so that united we would be able to propose to the British Government a way of dealing with the problem that is concerning us now and I said specifically that we had to know in the short term for political assurances and the Hon and Learned Member was good enough then, privately, because I refused to publish my letter so as not to add wood to the fire, he was good enough to say that certainly this would be taken up in the committee with the representative bodies and that has been my attitude and that has inspired, in fact, this motion which is now before the House. I should also say, Mr Speaker, that even though I did not feel it necessary to say so publicly before, that I did receive a letter from the Governor saying that he was pleased to inform me that I would be consulted on foreign affairs, exceptionally, bearing in mind that both the Chief Minister and the Leader of the Opposition supported this view and bearing in mind that my Hon Friends Major Peliza and Mr P J Isola had no objection to this. Therefore, Mr Speaker, this is what the Hon and Gallant Major Peliza referred to and therefore, Mr Speaker, I feel that I have also a special interest in this matter. Mr Speaker, I have been an apostle of unity, perhaps to my own detriment, on these matters and it grieves me to see divisions on this fundamental matter. It grieves me to see politics being made...

HON CHIEF MINISTER:

Why doesn't he preach this to his colleague on his right?

HON M XIBERRAS:

Mr Speaker, the Hon Member should have not jumped up because I have not mentioned his name. I am speaking generally, Mr Speaker, the Hon Member is not being alluded to, I am speaking generally.

HON CHIEF MINISTER:

He has referred directly to me making political references in the course of this debate specifically.

HON M XIBERRAS:

Mr Speaker, I shall not preach any more on this matter but all I can say is that the Hon Member opposite knows my views about this too well and I do not like to see these things happen. I entirely agree with Mr Peter Isola that unity is absolutely essential and the unity was lost at the time of the election and I feel that there is a chance that it might be regained. I have tried all my power to persuade all those parties who were invited to the constitutional talks to attend these talks. Therefore I hope that it will be possible for Hon Members to meet as early as is convenient and to try to establish our position in relation to the talks which may take place in September but may take place earlier. I am sure that Dr Owen is anxious to visit Spain now that the democracy is beginning to work and so forth. I think the nature of the talks suggested is absolutely clear now and I hope that Hon Members will be able to proceed quickly to drawing up a common position which is very necessary to Gibraltar. I commend the motion.

MR SPEAKER:

I will then put the question which is, "That this House urges the Chief Minister to ensure that comprehensive talks are held with Her Majesty's Government before it is agreed to hold talks between Her Majesty's Government and the Spanish Government on Gibraltar."

The question was resolved unanimously in the affirmative and the motion was accordingly passed.

MR SPEAKER:

I now call on the Hon M Xiberras to move his second motion.

HON M XIBERRAS:

Thank you, Mr Speaker. Mr Speaker I have the honour to move "That this House, bearing in mind the accute shortage of housing, the number of applicants on the Government's Housing List and the serious slowing down in the rate of Government housing construction; considers the continued existence of a large number of vacant flats in Varyl Begg

Estate, which still cannot be allocated, to be a social injustice and a disgraceful state of affairs; and demands from the Government its immediate intervention to correct the situation." Mr Speaker, I doubt whether there has been a subject which has received more attention in this House than the question of Varyl Begg Estate. This is perfectly understandable because Varyl Begg Estate is practically the whole of our housing programme and not everything, to use an understatement, has gone well with Varyl Begg Estate. Mr Speaker, if the motion uses rather hard language and calls this state of affairs a social injustice, the language has been chosen quite deliberately. I feel that if we have such a pressing housing problem in Gibraltar, and if we have applicants on the housing list with some 400 points, if the pointage, generally, has risen so sharply that even the Minister for Housing has expressed his anxiety in this House about the matter, then those persons who are deprived of housing through the fault of any of the parties involved in the construction or design of Varyl Begg, are suffering a social injustice. Mr Speaker, I am going to refer to Hansard to show that the attitude of the Government has been a rather incomprehensively defensive one since Hon Members began to take an interest in the state of affairs that was developing at Varyl Begg since at least two and a half years ago and perhaps as much as 3 $\frac{1}{2}$  years ago, when the first complaints started to come in. I have it in good authority, Mr Speaker, that letters were written certainly as far back as 2 years ago by some of the parties involved. Mr Speaker, in 1976, for instance, Question 79 of 1976 "Can Government state dates on which allocations can be expected on relation to phases 5 and 6 of Varyl Begg Estate and to what extent can the alleged vandalism be seriously put forward as an excuse for the non-completion of these phases on the due date". The then Minister, Mr Abecasis, said that vandalism was .....

HON I ABECASIS:

Perhaps Mr Zamnitt was on leave at the time.

HON M XIBERRAS:

He was saying, Mr Speaker, that vandalism was an important factor. He was pressed on the matter, Mr Speaker, as to whether there was anything else wrong with Varyl Begg Estate? The Hon Mr Abecasis said: "We do not know whether there will

/know

be dampness in houses which have not been handed over yet, sir. "There were certain houses to be handed over and the Hon Mr Abecasis, acting apparently for the Minister for Housing, said at that meeting; "We do not/if there will be dampness in houses to be handed over", even though there were numerous complaints about dampness a good deal of time before the question was asked. Mr Speaker, Question 81. Concern was shown there in respect of the pointages mounting and yet the non-completion of the houses in Varyl Begg Estate. Question 88. "Can Government state when Block 18 in Varyl Begg Estate is due to be completed?" It was programmed for July, 1976, and as we all know the date, certainly for Phases 5 and 6 went all haywire and the fundamental problem appears to have been the difficulty over the handing over, not really the difficulty about completion of construction. The Hon Lt Col J L Hoare said: "I want to get something off my chest that I have been wanting to do for a long time. That when we came into office in 1972 the contract for Varyl Begg was already signed, sealed, and delivered and it provided no due date for the handing over of any one block." Defensive again, Mr Speaker, trying to pass on blame to the initial stages of Varyl Begg. Question 89: "What steps, if any, is Government taking to ameliorate the extreme dampness that exists widely in the units of Varyl Begg Estate?" Again in May, 1976; The Hon Lt Col Hoare answered: "Government is unable to accept that extreme dampness exists widely in the units of Varyl Begg Estate although there is dampness in a number of flats. However, the process is still under the charge of the consultants and Government will ensure that any dampness for which tenants cannot be held responsible is seen and rectified by the contractor in accordance with the terms of the contract still in force. In fact, Government has not accepted the handover of any of the roofs because latest faults have indicated that they are not watertight." Mr Speaker, in that question we had the beginnings of a solution proposed by the Hon Mr Devincenzi and in reply Col Hoare stated: "As I mentioned before the moment the client interferes with the work of a consultant, and let me say here that the consultants are not appointed by this side of the House, but by the other side when they were in Government, then you are in very deep waters. Let me make this absolutely clear that whoever's fault it is, whether it is the consultants' or the contractors' the Government of Gibraltar will not pay and will not accept those roofs until they are watertight. Mr Speaker, this might very well be the logical advice which the Hon and Gallant



Col Hoare received, but already in the course of this meeting we have seen an improvement, a more positive attitude on the part of the Government. The Government is now talking about taking both parties in this dispute to compulsory arbitration. But the date of the question I am quoting from, and the answers, is May 1976, that is, over a year ago and already the problem had existed for a considerable amount of time before, I would say at least one year before that, and possibly two years before that and the Government did not think it fit at that time to try to coerce the parties into arriving at some sort of a solution. The delays have therefore been such as to create the social injustice of which I am talking. Mr Speaker, may I deal with the points about the appointment of the consultants at this stage. The consultants were appointed by ODM at the time of the 1969 talks in December. They were not named at that time but it was insisted by ODM as a pre-condition of our getting the money that these consultants should be ones chosen by them, because the size of the contract was such that they could not entrust this volume of work to our local staff as my Hon and Gallant Friend Major Peliza was insisting that they should do because we did have people available here to do the work. Therefore, Mr Speaker, the comment by the Hon and Gallant Col Hoare is quite misplaced. It was not the responsibility of the Gibraltar Government of 1969 to appoint the consultants, it was at the insistence of ODM and as a pre-condition to our getting the money that eventually Sir Hugh Wilson was appointed as consultant. This must be absolutely clear and accepted because it was even in the final communiqué of those talks by other members of the House. Mr Speaker, Col Hoare claimed that there was proper supervision by the Government, a proper interest in the building of Varyl Begg as it went along. To my certain knowledge there was considerable dissatisfaction with the direct interest of the Government was taking in the building of Varyl Begg and at the inadequacy of the staff there for inspection and of the liaison that existed between the officers detailed there at the time and the Minister. I had occasion, I remember clearly, to point this out to Col Hoare in no uncertain manner. I think there were other members present at the time, having received complaints from the tenants of the Varyl Begg Tenants' Association. On this occasion, on 18 May, on the same question, Mr Speaker, being answered, Col Hoare said about the supervision or the Government's interest in the project: "I think it is a gross exaggeration to say that no one has been there - that is from the Government side - the contractors' Clerk of Works and our own Clerk of Works are constantly going round. If the item is not brought to their

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attention then, of course, they cannot take action. They cannot walk into flats and inspect. If we did, half the people would be out for tampering with what is already in there." Mr Speaker, I know for a fact that the Government staff there was not only inadequate in terms of numbers but also went largely unheard by the Minister when they protested as I did myself, Mr Speaker. I remember another occasion, the topping up ceremony at Block 18, where I specifically pointed out to the Minister that the consultants' man here in Gibraltar was extremely dissatisfied with his contract and had threatened for some time that he would not continue with performing duties for which he was not paid and Col Hoare told me that I didn't know what I was talking about and that there was nothing wrong that could not be corrected, or words to that effect. I pointed out that I had seen photographs of the flats, I had visited the flats, I had informed myself about the roofs at Varyl Begg, I knew about the dispute and asked him whether this had been reported but apparently, according to Col Hoare, there was no problem. Mr Speaker, in Question 89 of that year my question was about this difficulty which apparently exists between consultants and contractors for the outcome of which Government will not make themselves responsible. "Can the Minister say for how long this dispute has been going on because it seems it has to do with roofs which might be the cause of the dampness in these houses. For how long has it been going on and has any work been done in respect of this despite the existence of the dispute?" Col Hoare: "I don't know when it started." Obviously there has been dispute as to whether it was bad workmanship or bad design. In fact the contractor brought out a team of specialists. Col Hoare: "I think the state of play at the moment is that until the dispute is settled the answer is no," because, Mr Speaker, you intervened to say has any work been undertaken as a result. Then Col Hoare said: "Only to the extent of saying quite forcibly in words of one syllable that whoever in the event is responsible for it, it will be the lot of the Government of Gibraltar to carry the can." This was, I repeat, in May 1976. I then said: "Have you taken any steps to accelerate the settlement of the claim?" and Col Hoare said: "No, Sir, I am not prepared to interfere in any quarrel between the consultants and the contractors." Now I have asked the Hon and Learned Attorney-General whether he would prepare a statement outlining what recourse Government could have in law, what are the different options available and it is only because this kind of negative reply, this refusal to see the problem, of the urgency of the problem, started not yesterday, not this year but certainly in this House over a year ago and we have been warning the Government about this.

Mr Speaker, in 1977 Hon Members were obviously incensed about the situation. In Question No.45 of 1977 Hon Dr Valarino asked: "Can Government confirm that some tenants at Varyl Begg are occupying flats with dangerous electrical wiring as a direct result of leakage of water into the electrical installation?" Now we get something of a realisation of what the problem is. No doubt the Government was reinforced by their election victory and were able to admit that something was wrong. "Since the roofs started to leak at Varyl Begg Housing Estate the contractor has provided a 24-hour service to assist....

MR SPEAKER:

If you keep on quoting there will be a tremendous duplication of Hansard.

HON M XIBERRAS:

I think this is absolutely true, Mr Speaker, and I apologise. But in any case, Mr Speaker, I think the House has sufficient evidence that this has been a constant concern and that the Government, certainly in the time of Col Hoare, and I would say gathering momentum slowly after then, is finally being made aware that there is a very urgent, a very serious problem which now amounts to social injustice for the people who would be affected. Mr Speaker, the motion also refers to the slow down of the Government programme. I have tried to deal with the Government in as lenient terms as possible on this matter. I proposed what I hoped was a constructive motion on housing some time ago and as a result of this I have seen some action on the part of the Government. But the action that the Government is taking with the crash programme or whatever it is, the development of areas and so forth, has to be quadrupled in respect of Varyl Begg Estate. I understand that there are constraints upon the Government. I do not blame them entirely for this. I do not even feel that theirs is the onus to produce the flats themselves. What I do blame them for is for turning a deaf ear to complaints, to legitimate complaints, to ignore the complaints of tenants who are being made to pay rent for those flats, to minimise their difficulties, to try to cover up, that I do blame them for, to enmesh themselves in legal advice. Mr Speaker, it is no solution for somebody who cannot turn on the light to be told; "Yes, we are attending to your difficulties because we have installed a bulb at the end of a cable," as has happened. That is no action on Varyl Begg Estate, that is refusal to consider the seriousness of the problem. It is not enough, Mr Speaker, to talk to the contractors in however terms.

It is certainly not enough to talk to the consultants in however firm a language. If these two parties to the dispute, and I would not judge between them, if they cannot come to an agreement, then Government must have found in this long period of time some legal means of getting a settlement to this. There must be. I know the concern of the Minister for Housing in these matters and I entirely blame the Public Works side, specially the Hon Col Hoare, for his attitude in this matter. One cannot turn a blind eye to occurrences of this nature. Mr Speaker, I still do not know the exact extent of the trouble at Varyl Begg. The Minister told us that 69 flats were affected by this. I gave way to the Hon Member, perhaps he will correct me.

HON H J ZAMMITT:

I said 69 of the previous phases, that is, Phases 1 to 5. 140 flats which are Phase 6 and Block 13. I can certainly refer to 140 with the utmost accuracy but the 60-odd I cannot recall the exact number of houses unable to be allocated.

HON M XIBERRAS:

Well, Mr Speaker, let us talk about the 60-odd first. The construction of these flats must have stretched from the initial stages onwards and this shows, Mr Speaker, that the leakage started with the construction of Varyl Begg and the cause of it was known to me from a very early stage. It was common knowledge and now this is admitted by the contractors and I think it is admitted by the consultants.

HON ATTORNEY GENERAL:

No, the contractors and the consultants are fighting bitterly over the cause.

HON M XIBERRAS:

I understand, Mr Speaker, that the consultants are now even in a position to suggest a modification of the design for the roof, a substantial modification. Mr Speaker, I think it is common knowledge that the construction of the roofs because of the layer of felt - I shall not get too technical. Mr Speaker, it is one thing to say that the cause is not known and the other thing for everybody in Gibraltar to know that it is the roofs that are badly either designed or constructed. The Hon Attorney-General may say that that is another matter but it is a very similar matter. It is completely a different matter to say that the cause is not known because that is to envelop the whole argument in a quibble. Of course it is known. Mr Speaker, the Hon Member had occasion to remind another Hon Member about a declaration of interest in this matter.



HON CHIEF MINISTER:

What declaration of interest? I have nothing to do with this matter at all. The question of Taylor Woodrow is being dealt with in the United Kingdom and I resent that, because if I had had any interest on it I would have disclosed it. I have no interest whatsoever, let it be quite clearly understood.

HON M XIBERRAS:

Mr Speaker, it is obviously the roofs and that is the cause of it and that is what the dispute is about. Who is to blame about the construction is a completely different matter but that it was the roofs is known to the Government for two years and that is a fact. It is certainly known to the consultants that there was a dispute about the construction and design of the roofs. That quarrel has been going on in writing for the last two years. I doubt very much that the Government could be kept in ignorance of this and I am quite sure of my facts.

MR SPEAKER:

I have allowed you to go into the history of all that has happened but this is not a vote of censure on the Government due to their lack of interest in the way that the Varyl Begg Estate has been constructed, it is a demand on Government to intervene immediately to correct the situation.

HON M XIBERRAS:

I was simply describing the disgraceful state of affairs.

MR SPEAKER:

You have been going on for three quarters of an hour now.

HON M XIBERRAS:

I am coming to a close now. I hope my arguments are a bit more watertight than the roofs. Mr Speaker, what is pretty leaky is the performance of a good number of people in this matter and what is pretty leaky, Mr Speaker, are the houses of the people at Varyl Begg Estate. I was expecting an

onslaught upon the previous Government that produced the money, Mr Speaker, I don't know whether the Hon Member heard it, but the construction of the roofs etc, whether it was for better or for worse was approved at the time of the last Government. The failure which nobody could predict at that time, the failure of the roofs, was known to the succeeding Government, to the next Government, at a very early stage and at that stage nothing, to my mind, was said about it. I would be interested in hearing what Hon Members had to say about it at that particular stage and how early Hon Members started telling the contractors and the consultants that they were concerned at the time about the state of Varyl Begg and calling a halt if necessary to all this until the houses could be properly constructed, if there was a mistake one way or another. But now, Mr Speaker, what we have is a very big estate, a very good estate, a very necessary estate. Mr Speaker, I would like to know what active part the Government, who frequently referred to their great election victory, so they must take the responsibility with it. I would like to know what they have done to correct these faults. All this, I hope, is going to help the 200 or so families who are without flats because of the incompetence of one or other or yet a third of the parties involved in this. As argued in the Opposition, whatever was to blame and to whomsoever it can be attached, it is argued in the Opposition and we will continue to shout as we have been doing, to try to get the Government to do something about it. I am not going to say anything about the various possibilities which I feel should be available to Government in its intervention which I propose but I hope that they are quite decisive ones and even at this late stage the Government will be able to do something to accelerate substantially the termination of the completion of these flats. Therefore, Mr Speaker, I commend the motion to the House and look forward to hearing from the Attorney-General particularly in what way Government can intervene.

Mr Speaker then proposed the question in the terms of the Hon M Xiberras' motion.

The House recessed at 5.05 p.m.

The House resumed at 5.35 p.m.

HON H J ZAMMITT:

Mr Speaker, Sir, I will confine my words to talk, in answer to the Hon Mr Xiberras' motion mainly, on the actual housing situation or as he refers, the social injustice which affects me as Minister for Housing and I will leave the technicalities of causes or possible causes together with the legal points to my colleague who, I am sure, will be able to clarify with much more accuracy than I. Mr Speaker, there is no doubt that the present situation of Varyl Begg is what has really brought the appalling housing situation in Gibraltar to a complete and utter standstill. Any person daring to analyse the situation will have to accept fully that the dramatic situation which we have found ourselves with as a result of the Varyl Begg leakages and other faults which have not been referred to so far, has prevented my Department from accommodating something in the region of possibly over 200 families. I say this, Mr Speaker, because it is the only place one has to be able to say to the public that the Government sympathises fully with the situation of all of them and it is equally the forum where one can probably outline or at least bring out the more salient facts that have been surrounding housing, particularly since last September. Mr Speaker, it is not uncommon knowledge to know that Phase VI and Block 18 were terminated and handed over some time during the middle of September last year. It would have been, I think, unethical for me, as Housing Minister, to have accepted those four remaining blocks of flats and to have allocated them just prior to an election. It would have been wrong not only for the political gain one would probably have obtained in the question of votes but because I think that the experience that we had obtained over the allocation of the previous five phases was worrying enough without having to inherit more problems with Phase VI and Block 18. Mr Speaker, the whole situation which the Hon Mr Xiberras has brought around in this motion brings around the housing development programme in general. I do not ask for sympathy, I just ask for some form of concern, some form of at least, acceptance of a situation. The modernisation programme which is now beginning to bear fruit, is visible in various part of Gibraltar, particularly the Flat Bastion Road area. There are other areas, of course, where one or two or three flats have been modernised. I refer to Flat Bastion Road because one can see three full patios having been modernised of a very acceptable design. Mr Speaker, I am not prepared to go into quibbles, Mr Speaker, of what my colleague Col Moore said or what he didn't say. To me it is water under the bridge, it is gone. I am concerned with the present situation which is already bad enough. So it is not good, I think, Mr Speaker, for Members on both sides of

the House to start picking on as to who drafted the contract, the previous administration should have done this, they didn't do that, they should have done something else, the fact is that as clients we have paid for houses and those houses cannot be occupied and that is my main concern, that never in the history of Gibraltar's housing has there been a situation of having some 200 vacant flats. That has never happened before. In fact, Mr Speaker, the Chief Minister has referred to Varyl Begg as being the greatest disaster other than the Spanish situation and I think he is quite right. No one more than I who has to face the public day in and day out and night in and night out on occasions, can understand the situation and sympathise, may I say, with those people with pointage even higher than what Mr Xiberras has mentioned and one not being able to give them a hope in heaven as to when they will be able to move or, as the Hon Dr Valarino brought up in a question, a hope in heaven of when I will be able to move somebody out from a flat which is uninhabitable or basically uninhabitable. Mr Speaker, I would like to say one thing about what Mr Xiberras said about he knowing the cause. I think he probably realises that he may suspect the cause as no doubt most of us suspect the cause. But in answer to the Hon Dr Valarino's question he referred to a house, 2 Royal Sovereign House. I hope that it is accepted from me, Mr Speaker, that 2 Royal Sovereign House is a ground floor so it is not only the roofs that have the problems at Varyl Begg, there are many, many problems and I do not think that the covering of the roofs or the waterproofing of the roofs would satisfy me fully that Varyl Begg problems have been sorted out. The other point which the Hon Mr Xiberras has not given the concern which, may I say, I have given and I have brought to Council of Ministers on many occasions and which is, to me, much more important than a drip in a roof, is the question of the electrical installations. The possibility of a child losing its life. So all in all I do not think anyone can refer to Varyl Begg Estate as ever having gone well. In fact, Mr Speaker, as far as I am concerned nothing ever went well with Varyl Begg Estate. It is an Estate that has been riddled with problems from the moment the first brick was laid. I do not want to go, Mr Speaker, after the consultants and contractors because I think I am not qualified to do so. Nor am I qualified to say that three layers of felt or six layers of felt or what have you should stop the water. All I am concerned with is that the Varyl Begg situation is responsible for housing being paralysed in Gibraltar. Had we had Varyl Begg



going the modernisation programme would have gone quicker, blacking, of course, permitting, and other circumstances, it would have gone much quicker and we would have found that the problem or the burden on the Housing Department would not have been quite as great. Mr Speaker, I think it is very unfair for the Hon Mr Kiberras to say that Government turns a deaf ear to the complaints brought about as a result of Varyl Begg. In my Department we receive umpteen letters of complaint from Varyl Begg Estate and they are not thrown into the waste paper basket. Immediate action is taken, immediate action is asked for and we do not ignore complaints no matter how unjustified they are on some occasions. Mr Speaker, the situation is that even today, despite what Members opposite may say about the lack of what they think we should have done, let me assure this House that since I took office as Housing Minister in 1975, the Varyl Begg situation has been uppermost in my priorities. It is a difficult situation. It is a difficult problem. It is one where there is a dispute in which I do not want to get involved, Mr Speaker. I think the man in the street does not want to get involved, all he is concerned is that there are houses there that he cannot occupy and I am being pressed. But I think I mentioned in the previous meeting of the House, Mr Speaker, that we have had the Public Health Department going round looking at the 140 flats that were lying vacant and to my surprise, Mr Speaker, something like 16 out of 140 were habitable according to the Public Health Department. The operation of what Government has been trying to do for a very long time, not six months, not a year, for a very long time, is to try and get those parties to agree that at least there was disagreement and there has been, to a degree, some agreement. I think the Hon Attorney-General mentioned in reply to a question that there had been some agreement now, that the contractors had accepted some faults which they are going to put right and therefore we hope that that will be put right once and for all. The latest situation is that, in order to avoid a very prolonged legal battle which could take God knows how long, we have attempted to bring both parties together to agree to arbitration and to determine what is the cause of the leaking roofs. We are talking of leaking roofs but as I also said when I began speaking and having absolutely no knowledge of construction, I personally am hoping that the rising dampness is the result of leaky roofs, if not, I will want to know. I don't know, probably leaky roofs also account for rising dampness. That, to me, is a defect and there are also houses from previous phases which are vacant on the ground floor. If

the roofs are responsible and they can be cured, well and good, I very much doubt it. So that is the situation at the moment, Mr Speaker. The situation is one which no one, and I say this with some modesty, Mr Speaker, including colleagues on my side of the House, probably fail to understand or fail to accept the situation or the patience and tolerance that my Department and myself have to put up with daily. I know that Members opposite will ask me to do something about it but I think they have the sense to realise that it is not as easy said as done. For my part, Mr Speaker, I continue and will continue to bring the attention not only of the known faults at Varyl Begg but, no doubt, more that are to spring, to the attention of my colleagues and I am sure that we will get something done as quickly as possible. I think the Hon Attorney-General went on to say something more about a decision that we had arrived at if both parties fail to agree to the arbitration but I would not like to say that at the moment in case it could be interpreted wrongly or pre-empt the possible agreement or agreeing between contractor and consultant. Mr Speaker, I will never ever as long as I am Housing Minister, be able to stand up in this House or elsewhere and give absolutely any credit to the construction, whether it be the design or whether it be the workmanship. It has brought upon so many headaches that I will never be able to give it probably even the value it deserves. As I have said before it is so tragic that it is sometime unbelievable and I reiterate, Mr Speaker, that I put today's cessation of housing allocations squarely and fairly on whoever it may be. Whoever may be responsible it falls upon the disaster of Varyl Begg.

HON J BOSSANO:

Mr Speaker, I think the attempt by the Hon Member, the Minister for Housing, to turn the problem of the Varyl Begg Estate into the excuse for the Government's record on housing, will really not wash in spite of the damp problem in the housing estate. The fact that there is disarray on the housing front is not entirely and exclusively due to the lateness of the last phase of the Varyl Begg Estate coming on stream. It is due to the fact that the Government of Gibraltar did not have another substantial housing scheme ready to take over where Varyl Begg left off. It is due to the fact that new construction was replaced by housing repairs and modernisation instead of being an adjunct, instead of modernisation and housing repairs being run parallel with a continuing high level of new construction to keep up the momentum of Glacis and Varyl Begg

that momentum was allowed to disappear and a new policy was adopted which I think was reflected in the statements made by the Hon and Learned Chief Minister at Budget time when he said we had to rethink our whole blow about housing. One can only assume that against the background of the Crash Development Programme and in the context of the abandonment of new house construction, the re-think means that we are going to limit ourselves to repairs and modernisation at what so far has been a rather leisurely pace. Whether that produces results, or whether, in fact, our now endearing neighbours are going to provide the houses for us in the near future remains to be seen. But, certainly, I think that whatever the shortcomings of the Varyl Begg Estate in terms of design, and the design of the Estate is, in my view, the responsibility of the experts engaged and paid to do the designing and not of the politicians, whatever the shortcomings, there is one thing that one cannot doubt even if one wishes to take this opportunity to knock the three years of IWBP administration, that it was a scheme conceived with imagination and an all out attempt to crack the back of the housing programme. I think, as my friend, the Hon and Gallant Major Peliza, said at the time that the scheme was announced. It was to get to the hard core of the housing problem and give an impetus to solving our housing problem which would enable the thing to be possibly solved within living memory of those who were on the housing list without a determined attack on the housing list in the way that the Varyl Begg Estate was conceived to achieve, a housing estate of 650 units, without that, the situation was that we would always have been in a position of seeing a stagnant housing list with people joining one end of it as fast as people came out at the other end. Undoubtedly, the Estate has failed to achieve everything that was hoped of it because we have 200 units that should have been allocated by now and have not been allocated. Undoubtedly the normal allocation of those 200 units has made the task of the Government more difficult than it would otherwise have been but let us not forget that on many occasions in the past the Hon Minister for Trade and Economic Development has informed the House that it is the fact that the Foreign Office were dragging their feet on approving projects that was holding up the modernisation programme, the lack of architects that was holding up the modernisation programme. There is a limit to how many excuses can be found otherwise one loses credibility. You cannot say that it is because of the Varyl Begg

Estate, of the architects and of ODA, because presumably even if the Varyl Begg Estate had not been creating problems the architects would not have been there and the ODA funds would not have been there. There is a limit to how many excuses can be adduced for the problems that are of the Government's own making in their own handling of their housing programme since they came into office. I think the Minister for Housing is right in saying that the design faults of the Varyl Begg Estate go beyond the roof defects. Those of us who are fortunate to live there, and we are fortunate because there are many people who, notwithstanding the defects in the Varyl Begg Housing Estate are still living considerably worse than those of us who live there, know that there are apparently basic things that one would have thought particularly in the internal design of the flats, there seems to be a fairly low standard both of workmanship and materials and of basic design, but the political decision on Varyl Begg did not go down to the quality of the taps or whether the plugs fitted the plugholes. The political decision was at the level of producing a housing estate which was spread out, which was laid out near the seashore and which was a pleasant environment in which to live and which provided a lot of houses and this is at the level at which politicians take decisions, not the actual question of door handles and plugs and it is the door handles and the plugs that are not working. If the Chief Minister is now saying that Varyl Begg is the greatest disaster since the Spanish restrictions, I cannot agree with him although, of course, I .....

HON CHIEF MINISTER:

I said that it had created the biggest headache other than the Spanish restrictions, in my public life, which is a different thing.

HON J BOSSANO:

The Hon Member was then misquoted by the Hon Minister for Housing. I was just going to say, Mr Speaker, notwithstanding the fact of my being corrected, I cannot resist the temptation of finishing what I was going to say, that I am glad that, in fact, the link of wages with UK has now been displaced as the greatest disaster since the Spanish restrictions. Mr Speaker, the motion asks the Government in effect for action in what is, without a doubt, a very difficult problem and if it is a problem



that can only be solved by litigation because the parties concerned are not prepared to come to terms outside court, then, as the Minister for Housing has said, it is something that is worth attempting to avoid because if it is not avoided experience in other areas and particularly where large sums of money are going to be involved would suggest that the case will be fought tooth and nail by those who stand to cough up a lot of money if they lose and that therefore there is no immediate foreseeable end to the problem once it gets into the court and I would have thought certainly the Government would find itself in an even more difficult situation in getting itself physically involved in putting matters right once it gets into the court even more than it is now. So I think the Government is right to attempt to avoid going to the courts if it can be avoided. Notwithstanding that, they should put some sort of time limit as to how long they try this otherwise they could find themselves for a long time trying to avoid going to court and then eventually having to go to court and instead of shortening the process actually lengthening it. I think the Government has to understand that, in effect, if my Hon Friend Mr Xiberras bring a motion to the House it must, of necessity, be a motion putting responsibility on the Government because that is in fact the other side of the coin that the Hon and Learned Chief Minister is always so keen to remind us of, the 7,250 votes that he got. The other side of the pleasure of having those votes is having the responsibility of being asked to act even in intactable problems and in that context the motion can do nothing more than ask him to act even if it is difficult to see how he can resolve the problem.

#### HON ATTORNEY GENERAL:

Mr Speaker, I hope to restrict myself as far as possible to the legal problem which Government is faced in this matter. If, of course, one pays for a house to be built one is entitled to have a house which is fit for occupation in every way. If it is not fit for occupation for any particular reason then, of course, you can proceed against the person who was responsible. Normally, if you merely have a builder and the house is not fit you can proceed against him. The problem which has faced Government in this particular case is that there was (a), a consulting architect and (b) a contractor. Who is responsible for the state of Varyl Begg? Is it the contractor? Is it the consulting architect? Or is it a mixture of the two?

It is no use, as I am sure will be appreciated, proceeding against one only to find that he can satisfy, be it an arbitrator, be it a court, that he is not responsible. In that case all the costs are thrown away and you have to start again. In the present case there is no doubt whatsoever, and this is admitted by the contractors, that certain of the roofs are not up to specification. That is, the contractors have not complied with the specifications laid down by the consulting architects. I would not propose to go into too many technicalities but, certainly, in certain cases, layers of felt are missing and in other cases the felt is disintegrating. As far as the disintegration goes, the consultants say this is due to bad workmanship. You had people tramping all over the roofs, you allowed water in when you were building, you did not do it properly. The contractors say, on the other hand; "no, the reason for the felt disintegrating is because the design which was laid down by the consulting architects was faulty with the result that there was a certain amount of movement in the roof which caused the felt to rot and disintegrate. The contractors have said; "We are quite willing to reinstate those roofs where it is shown we haven't stuck to specification." They say they are quite willing and there is no doubt that they are bound to do that. "But," say the contractors, "even if we do this, this will not solve the problem of the leaking roofs because there was a faulty design for which the consulting architects are responsible." So you have the contractors saying; "we accept we have not complied with specifications but that is not the basic problem, the basic problem is wrongful design. The consulting architects are saying the design is alright. It is failure to comply with specification and faulty workmanship. To decide who is correct or whether there is a certain amount of correctness on both sides, is not an easy problem and it is that which Government has now decided must be resolved. In practice we cannot compel a joint arbitration. We could go to arbitration with the contractors, we could go to arbitration with the consultants, but there is no power for a joint arbitration unless both sides agree. Supposing we go to arbitration with the consultants, and this is quite possible, the arbitrator decides, having heard all arguments, all the evidence, the arbitrator decides that the consultants were not to blame, it is faulty design. Government then either proceeds in a court or goes to arbitration again with the consulting architects. The arbitrator, another arbitrator in that case, hears all the evidence and he takes a different view from the first arbitrator.

He says; "No, the design is perfectly in order, it is faulty workmanship." It may sound somewhat foolish but I think the Hon and Learned Mr Peter Isola will back me up in saying that it is certainly a possibility. Two different people reaching an entirely different conclusion as to the cause of a particular defect. If that were to happen Government would be in the most ridiculous position. It has got blocks of flats which are clearly not suitable and yet nobody has been found responsible for this when, clearly, someone must be responsible. If you have a joint arbitration then there is only one finding as to who is liable and so there can be no case of two different decisions each conflicting and Government being left holding the baby. At least if we have a joint arbitration we shall get a solution. It may hold the contractor liable, it may hold the consultants liable, it may hold both liable in different degrees. If the parties do not agree then there is no doubt that Government itself will have to take proceedings against the parties responsible and before it can do that it will have to carry out the most meticulous and fairly time-consuming investigation with experts for it to decide who is to be the party responsible. Thereafter, action will have to be instituted. It may be that Government would perhaps have to join both the contractors and the consulting architects. It is not possible to say that until we have the report on what is found. There is no doubt also that this matter has been going on for some time but it is quite clear that in the circumstances, with both sides blaming the other, with various solutions being suggested, that it has not been possible to come to a firm decision as to how to act in this matter until recently. Government has, as I have said, been to the United Kingdom, most of the evidence, the plans, have been submitted to the Building Research Establishment who have given a tentative opinion. I am afraid I am not prepared to say what that opinion is. Suggestions have been put forward, counter-suggestions have been put forward and the charge of dilatoriness which had been levelled against Government cannot, in my submission, be sustained. This is not just a question of black and white. Government has to take the very greatest care to obviously, firstly, try and resolve this matter without the recourse to arbitration, without recourse

to litigation. It has been bound to consider suggestions put forward by both sides and it is only now when it appears that a stalemate has been reached, that it is necessary to take the steps we have. I do not think there is anything that I can add to help but I am sure it must be appreciated that Varyl Begg is a political - may I use the expression hot potato, Mr Speaker?, a political hot potato. It would be suicidal for Government just to sit back and do nothing about this and it hasn't sat back, it has pursued it. You heard the Hon Minister for Housing say what has been going on. Government has kept this at all times very much to the fore.

HON J BOSSANO:

If the Hon Member will give way. Mr Speaker, I would like to obtain clarification from the Hon Attorney-General on the fact of payment for these houses. I think he said the client paid for the houses and is entitled to get them in good condition and I think the Hon Minister for Housing also talked about paying it. Are we not in a position to withhold payment if we are not satisfied with the quality of the goods?

HON ATTORNEY-GENERAL:

The position is that in a contract of this nature payment is made from time to time as the work progresses. After the work is completed Government keeps, or any person keeps, what is called retention money which they are allowed to keep for a particular time, I think normally it is six months, it might be twelve months, in order to make sure that the property is all in order. At the end of that time, of course, they have to pay over the retention money. That does not preclude them subsequently proceeding against the builder if there is found to be faulty construction. I do not know in the present case whether there is any retention money still with Government.

HON J BOSSANO:

Is the Hon Member saying that in fact after a period the retention money has got to be paid whether or not the thing is satisfactory? Surely the object of the exercise is that if it is not satisfactory you can keep it.



## HON ATTORNEY GENERAL:

I am told by the Hon and Learned Chief Minister that we have got a certain amount of retention money in respect of certain of the blocks.

## HON A W SERFATY:

First of all I must refer to what the Hon Leader of the Opposition said because I want to put things in their proper place. The Hon Mr Bossano said that the Aid Programme of this present Government was only a question of modernisation and repairs. This is not so. Block 18 in Varyl Begg in fact forms part of this programme and the Rosia Dale project is part of this programme and we are expecting any time approval to certain blocks, mainly bed sitters, which form part of this Programme. But let me say this, that this 3-year Programmes are virtually self-contained as far as money is concerned. The construction of Varyl Begg has, in a way, inhibited money for housing in other Programmes because in this Programme period a sum of what must be, we do not know the final figures yet, over \$5m. has been expended in Varyl Begg beyond April 1975 which is when the Programme started. Our policy all the time and continues to be is that we must have a programmed modernisation. I stand completely by the philosophy of modernisation and repairs. Otherwise we are going to have, and the next generation and even ourselves, very large areas of slums in Gibraltar and I would invite Hon Members to visit the new modernised houses in Flat Bastion Road and see for themselves these maisonettes. I am glad that the Hon Mr Xiberras thinks that they are nice. We have been inhibited in the last year or two by the attitude taken by the Foreign and Commonwealth Office on the high cost of new houses. I think it is a great blessing for progress of Development Programmes in the future that we are now dealing direct with the Ministry of Overseas Development. The first contact between local politicians and the Hon Financial Secretary with ODM has recently, as this House knows, only recently taken place in London. I did say, I must admit, that the Varyl Begg Estate was a bad scheme. I am not going to say that it was not an imaginative scheme to try and help considerably, as politicians then thought, solve once and for all the housing problem in Gibraltar. This is what I believe the then Government thought that the provision of 700 new flats was going to go a very long way. As a matter of fact we now find that it has not broken the back of the problem. We have produced 658 houses, with defective roofs and

I will have something to say about this in a minute. But I said it was a bad scheme because, and this is something where the politicians should have had a say, quite apart from the fact that the Hon Leader of the Opposition has himself said a moment ago that he doesn't like the basic design and that is something which the politicians should have had something to say on basic design because politicians now, I can assure you, whether I am an architect or not is another matter, have a say on the basic design of new and modernised houses. But politicians, and I must say this in defence of the present Government, because we are being accused of what has been happening in Varyl Begg, politicians then should have had the foresight to see that there was room for a primary school, that there was sufficient space allowed for parking. This was not done. It was only because I was able to convince the would-be developer of the marina at Montagu Basin next door that the space became available for the new school for which we have now had the money voted by ODM. It is all very well to accuse the politicians on this side but I must stand up and say what I think about the politicians of the time when the Varyl Begg scheme was conceived. I am not going to accuse the previous Government for the appointment of Consultants on the Varyl Begg scheme. The appointment of consultants on the Varyl Begg scheme was perhaps unfortunate and perhaps now with hindsight the previous Government should have, at least, allowed our own experts who know more about the climate and the weather conditions here in Gibraltar, our own experts of the Public Works Department, to have cooperated with the consultants. Of course, there are other faults that my colleague, the Hon Mr Zammitt, has said. There are other faults such as floor tiles on the ground floor of the large blocks not having sufficient fall and water gets in under the main doors to the flats and of other faults, of water pipes being built inside the concrete slabs. God only knows what is going to happen in a few years' time. There is another fault in connection with the roofs and I don't want to stick my neck out because this matter is sub judice and I have been warned by my friend the lawyers I must be very careful what I say about the construction. But there is one thing I don't mind saying because it affects the politicians of the previous Government and that is that the consultants are saying, and this may be and is bound to be a contributory factor to the faults in the roofs, the dividing walls of the drying areas on the roofs of Varyl Begg which serve no purpose whatever. We are being told that the Ministers of the previous Government wanted those walls built. I would like to know whether it was the Hon Major Peliza, the Hon Mr Xiberras or the Hon Member in Canada, I would not know.

HON MAJOR R J PELIZA:

If the Minister will give way. Could he explain about these walls, I haven't heard about these walls.

HON A W SERFATY:

The Hon and Gallant Member was the head of the Government then.

HON MAJOR R J PELIZA:

Yes, but what walls are you talking about?

HON A W SERFATY:

There are on top of the roofs some walls made of concrete blocks with spaces in between so that the air goes across which can divide the roofs into areas for the tenants of Varyl Begg to dry their clothes in. These drying areas are no use at all because they are small and if one of the tenants, for example, a lady hangs a bed sheet to dry the sheet with the wind touches the wall and gets soiled, that is a fact that is happening. But I am not referring to the soiled sheets, I am referring to the walls which are bound to be a contributory factor to the defective roofs. I am not going to say that that is the only factor but it is a contributory factor and we have been told that the Ministers of the previous Government insisted that these walls should be built. Whether the consultants should have accepted the demands of the previous ministers, this is another matter. I am bringing these things to light here because we are being blamed for the faults at Varyl Begg. Having heard what the Hon Attorney General has said about the legal matters and the time it may take to get some solutions, I must confess, and I am not a lawyer, of course, and I am trying to prevail upon my colleagues in Government to see in what way we can hasten the repairs of these roofs and my submission to them is possibly that we should start, arbitration or no arbitration, case in court or no case, we should start with one block and see whether something can be done. Whether that is possible or not is another matter but I fully appreciate that if we are not careful.....

HON M XIBERRAS:

He said that something can be done about one particular block and I am interested in knowing what concrete suggestions the Hon Member has.

HON A W SERFATY:

There are so many things that to me as an architect are wrong. I fully appreciate that it would be very difficult to get involved with one block to see what could be done. I am sure lots of things could be done because if we are not careful we are going to be landed with a bill of about half a million pounds. That is the kind of money we are talking about when we are talking about the repairs of the Varyl Begg roofs.

HON J BOSSANO:

Isn't it odd that the Hon Member should say that there are so many things wrong now when not only have they been responsible for the bulk of the building of the first seventeen blocks since 1972 but they added an eighteenth of identical design. Surely, they had long enough to discover all the faults in the process of building the first seventeen.

HON A W SERFATY:

I can say quite clearly that when the decision in 1975 was taken to build block No 18 we did not have any information about defective roofs. I can say that quite clearly, I have nothing more to say, Mr Speaker.

HON MAJOR R J PELIZA:

Mr Speaker, I stand with trepidation to speak on this issue because I know that whatever I say is going to be interpreted by the Chief Minister as being a personal attack against him which is, of course, the last thing I want to do. I certainly do not want to add another headache to him on the Varyl Begg Estate. When I am speaking now I can assure the House that it is certainly not because I have a chip on my shoulder of any nature whatsoever, thank God. If I do get excited now and again it is because I still have my Gibraltarian identity intact notwithstanding whatever time the Chief Minister knows I spend in the United Kingdom, and that whatever I say here I say in an objective manner, apportioning blame where I think it should be apportioned and if the Chief Minister then wants to send me to the corner he can do so but certainly I am not going to go there, I can assure him. I am over 21 and I have been elected to this House by the Gibraltar electorate and he is certainly not going to



behave with me as if he were the headmaster of the House of Assembly. Having said that, Mr Speaker, let us get down now to the crux of the matter and that is that 200 families in Gibraltar are not living in houses that have been constructed and very nearly paid for, except for whatever retention has been kept back, and there is no hope of their occupying those houses within the foreseeable future if this Government remains in power. This Government has the ability of getting itself entangled in circles and they keep going round and round and round and it takes a hell of a job for the Opposition to get them out of that circle. If they get annoyed in the process that is something we have to put up with, but the Opposition's role is to try and get them out of that circle and I am going to try my best today to try and do so. I think I have succeeded in the past on a number of occasions and if I succeed again in doing so I shall feel very satisfied once again. Mr Speaker, when the Varyl Begg Estate was originally conceived, the site was the only site in Gibraltar where it was possible to build speedily because it was obvious that it was essential that the people should be housed, not in three years' time, not in five or six but as soon as possible, and with that in view we moved at full steam ahead and no one can deny that that particular administration, whatever may be said now, was very energetic and very productive. It so happened that having got this under way we failed to be returned to Government and this is where the trouble started. Whatever may be said about the past the fact is that there is where the trouble started. Let us accept that the design was not as desirable as it is thought now with hindsight. This always happens with every construction. Even those who build a house for their own families, whose architect himself is the architect of the family, find that when the walls go up, the roof goes up and everything is there, he says; "What a pity that we didn't make this room a little bigger and what a pity that we didn't have that window there." So whatever the design, I am sure that the Hon Minister for Development will accept that it is impossible to produce the perfect design and that there will always be something that is being questioned by somebody or other since all tastes are not the same and all the needs are not the same. Therefore, considering that we had to produce 600 houses we had to go full ahead, accept a design from people who are supposed to be competent and go ahead. It is also a fact at this stage to say that nothing was done without consultation with our own Gibraltar architects and our own Public Works Department. I can speak with absolute confidence on that because I know that that was the attitude of the then Minister for Public Works and he himself, I must say,

took a very personal interest in this affair. If, in fact, something has not come out the way that perhaps it should have been on the design, we certainly cannot be blamed for the construction, of that I am sure. The design may be, but for the construction we cannot be blamed. We were not in any way supervising the construction. That was the job of the administration that followed.

HON A W SERFATY:

If the Hon Member will give way. The supervision of the construction of Varyl Begg is the sole responsibility of the consulting architects. Nothing to do with Public Works.

HON MAJOR R J PELIZA:

Whether it is the consulting architects or not I am sure that the client is the Gibraltar Government and certainly if I had been in Government I would have made sure that certainly my Government would have kept an eye on it but this was not done and now, of course, the administration is shirking its responsibilities by saying; "no it is the consulting architect who is responsible." I am not sure that in law he might be, I am not doubting that in law it is so. The last thing I want to do is to make the Gibraltar Government responsible for any faults in those houses. But I think the Gibraltar Government politically must bear a share of that responsibility for the construction, I have no doubt in my mind, and for the time it has taken to construct. When I was Chief Minister I had a chart produced by the consultants which I kept in my pocket all the time and every week I used to check and if anything was wrong I was on the telephone to the United Kingdom about it and this is the sort of eye that I would have kept if the construction had come under my responsibility. But it didn't, so therefore I think that we cannot be blamed for the actual workmanship of the construction. The design, as far as we are concerned, we have the moral responsibility but not the technical responsibility for that since that is the responsibility of the consultants. But all this is water through the roof, not under the bridge, but water through the roof and the point is that if when the first blocks were completed and the rains came and there were no faults then, obviously it is neither the construction nor the design, it must have been an earthquake after that. Isn't it more likely that the faults were there, as my Hon Friend Maurice Xiberras was saying, but nobody in Government even spotted them notwithstanding it was brought to their attention in this House as my Hon Friend has quoted from the Hansard to the extent that the Speaker had to tell him to stop quoting or we would have a repetition of Hansard.

MR SPEAKER:

I am going to have to stop you going the way you are going. This is not an investigation as to why the thing went wrong, this is a demand on Government to make an immediate intervention for the purposes of correcting the situation. Of that we have heard very little so far.

HON MAJOR R J PELIZA:

The point is that some accusations have been made and the responsibility has been laid on my shoulders and I think if I do not express my views and defend my position it might be taken that I accept responsibility. Anyway, Mr Speaker, all I say is that I do not accept the arguments because otherwise you would stop me again and certainly that I do not want to have to do. I do not accept the arguments used by the Government to push on the blame to the administration which happily brought to Gibraltar its biggest ever Development Programme known in the history of Gibraltar and I hope it is not the last one but it looks to me as if there is not very much of a chance of there being any change in that respect. How can we get out of this circle? Or how

should have we got out of this circle, let us put it that way. Obviously the fault must have been detected long before the last block was constructed. In fact, I would say early in the construction. If it was not then, it was not a fault of design, there was no fault of construction but the evidence that we have today is not that. The evidence is that the fault of design and the fault of construction were there because if they weren't there then they couldn't be there today. That is a fact. Therefore, why did the Government allow those faults to continue in construction and design? Surely, they were the people tackling this and surely it was their responsibility to make the necessary changes to avoid a repetition of those faults in design and construction. It is most unfair to suggest now without the Minister being here, to suggest that the then Minister insisted on having a little wall on the roofs and this is now the cause of all the faults. If it is a factor it must be an important factor otherwise I am sure the Minister would not have mentioned it and I do not believe for one moment that the Minister would have ridden over any advice from his Department, of that I am sure. He was well aware that he was not a technical man, he was purely a politician and no more. The job was done, he was responsible for seeing that the job was done and I am sure that the Minister did not get out of that position at any time. But as I say when the first blocks were unoccupied this fault should have been detected, must have been detected. If they were not detected

then the fault lies with the people who took over and I do not want to be quoted in court at a later stage that I am putting the blame on to the Government in the legal sense. I want to emphasise that whatever arguments I use in this contribution of mine it will not be said in the legal sense, it is purely on the political aspect. The faults were not spotted but when they were spotted they started finding out what was the cause...

MR SPEAKER:

No, I am afraid I must stop you. You are going back exactly over the same ground. I am not having it. We are talking about what this Government is going to do to right the situation.

HON MAJOR R J PELIZA:

Mr Speaker, what is the Government going to do that they should have done before, let us put it that way. They have been hedging all the time a decision which they have to take and which I am very glad to see that the Minister said he would take, that is, take the bull by the horns and get something done so that those houses are occupied. That to me, after two years, is something that I welcome but I think I would have welcomed it all that much more two years ago. I am very glad to hear now that the Government is prepared, if it is impossible to get the two parties to come to arbitration and if they have to go to court, is to take the decision of remedying the defects and then, if necessary, passing on the bill to whoever is supposed to pay it.

HON CHIEF MINISTER:

He has got it completely wrong, Mr Speaker. I think the Attorney-General made a very clear exposition of the position. There is no question of doing anything until the matter has been settled because we would be destroying precisely the evidence. What the Hon Member said was that he was of the view that one block should be investigated for our own account in order to anticipate what can be expected.

HON MAJOR R J PELIZA:

Then I would suggest that it is necessary to get this over and done otherwise it will drag on for years and in the meantime there are people living in unsuitable accommodation. If, therefore, and this has been going on for two years, this is what really I cannot understand, if it is impossible to get them to arbitration, then, of course, it is necessary to take legal action against them which I think should have been done ages ago. But what I do not like is that now we are going to start investigating the actual fault



ourselves. This is what the Attorney-General has said. We now have to go into a meticulous investigation of the fault. Surely this could have gone on concurrently. So it rather is a pity, Mr Speaker, that now we must have another delay before we can take court action because we had to carry out a meticulous investigation and find out what is the cause so that at least that is established. The causes are known, what has not been established and this is where I blame the Government, the causes are known, we all know what is causing the rains, coming in. If that is not so I think it should have been found out because we could go to court now with a case saying: "This is the fault of design, this is the fault of construction, and we claim so much." And if we have a clearcut case and we have to pay in any case in the long run, surely, we can proceed with one or two of the blocks to correct them since the proof would not be destroyed and the proof is very clear in the other rooms if they want to be seen. To me that is the way to proceed and not use this now as an excuse for blaming the lack of construction of the present Government. Mr Speaker, I think that it is a great pity and very sad indeed that what was thought to be a way of accelerating the improvement of the quality of life of the Gibraltarians by offering what is second best in this world, first comes food and I think the second thing is shelter, that this has been delayed for so long for the lack of enterprise and the lack of energy of this and the past administration.

HON M K FEATHERSTONE:

Sir, the Hon Mr Xiberras said that this Government had been showing a defensive attitude all the way through. He later went on to say that when this scheme was first thought of in 1969, the Hon Major Peliza was told by ODM that they would choose the consultants and they would have to be accepted and he accepted the consultants that the ODM wanted. Well, I should say that he showed a very defensive attitude in the beginning by giving up all the rights of the Public Works Department and the Gibraltar expertise to have anything in the design of these flats. He then said later on that he took an extremely active interest on what was going on. Now, Sir, the motion finishes up by saying that it demands from Government its immediate intervention to correct the situation and this, I would submit, suggests the Government has been doing nothing over the last year or so at all to look into this matter and to try and find some solution to it. The majority of leaks in the roof became apparent after the winter of 1975/76. This is when the leaking really started to show itself to any extent. Before that there was very little leaking as far as we can ascertain and

although I was not the Minister at the time I have read through the files and I believe it was after a certain amount of correspondence that in July, 1976, Sir Hugh Wilson, who was the consultant chosen by ODM, a person who some people might consider to be a rather a slippery gentleman, but I would not like to say that myself, Sir Hugh Wilson came out here and promised us in July, 1976, that he would have a solution to these leaky roofs and he would let us know within a month or so. Well, Sir Hugh Wilson, the person that the ODM had chosen that the Hon Major Peliza had accepted, I am not going to say that he was sold a pup although it does seem that he led the Government that was expert at being sold pups. We had the VTE distiller, another instance where we were going to have something completely solved overnight the same as the Varyl Begg was going to solve our housing situation or break its back overnight and, of course, it didn't come off. But, Sir, Sir Hugh Wilson promised this in July that within a month or so we would know the answer. In the meantime, Sir, people did come out and started investigating the roofs. There was a firm that came out and started digging into the roofs in various places trying to find out what was wrong and they submitted various reports. So it is not right for the Hon Major Peliza to say that nothing was being done and that the Government was letting the things slide and taking no interest. Time went on, Sir, and there were a number of telephone calls to Sir Hugh Wilson and a number of letters and as we all know September came and we had an election and after the election which, as has been said before, we won admirably, I was given the task of taking over Public Works and one of the first things that I did was go round Varyl Begg Estate and have a look for myself. Once again we brought Sir Hugh Wilson out and he told us that the fault was basically in poor workmanship but he also told us perhaps what some people might call a tale of residual water which was in the concrete and which was leaking through and he went off once again saying that he would take it up with the contractors and get the situation put right. Now, sir, I am not saying that the fault is entirely in design, I am not saying that it is entirely in the workmanship, but if it were a design fault, if it were as some people have suggested that the tiles used were not the best specification, that the way that they were laid was not the best way, that there were no expansion joints, then the difficulties that such specification would create had a whole summer to operate on the roof so that by the winter of 1976/77 any damage that might have been caused by expansion and contraction had been increased. This seems to some people to be

the case as in the winter of 1976/77 the leaking was intensified and we had a constant stream of letters going from the Public Works Department to Sir Hugh Wilson telling him that this was happening and when was he going to really get down to putting this right. Sir Hugh Wilson, I should imagine, was taking legal advise at the same time and he was having an extensive correspondence with the contractors and the contractors varied in their attitude towards this problem from saying at first that it was not faulty workmanship at all, then to admitting that there was some faulty workmanship, then to saying that they were willing to do limited repairs where faulty workmanship was proved, then to saying that they might do the whole roof of a certain number of blocks, then to saying that they might be willing to have an investigation into the other blocks and if anything was found faulty they would deal with those. A whole host of letters going backwards and forwards and, of course, when you're dealing from Gibraltar with firms in England and firms who because of the fairly large amount of money involved I believe as the Hon Mr Serfaty has said it, around £2m, I think Sir Hugh Wilson in one letter quoted £450,000 for the reinstatement of the roof, when these people are taking legal advise it is not done quickly however much one presses from this end, however much one insists to get immediate answers they can prevaricate at the other end and you have to, to some extent, put up with it whether you like it or whether you don't. The situation now has come when I will not say our patience is exhausted, and we have been very patient in this, but we have come to the conclusion that irrespective of what the two parties say, as the Attorney-General has said, we will have to try and get them to agree to an arbitration so that the actual fault can be established because at the moment Taylor Woodrow, who are the constructors, are adamant in saying that although they are willing to repair the roof this will not solve the problem and once they have done their repairs they are going to absolve themselves completely of the situation and will have nothing further to do with it. So we would be in a very sorry position if we allow these repairs to be done and the following winter we had exactly the same problem, who then could we turn to to see what was to be done? We have been advised that the best solution is to find out the definite cause of the leakage in the roofs. I am glad the Hon Mr Xiberras said that he knows the cause, it is water coming through. Well, of course, we all know that. But, sir, the absolute cause may be something

which is six of one and half a dozen of the other. We have had a report, as has been said, from the Building Research, an interim report, and that also gives us an idea that a whole investigation into the matter will be a long and laborious process but it might be better to do this and know exactly what is wrong and be able to get it right once and for all than to go through a trial and error procedure as seems to be what is suggested by the contractors. Therefore, Sir, I do not think it is reasonable to say that the Government has taken or paid little attention to this problem, it has been, as I say, a considerable I will not say worrying but a considerable concern to the Public Works Department and to some extent I shudder to think what our telephone bill to Sir Hugh Wilson actually is. We have been on the phone to him, I should imagine, once or twice a week prodding, pushing, exhorting, threatening, doing all we can to get some movement from that end and I think, Sir, that although we fully sympathise with the whole situation of the housing it is unfair to say Government has taken this with equanimity when in the actual light of facts we have given our very utmost and vital attention to the whole matter.

HON M XIBERRAS:

Mr Speaker, this is a motion of burning interest and concern for the people who are top of the housing list and I must say that if the motion has succeeded in doing nothing else, it has succeeded in making Ministers rather more forthright in their attitude to the problems of the construction of Varyl Begg Estate. If I can contrast the attitude of the present Minister for Public Works with the attitude of the Minister of Public Works in the previous administration, it is the difference between a Minister who will not allow members of the opposition to know the real problem, to a man who is obviously very concerned with the situation. I think it is reflected in the rate of work that this Minister has put in as compared to the last Minister, that the Government, has finally realised that it can not shield either the contractors or the consultants of whatever responsibility they have for the state of affairs. I would submit, Mr Speaker, that if the Government had taken this attitude before instead of going to the extent of denying that there was even dampness, widespread dampness, at Varyl Begg, if they had faced the problem openly and let the House of Assembly know and the people on the housing list know and the public, generally, know that things were going wrong and the Government knew that they were going wrong, then there would have been a good deal of political



pressure on both parties, both on the consultants and the contractors, and I am sure that as a result of this motion both parties to the dispute will realise that the House of Assembly, let alone the Government, is not prepared to accept slipperiness from either of the two and if Sir Hugh Wilson is sent a copy of this Hansard with the interventions of both sides, he will know that this House feels that there is a social injustice and if he is to blame then he should wear the cap and similarly with all the other parties in the dispute. Mr Speaker, this was not possible before. In quoting from Hansard, Mr Speaker, I have shown that Ministers were putting up a shield, a protection, that they refused to admit that there was widespread dampness and that this was happening at the very time when the Government was apparently beginning to be concerned about all the roofs at Varyl Begg. There hasn't even been a single motion on this particular subject. There have been questions trying to fathom out what was happening, what was wrong. They were even, Mr Speaker, attempts to throw the Opposition off the scent, by producing vandalism, for instance, a Government inspired piece of news, vandalism as the cause of the delay. And now we find that vandalism could be responsible for a minute part of that delay, if at all. We now see that the problem is in the region of \$450,000, and no vandalism could achieve an effect such as that. I ask Hon Members opposite to look at the Hansard again and to honestly say whether their attitude, the attitude of the Minister for Public Works and of other Hon Members at that time fairly reflected to the people of Gibraltar the situation at Varyl Begg. And the answer must be that the Minister for Public Works then was not allowing the truth of it to come out and was not conveying the opinions of the Gibraltar Government to the public in Gibraltar and was not putting the necessary political pressure on Sir Hugh Wilson, on Taylor Woodrow or whoever was responsible. The Minister was shielding the situation and there, there is political responsibility, much greater political responsibility than being responsible or not responsible for the erection of a dividing wall on the roof. That is political responsibility, because Sir Hugh Wilson would have had to pay attention. I am heartened by the fact that Ministers are now speaking up openly under considerable pressure and I think that intervention which is asked for by the motion is more likely now than it was a year ago but it could have taken place earlier. The Hon Minister said that we have been

very patient and I agree entirely with him, the Government has been too patient with this situation because the Government is not an ordinary client, the Government is responsible as client on behalf of the people of Gibraltar, and the people of Gibraltar are the real clients, they are the ones for whom the houses were destined to be built. Mr Speaker, the Hon Mr Serfaty reminds me of the farmer who retires and is cultivating a cabbage patch. He is full of good sense, professional knowledge and so forth which he can apply now to a very reduced building programme. It is a pity that he cannot come up, because of his interest, with some sort of a solution. I would remind Hon Members opposite that this is not the only story of difficulty in the building of Gibraltar, the Tower Blocks were another example. Mr Speaker, I entirely agree with what the Leader of the Opposition has said, I have had reason to say it myself on several occasions, the gap in the housing is because Government has gone for modernisation which is very slow and because they have no substantial programme to follow up Varyl Begg. And if they hadn't had Varyl Begg I wonder whether the British Government would give them the money to continue the momentum even now. It is a good job that the money was got in 1969 whether the flats are in good condition now or not with the rate of building going down to 77 flats a year, theoretically, when it used to be 130 compared to 77 flats that do not exist. But if a pup was even bought it was the modernisation programme. Mr Speaker, I was grateful for the Attorney-General's intervention in this as it does show a certain sense of alacrity now compared to what the Government was doing about things a year ago. As if the Government is finally realising that it has to do something. I do not know whether this is due to the change in Ministry, to the actions of Government as a whole, or to a change in the thinking of the Attorney-General himself, but, certainly, to put political pressure on, to put legal pressure on, to threaten, when somebody who is working for the Government who is going to be paid for the work is not complying with his duty, that is an attitude worthy of the Government, not to shield and protect that person or party, Mr Speaker, the credit or the blame for Varyl Begg. I notice the Chief Minister has not considered it at this debate. His contribution was to go around with a site helmet to view the fact.....

MR SPEAKER:

No, if the Chief Minister has not contributed you have nothing to reply to.

HON M XIBERRAS:

I am just regretting the fact that he hasn't in spite of the fact that he was touring Varyl Begg with his helmet on. Mr Speaker, it is too late by far that the Government has realised that it has got to do something. I would like to know what is the Report of the Building Research Society but of course we are not going to be told this. I would like to know whether they have recognised what the fault is and identified the fault and the Government has now some information to proceed, but apparently they haven't even reached that stage yet. My recommendation, Mr Speaker, is to put political pressure and legal pressure as much as possible on the parties to the dispute and that nothing should stand in the way of this and that this pressure should be open, that the people should know about this, that the Government is not in sympathy with the consultants. They should say so quite forthrightly that there is a grave problem and that would be such compensation for moving this motion. Mr Speaker, I do not know whether some sort of public inquiry is possible. I would have liked the Attorney-General to have said a few words about that. Is it possible to appoint, because this is a Government project and Government funds are involved, to appoint an inquiry team?

MR SPEAKER:

No, you should have asked that when you moved the motion and then the Attorney-General would have had an opportunity to reply.

HON M XIBERRAS:

I asked the Attorney-General whether he would give us all the options I asked him at question time and in fact he didn't mention anything about the public inquiry. I do not know whether this was possible, whether it would be considered dilatory, I do not know. On the whole, Mr Speaker, I think there have been good contributions for solving the problem from both sides of the House. It is much better than just sitting and doing little or nothing and I would like to hear from the Government a constant report publicly, while the House is not sitting as to what progress is being made with the

consultants or the contractors, and if no progress is being made this, too, should be published because it does not do firms any good at all to have a Government saying about them that the work is not being completed in spite of the very serious social problem facing the community. Perhaps the Government could do this. Mr Speaker, I commend the motion to the House.

Mr Speaker then put the question and on a division 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 M Xiberras

The following Hon Members voted against:

The Hon I Abecasis  
The Hon A J Canepa  
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 following Hon Members were absent from the Chamber:

The Hon Major F J Dellipiani  
The Hon Dr R G Valarino

The motion was accordingly defeated.

MR SPEAKER:

Before we recess I promised this morning that I would give a ruling on the matter raised by the Hon the Leader of the Opposition. I will of course call the attention of the Leader of the Opposition to the pertinent section in the Constitution 35(1) which reads "Except on the recommendation of the Governor signified by the Financial and Development Secretary or by a Minister, the Assembly shall not - (a)



proceed upon any Bill (including any amendment to a Bill) that, in the opinion of the person presiding in the Assembly makes provision for imposing or increasing any tax, rate or duty, for imposing or increasing any charge on the revenues or other funds of Gibraltar, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Gibraltar." I will explain that there are similar constraints in the House of Commons as to the financial initiative which must of necessity by the rules of practice lie on the Crown and this in practice means that a demand from the Crown for monies for the purposes of expenditure or taxation invariably precedes a grant by the Commons. In other words, you have got to have the demand from the Crown and a grant from the Commons. The amendment proposed by the Leader of the Opposition would have created a charge on the revenues or other funds of Gibraltar, I think in this case it was the Improvement and Development Fund, and therefore it would have been out of order.

HON J BOSSANO:

Would it in fact be out of order as a result of the total amount being increased? Am I right in thinking that since the amendment I propose is going to be, for example, an increase in the addition of a new subhead to Head 107 and the total amount under Head 107 would have been increased from 10,300 to 10,400, am I right in thinking that if, in fact, the introduction of a new subhead with a sum of £100 was accompanied by an amendment to another subhead reducing the amount under that subhead by £100 it would have the effect of leaving the uncharged. Would I be right in thinking that?

MR SPEAKER:

No, I don't think so. I think I will quote from a very interesting book which I have been able to borrow entitled "Politics and Financial Control." At page 38 it says: "If an amendment, ie, from a private member who hasn't got the authority required, might under any conceivable circumstance involve one single person in paying more tax, it is out of order".

HON J BOSSANO:

To my mind it would be an extra charge if the total expenditure

would be increased but, surely, if one substitutes expenditure on one thing by expenditure on the other, then there isn't any extra charge on anybody.

MR SPEAKER:

But the amendment would then have to be, I presume, introduced in such a way that both things are done at one and the same time which I think would be basically, practically impossible.

HON CHIEF MINISTER:

It is a most ingenious proposal from the Leader of the Opposition. He would first have to obtain an agreement to a reduction of the vote which would be defeated and therefore he wouldn't have any elbow room in which to propose the other one so his chances are nil.

MR SPEAKER:

It could not be done because the second motion would mean the creation of an extra charge and would have to have the authority under the Constitution.

The House recessed at 7.30 p.m.

THURSDAY THE 14TH JULY, 1977

The House resumed at 10.30 a.m.

MR SPEAKER:

The next motion on the Order Paper is that of the Hon Dr R G Valarino.

HON DR R G VALARINO:

Sir, my motion reads: "That this House, mindful of the increasing cost of oil and electricity and so as to benefit Gibraltar both with regard to tourism and to the local population, encourages Government to put forward the measure to advance clocks by one hour in Gibraltar throughout the period covered by British Summer Time in the year 1978."

We have three things to consider (1) will the measure be beneficial,

(2) what support does it have; (3) what will happen if the proposal is not encouraged and I use the word "encourage". It will be beneficial because it will be an extra hour of daylight. This will benefit local people, shop assistants leaving work at 5 o'clock in the afternoon being able to go to the beach, Hotels and people living on the east side of the Rock, tourism, will have an extra hour of daylight and in the field of sport football, cricket and hockey which do not have floodlights will be able to enjoy extra games and, finally, there is no doubt that people will enjoy a saving of electricity. Members on the opposite side of the House may tend to differ but one has only got to listen to Spanish television and be aware of the campaign that they are running in order to conserve oil, electricity and other essential commodities. Support for this measure is widespread in Gibraltar. We had an excellent article published by the Gibraltar Chronicle not so long ago, and we have letters in support. In fact we only had one letter talking about why the hour should not be implemented. I believe the Chamber Bulletin which was due to come out last night said something about the hour that encouraged that the hour should be put forward. Individuals that I have spoken to hold a similar view. I have spoken to the Manager and the owner of Both Worlds and they are all in agreement with this measure. I have spoken with the Headman of Catalan Bay with a similar result and therefore the majority of Gibraltar would encourage this measure. It may affect a small section of the population as the Sabbath may start one hour later and finish one hour later on the Saturday. What would happen if this measure is not encouraged and I use the word encourage so as to allow Government some freedom in its outlook. The word "encourage" allows I feel every Member to put his views forward rather than as a party or Government policy. I could have asked a question on this but I feel that this is something that should be brought forward. If the hour is not encouraged then the Government is negligent, willfully negligent, of trying to cut down the cost of the amount of electricity produced and at Budget time electricity went up by quite a high percentage. If the hour is not put forward I cannot ever visualise Government, should the frontier open, trying to balance our time with that of Spain. There is no doubt that should the frontier open it is simply nonsensical to have one hour here in Gibraltar and another hour just across the border and if the measure is not encouraged I just cannot see how in two or three or even four years time Government will have the audacity to stand up and try to push this motion through the House. I have tried to be brief as we have a lot of work to do and I therefore feel that this is a justified measure. I commend my motion to the House.

Mr Speaker then proposed the question in the terms of the Hon Dr R G Valarino's motion.

HON A J CANEPA:

Mr Speaker, in speaking on this motion perhaps I can make it absolutely clear from the word go that there is, as it were, no Government whip about it. There is no fixed party policy or Government policy on this matter. Certainly what I am going to say is very much my own personal view about the matter. I agree entirely with the Hon Member that if the frontier were to open it would be ridiculous for people on crossing the frontier to find that two or three yards on one side it is 5 o'clock and two or three yards on the other side it is 6 o'clock, that is ridiculous. Obviously clocks would have to be put forward by one hour, this is common sense. But the frontier is not open and we have got to consider the matter at the moment purely on present conditions and on present circumstances. On the question of the savings that would accrue with regard to so-called less use of electricity, I do not think that that has been established. It is true to say that once a year this is a hardy perennial that comes up to Government. The matter is put before us and we have got to consider well beforehand whether clocks are going to be put forward or not and in the course of the last few years when within Council of Ministers we had considerable debate about it and there was a much more active campaign in the Gibraltar Chronicle than what there was recently in the article which the Hon Member referred to, we did go into this at considerable length and the Government did ask for technical advice on what the savings would be. My recollection of it is that the advantages are really quite minimal and nothing to warrant putting the clock forward an hour as an economy measure, they were quite insignificant, really. This was the burden of the advice that we had, I think, from the Chief Electrical Engineer. My own personal view on this is that I am not well disposed towards anything which entails a dislocation of my way of life, something which is an artificial dislocation. I don't like to feel that it is now a quarter to eleven but in fact it is really ten to eleven, I feel uncomfortable under those conditions, quite honestly, and I don't favour this move and I am not entirely convinced about the argument. We are told that it is one extra hour of sunshine, well there may be a lot of people that don't particularly want this extra hour of sunshine in the summer. It can be terribly hot in Gibraltar at the height of summer and people may well welcome



the approach of a cooler evening an hour before. The tourists that we are getting in Gibraltar by and large come from the United Kingdom. They are people who as a matter of habit are early risers, they get up early in the morning and they have already taken full advantage of the sunshine on the other side of the Rock ie, those who stay at the Caleta Palace and therefore they may very well welcome the fact that the sun goes behind the Rock at about 4.30 in the afternoon. I certainly do myself when I am at Catalan Bay so I don't think that that is a fact that has been established because no form of survey, to my mind, and I don't believe it is one of the questions which the Tourist Office puts in the survey that it carries out to tourists leaving Gibraltar, I don't think any form of survey has been carried to ascertain their views. On the question that shop assistants may benefit, alright, they perhaps are going to be able to have a quick swim by having an extra hour of daylight but on the other hand particularly at weekends where our beaches are very, very crowded and we are having to get to our beaches very, very early in the morning to be able to make a stake for some elbow room, in fact you are going to have to go an hour earlier and yet you will not be able to return an hour earlier in the evening, people are going to have to stay on really for an extra hour because it is going to be far too hot in the evening to be able to come back at the normal time and I am not sure that mothers with young children will particularly favour that. A busy mother with a young family needs to get home in the evening at a reasonable time to be able to put the children to bed and to be able to carry out her normal household chores. In effect what would be happening if the clock is put forward is that such a housewife has an hour less in the evening to do this and the children will be coming home later than what they are used to and will be coming home feeling much more tired and irate. This is a consideration which I personally am aware of because it has affected me. Now my children are somewhat older but this is a matter which I am aware affects young families and it is something that has to be borne in mind. If economic factors were the sole consideration for putting the clock forward then, obviously, the matter should be considered purely and utterly on its merits and on common sense but I don't think that the economic considerations as I have said before, are that convincing. They are not clearcut, if they were clearcut I would favour the move. If the question of the frontier were to open I would certainly favour the move because otherwise we would be living in an artificial situation but as things stand I am not convinced

that the merit of this measure really outweigh what I consider to be the disadvantages and quite honestly in the absence of overwhelming reasons I would rather sit tight and I would rather allow my metabolism to adjust to the present conditions rather to artificial conditions, so I will not be supporting the motion.

HON M XIBERRAS:

Mr Speaker, I am sure that the Hon Gentleman who has just sat down is not as much as of an old fogey as he sounded in that speech. I am sure that he is able to not only adjust to change but even promote change himself occasionally. Nevertheless, I think his contribution is a reasonable one to the extent that there doesn't appear to be overwhelming economic reasons for a change in time. Let us compliment the mover of the motion because these changes in times and adjustments of our timetable of living are very important factors in the community, they have very widespread repercussions. I, too, doubt along with the Hon. Mr Canepa, that tourism would either be affected or even be aware of any change in time, especially the sort of tourism that we get now, because they don't have time to make the adjustment and they probably feel that they have enough sunshine as it is and most of them are probably early risers as well. But I think that there is a move generally in certain big employers, including the Gibraltar Government, a move towards having more free time available during the hours of sunshine. I gather that the Gibraltar Government itself has introduced summer hours probably in response of union request and I believe that they have been popular with the staff I do not know if they have been so popular with management. Shop assistants have been mentioned and I think it is reasonable that shop assistants should have this extra hour in which to swim or in which to even just lie around on the beach and collect the family while there is still light. I, Mr Speaker, once tried this some time ago, it must have been 1970, and I seem to remember that there was a reaction from union membership on this to the extent that in waking up or having to start work earlier, this extra hour of daylight involves more work and therefore there was an element of compensation that was required for the introduction of this. I seem to remember that the Hon and Gallant Major Peliza, then Chief Minister, was away in Morocco at the time on holiday and the matter became so important in fact that I had to try to get in touch with him which eventually I did. From that point of view the union

requested or demanded at the time some sort of compensation for the change of hours. I think that their hours of working are more stable now, this was in connection with certain changes that had taken place affecting the Dockyard in 1970 or 1971 and I don't believe there would be great resistance to the measure. Mr Speaker, may I take this opportunity of saying that I feel that a lot could be done with our timetable in the summer months. I am not going to risk the anger of the Chair by suggesting that certain other aspects of our life in Gibraltar could be adjusted to the summer season but I will say, for instance, in rather warmer climate than ours.....

MR SPEAKER:

I am afraid that unless it is related to electricity and summer time I think you are going to be out of order.

HON M XIBERRAS:

I certainly will support the motion because I think it is necessary to look at our timetable. Mr Speaker, I feel that there is sense in looking at our timetable and if this motion of the Hon Dr Valarino sparks off some thoughts in that direction then I will be well pleased with it. I am thinking particularly of a day that starts at eight o'clock in the morning and goes on to about half past two or so. There are many difficulties but the need for this is being increasingly felt. In school, for instance, there is a big problem with summer hours with the half day not long enough to get down to any real work and still people have to attend school, so there are difficulties there. The Hon the Financial and Development Secretary will know what I am talking about, in a certain part of the world it is quite the practice to have this sort of timetable of ending the working day in school, for instance, at 2.30 or 3 o'clock. I do feel that with a lot of preparation and foresight we in the summer months could adjust our timetable in such a way as to allow people the full benefit of the summer. Mr Speaker, the other point I wish to make is that there must be consultation with interested parties in this and it is, I regret to say, having regard to the motion and to the mover, it is to my mind a Government decision. It is not a question for the personal views however well founded or thoroughly thought out, of individual Members. I feel that the Government would be taking quite an important step in changing the time and I hope that they do give it a try.

On the question of the frontier that is I think something which the House need not consider seriously at this stage unless we hear anything to the contrary from the powers that be. So, Mr Speaker, I shall support the motion in earnest that the Government will consider not only this change but a wider change that would benefit not individual sections of the community but the majority of the community.

HON J B PEREZ:

Mr Speaker, I will also be supporting the motion proposed by the Hon Dr Valarino. A point has been raised in connection with tourism as to whether this extra hour of daylight would benefit tourism in Gibraltar. I tend to be of the opinion, Mr Speaker, that it will benefit Gibraltar because, after all, in the advertising campaign in which we are spending quite a lot of money, we say "Come to sunny Gib", and I think tourists in general will welcome this extra hour on the east side of the rock, in particular. In connection with what has been said about shop assistants, I don't really think it will only benefit shop assistants, it will also benefit businessmen as well who work hard till about seven in the evening and with this extra hour of daylight they will also be able to go for a swim or just benefit of the daylight and including professional people who also seem to work hard here in Gibraltar, I think they would also welcome this extra hour of daylight. On the question of the saving of electricity, well, I tend to have my doubts as to whether there would be a saving but to sum up, Mr Speaker, I would ask the Government that as there do not seem to be strong arguments against this, let us give it a try for next year and then we can reconsider the position.

HON A P MONTEGRIFFO:

I do not want to take up more time than is absolutely necessary. In the first place while I have got an open mind in the matter, one point that must be taken into account is patients in hospital as it would be a much longer day for them. Being in a bed in hospital is rather boring all the time and therefore they would not only have to wake up earlier but they will have to go to sleep later. The other point is the question of electricity. On economics there is absolutely no benefit for the very simple reason .....



HON DR G VALARINO

If the Honourable Member will give way. The patient cannot get up any hour earlier and go to bed later, it is exactly the same. We only have 24 hours in one day, we do not have 25.

HON A P MONTEGRIFFO

Mr Speaker, the problem is that if today at 10 o'clock we put the lights off you cannot put off the lights at 10 o'clock if it is daylight and therefore patients will have a longer day, there is no doubt about it. On the question of economics as far as the electricity goes, we have been told, that there is no benefit because as distinct from other countries where you have got the engines moving all the time, not only just in case you need electricity but because there are industries consuming electricity whereas in Gibraltar the engines must be there in case you need the electricity and if there are less people consuming it at the end of the day the electricity is going to be cheaper. That is why as far as Gibraltar goes it does not benefit from the economic point of view.

HON P J ISOLA

Mr Speaker, I would like to support this motion. I think the idea of advancing clocks by one hour is generally beneficial. I agree with my Honourable friend Mr Xiberras that this is a matter for Government decision, looking at all the various aspects as it affects the public, generally. The shop assistants have been mentioned and the businessmen and the employer and the professional man and so forth. I think there is also a large army of office workers who would welcome that extra hour of sunlight. Unfortunately, we have not got to stage, nor do I think we will ever get to the stage where people can expect to do no work and enjoy the summer. Everybody has to put in a day's work one would hope, so think that for ever and ever this will be the situation, but I think by putting the hour forward you do give an opportunity to those people who like, for example, a drink in the evening, in daylight or who want to have a swim, I think you do give them that opportunity and that extra bit of the daylight, is helpful during the summer months. Of course one would hope that this would bring about what I would have thought was very necessary in the summer which is a radical change in thinking as to hours of work. I think the most ridiculous thing in Gibraltar is the two hour break for lunch.

that still permeates a substantial number of businesses. I think the lunch hour should be cut down all the time and the offices and shops should close earlier so that people can enjoy the rest of the day rather more than they do at the moment. I would have thought to be a good idea to have a late closing day as far as the shops are concerned once a week. This looks after the office worker and so forth who do their shopping on a Saturday morning and they could also do it on the late evening shopping. I think there is a lot to be said for shortening the lunch hour. The Government does it, the Ministry of Defence does it, all the big employers do it, but private employers still stick to two hours, some to 2½ hours, some even 3 hours at lunchtime. I think if we put an hour forward to the clocks, if we did that during the summer, I think this would encourage some radical rethink in the private sector because the public sector is doing it. They do not worry if the hour is not put forward or not, they all stop at 5 p.m. but that is not the case in the private sector and I think that if by putting the hour forward we can have a radical change in thinking so that the day ends earlier for the majority of the people. The argument about a longer day for the hospital patients, for example, well, I suppose that if they have to stay awake longer they rest better during the night and the other questions about mother and the children and so forth, I think that in the summer months, especially during school holidays, I do not think children go to bed early. I think they fall asleep when they fall asleep and if they spend an extra hour on the beach I think they are likely to fall asleep much sooner, they will be pretty worn out, and I think it is also good for the people who like going to the beaches like Catalan Bay or Sandy Bay as it does give them that little extra hour of sun. I do not go to the beaches but I suppose people who go to the beaches would welcome being able to stay in the beach until about half past five instead of half past four or whenever it is that the sun goes. I myself think that it is worthwhile putting this experiment in. As for the argument of the artificial time, well, again, yes, this is probably true but then everybody around you has got it, in Morocco I think they are an hour behind us. As far as the UK is concerned I do not think that an hour's difference matters, in fact I think it is better from the business side of Gibraltar and the banks it is much better to be an hour ahead here because it means that you can communicate much more rapidly when they are still in bed. I find that the hour's difference in the winter months is very helpful for business. I do not know whether other businesses think the same but certainly I think being an hour ahead from London would be helpful if anything so, generally I do not think this is an issue of life and

death but, generally, I favour this.

#### HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I am quite confused by some of the things that have been said because it does not seem to me that by advancing the clock or retarding the clock it will make that slight difference at all when you get up or when you get to bed. You will still get up at 7 and go to bed at 11, it will not make any difference at all. There is no question of losing an hour or saving an hour or gaining an hour and, quite frankly, I cannot think on my own experience that it makes the slightest difference to one's internal metabolism. You will still have your lunch at one or half past one or whenever you do. As Mr Isola has said and the mover said we will instead of getting up with the sun fully up some of us will get up with the sun just beginning to get up. Similarly, some of us who go to bed now in darkness may go to bed in the dusk. But that is all, for the rest of it everything will be exactly the same as it is now. The only other point I would make is that of course when summer hours were reinstated in Britain some 2 or 3 years ago, the Government I think, did give a free vote in the Commons. It was left entirely to a free vote in the Commons whether British Summer Time was to be reinstated or whether it was not.

#### HON MAJOR R J PELIZA

Mr Speaker, I am afraid I cannot agree with the last speaker at all. I do not believe that an individual who is used to sleeping 6 or 8 hours at night is going to get out of that habit so quickly simply because the clocks are changed. That man requires 8 hours sleep and that man will sleep the 8 hours and therefore if he has got his duty to perform the individual will be getting up earlier and going to bed earlier. I understood that he said that he would not, that he would go to bed at the same time as he used to do before. Does it mean at the same time by the clock or the same time by the sun, this is what I was trying to get. I got the impression that what he meant was that the individual would therefore stay all that later up in the evening. If that is not what he means then, of course, I am entirely in agreement with him but if he means that the individual is going to stay up later in the evening because the clock has changed then I disagree with him and this is what I understood when he spoke. All I say is that the individual is going to ensure that he gets his normal sleep, that will be his habit and is unlikely to get out of

that habit. Having said that, then all the other advantages will follow. It is obvious that there are going to be savings in energy and electricity. Possibly from the point of view of the Government, if the cost of producing the electricity is going to remain constant, whether they use the light or not it will be a loss for the Government, that I accept, and if that is the argument against the change of hour may be it is valid and perhaps we could hear the Government say that, that the reasons why some people do not agree with that, particularly the Financial and Development Secretary does not agree with that, is because the income is not going to be forthcoming and if that is so let it be stated. But from the point of view of trade, which I think is perhaps the most important one here, I have been checking on the hours of the Tangier boats which I think are the principle ones at the moment<sup>which</sup> bring tourists, I think, twice a week, I understand that the boat leaves at 6 in the evening.

#### HON FINANCIAL AND DEVELOPMENT SECRETARY

May I ask the Honourable and Gallant Member which time basis he is using when he says 6 p.m.

#### HON MAJOR R J PELIZA

The present time in Gibraltar. I understand the boat leaves at 6 p.m. Since shops normally close at 7 p.m. it would mean then, that if they keep to the same hours outside Gibraltar which they are likely to keep, I would say, I do not think they are going to change their schedules because we change our hours, it means therefore that the visitors to Gibraltar will be in Gibraltar up to closing time, so I do not believe that there will be any loss as far as trade is concerned. As regards the people who necessarily have to work late in the offices and shops, and it is inevitable, I know that perhaps the radical changes suggested by my Honourable Friend Mr Isola would overcome that but I do not see these changes coming so quickly. In fact, I can talk from my own personal experience, there was a time when I tried those changes and the position in Gibraltar is that since home is so near work people do prefer to go home to have lunch and they do not want to rush it and therefore I think that it is unlikely that, by and large, people will want to change the present habit of having an hour or an hour and a half for lunch. I think they prefer it that way rather than cutting it down. It is not always sunny, it is not always pleasant to go to the beach, people do not



want to go every day to the beach, particularly working people, so therefore I think that by and large they prefer to stick to the present hour. If they do stick to the present hours, I do not believe that commerce can afford to reduce the number of hours during which our establishments are open and therefore if we want those who necessarily have to stay late at work to enjoy the evening, possibly going to the beaches to pick up their families which is what they mostly do or joining the family after business hours, I think it would be more convenient to change the hour in the way that my Honourable Friend Dr Valarino has suggested. I think that would be helpful to all those people who inevitably have to work late and therefore I support that motion.

#### HON ATTORNEY GENERAL

Mr Speaker, I am astonished that my good friend, the Honourable and Gallant Major Peliza, has not brought in the parking ticket argument. If we extend the hour the people would be off the streets going to the beaches, But why did he not suggest that we amend the motion by 8 hours so that we get up when it is getting dark, the police will not see the cars on the streets and it would solve the parking ticket problem entirely.

#### HON CHIEF MINISTER

Mr Speaker, the question of advancing the clocks by an hour in the summer has been raised previously in this House and elsewhere. In this House the Honourable Mover put in a question last year and this has been much more marked since Spain has changed its hour and this of course is because it alters people's ability to watch television or the news at particular times or it makes it easier for them. But I entirely agree with the Honourable Mr Xiberras that this really is a matter for Government and it is not ideological principle, it is one of practical effects that it might have and this is what the Government must look at. We have not yet been persuaded as Government from the various enquiries that have been made that it is an essential or even desirable measure to adopt, but following on last year's question by the Honourable Mover and press comments an internal study has been carried out in respect of this matter. Some quite considerable amount of research has been made and the tentative conclusion which can be drawn from this study is that it is six of one and half a dozen of the other. In these circumstances my own provisional inclination would be to

to favour a trial for next year but I cannot be bound, if I may say so with respect and I would probably invite the Honourable Mover to withdraw the motion, I cannot be bound executively because there may be many other matters that may be raised, and I will mention them in a moment. But of course if we do it one year and it is a failure then I hope Members will not take the time of this House on these motions in the future. Before we do that, and we do not want to create unnecessary difficulties, we have to carry out further consultations outside and in the Government itself and with other official employers, the unions, the Chamber of Commerce and the travel trade. In this latter connection an important factor is of course the question of travel to Morocco and to Spain. Whether the frontier is opened or not it is a fact that if communications were restored of any kind, perhaps even telephonic communications, were restored with Spain, that would be one more factor to be added in the study of the situation. In the case of Morocco of course it is an hour behind our time and in the case of Spain it is an hour ahead but I can tell Honourable Members from my own observation of the time table in Morocco, and I have spent there many weekends, that in fact eventually you adjust yourself and you do things on the same basis that you were doing them before except that you do them at different times. That is really my own assessment of the situation and that is that people do not have lunch at two but they have lunch at one and the other way about so that it makes really no difference insofar as that is concerned. I can assure the House that the necessary investigations will be carried out in an attempt to establish the pros and cons of this proposal by September which is the time that we would have to think about it in order to be able to produce the brochures and the necessary detailed information that is required from the media and so on. If at the end of the consultations with which we are concerned we are still in doubt, I myself if it is an equal doubt, I myself, would be in favour of a trial but at this stage the Government would not like to be bound by a decision of this House. Insofar as the electricity is concerned, we did carry out a study at the time when the Honourable Mover put the question last year and the answer is that in the circumstances of Gibraltar there is no practical saving, the way in which our load is shared and the fact that there is no big industrial load to deal with and so on, that the economy, if any, in oil itself would be minimal if at all. It makes no difference one way or the other so that in that respect it is not a factor in support of the change nor a factor against it, if we are to be fair about the matter.

HON MAJOR R J PELIZA

But would it be a saving to the consumer, this is what I was trying to say before.

HON CHIEF MINISTER

Well, again we come back to the same problem, whether after the first few days people would adjust their customs accordingly. Insofar as the trade unions are concerned this is a matter which really must be thrashed out with the Official Employers and with the Trade Unions. There is now a two-tier timetable, if I understand it rightly, which was agreed sometime ago in which the workers start half an hour earlier in the summer and half an hour later in the winter. This was as a result of a change following on the 40 hour week, I believe it was. That would have to be reviewed because it is thought that if workers attend their places of work very early in complete darkness or in great darkness, then of course, the inclination which must always be there to do some work is less there than otherwise and it is occasionally seen to be absent, but, anyhow, it would be a matter of adjustment. I remember leaders of the unions now passed into history parading with placards outside the Dockyard about the time of starting and finishing and therefore this is a subject which requires consideration. There is another matter which we must take into account and that is the question of people who have double jobs or part-time jobs. This is something that could affect them too in some respect. As far as I am concerned this is not a matter of saying I am in favour or not. My life is not as stereotyped if I may say so, or as orderly as my colleague on my left, nor have I examined the metabolism as to what changes it makes even though I have a younger family than he has. I can assure the mover that I will not be governed by my personal views, I will look at this in a detached way and I think it is just as well because when the time comes it looks as if we are going to have a hell of a row to decide what we do in the end.

HON R G VALARINO

Mr Speaker, I think this has been a little victory for the motion. In the circumstances I will seek the leave of the House to withdraw my motion and I would be grateful if the Government would undertake to look into all the problems involved.

Leave to withdraw the motion was granted.



HON J BOSSANO

Mr Speaker, I beg to move; "That this House welcomes the excellent report for 1975/76 produced by the Principal Auditor and is seriously concerned at the lack of effective financial control which the Government appears to be exercising over public expenditure." Mr Speaker, the Principal Auditor's Report for 1975/76 was laid on the table at this meeting of the House and I think if Honourable Members have been through the Report they will see a repetition of some of the criticisms that have appeared in previous Auditor's Reports and also I think an extension of the work of the Principal Auditor in that this year's Report is, without a doubt, an improvement on those of preceeding years. We have had for a number of years the Principal Auditor expressing concern at the lack of response that he has had from Departments and so on which has made it difficult or impossible for him to produce answers to questions that he has put forward. Perhaps I can say that, of course, the Principal Auditor has made it quite clear that this is not obstructionism. He has made the point, I think, in this report and in other reports that the Honourable Financial and Development Secretary and the Accountant General have not withheld their co-operation from the Auditor in his work. If this report is an improvement on the previous year's Report, if it is more sophisticated and it does a more thorough job of the Auditor's task, it must indeed be a reflection, I think, of the increasing co-operation that the Auditor is obtaining from departments and Government offices. But the trend seems to be that the more forthcoming the co-operation, the more effective the auditor is in his probing, the more comprehensive report, the more disturbing the situation that is being brought to light. I think the House, jealous of its constitutional right and indeed its duty to the electorate to hold the executive through its representation by the Government in the House of Assembly, by the Government benches, to hold the executive responsible for accountability about public expenditure, looks in fact to the professional work of the auditor for protection: that the House's authority in exercising expenditure based on what the Government presents as necessary for discharging its obligations is being adhered to strictly and that departures from those elements that are sanctioned by the House are justifiable and justified. The onus of responsibility for the effective control of public expenditure must be, in my submission Mr Speaker, the Government, because the Government is answerable to the House, because it is the Government that comes to the House for the supply of funds to discharge its obligations, in doing so it presents the House with information as to how and why the



money is going to be spent, if it fails to convince all Members in the House or if it cannot obtain the agreement of all Members in the House then it exercises its majority to ensure that supply is not withheld and therefore the Members of the House as Members of the House have got an obligation to, as it were, press on the Government for explanations which is something we do constantly and we do get answers, of course, and we have noted that in fact the Hon the Financial and Development Secretary has given a lot of attention to providing as comprehensive answers as it is possible to obtain on very many occasions and this is I think a reflection of his own belief that the House should, in fact, be entitled to request and should obtain the information that justifies the expenditure of public funds. I believe that whereas the House looks to the Government for explanation it is the Government's responsibility to look towards its executive, towards its permanent establishment, for explanation itself so that, in turn, explanation can be provided here. The detailed report, I think makes compulsive reading. I certainly found that I could not put it down once I got it into my hands Mr Speaker. I do not know if all the other Members of the House found it as exciting as I did. Somehow I suspect they did not.

#### HON FINANCIAL AND DEVELOPMENT SECRETARY

If the Honourable Member will give way, I must confess, quite honestly, that I would prefer Harold Robbins.

#### HON J BOSSANO

I think perhaps one of the most intriguing minor items in the report is the comment by the Auditor on the application of funds to purchase stores and in fact the somewhat lack of application of the facilities that exist in order to deal with urgent needs to obtain materials and so on in different departments. There is mention, for example, of the failure to go out to tender when buying bulk items, the use, for example, Mr Speaker, of consecutive purchases of the same item where there is a limit as to the amount of money that can be purchased on a particular order before it requires that it should go to public tender and how this, in fact, can be circumvented by making a number of purchases of the same item. Obviously one could apply this to any item. If one needs, for example, to go out to tender for the supply of sand then theoretically one could obtain a lorry load of sand at a time and always avoid going to tender. This practice,

perhaps not with any particular ulterior motive, simply because it makes it easier for the officers concerned to do this, to obtain the items as and when they need it, appears to have been happening but, nonetheless, it is important that the criteria that are laid down for the manner in which Government purchases have got to be made, should either be adhered to or altered if they have failed to serve a useful purpose. I think it is a bad thing that there should be laid down procedures which are either ignored or have got loopholes such that they are a dead letter. I think one particular item, perhaps, that was the most intriguing of all was the purchase of a number of a very substantial number of brooms which the Principal Auditor says were for immediate issue, that is, that this substantial number of brooms were purchased and apparently they were immediately issued. When I read that part I had an immediate picture in my mind of the hundred odd cleaners in the Government educational service marching down Main Street with half a dozen brooms each. It is a picture that it is difficult to reconcile with the reality of what I know the cleaners are always complaining that they are short of brooms in the schools. But, certainly I do not think it is enough that the Auditor should come across something like this which is difficult to explain and that it should be left like that because I think if things have got an explanation then that explanation should be forthcoming and it certainly does not make sense to me that a very large number of a particular items should be purchased and immediately issued because in fact if it was immediately issued I would have thought that the date of the purchase could be gone into and whether it was immediately issued or not could in fact be investigated. This is in money terms a relatively small item in the context of Government expenditure running, as it does, to several millions because I imagine the cost of these brooms, I think it was something like £300, the cost of these brooms cannot have come to very much. But I think that it is important that the Government should in fact be exercising a control over its own expenditure not because I believe in curtailing public expenditure. I think that it is important that I should make that point because we have perhaps not so much in Gibraltar but certainly we have outside Gibraltar what is a political stand as to Government public expenditure as opposed to private expenditure. I would like to make quite clear that I am not against Government expenditure per se, what I am against is getting poor value for the money that we spend. I think for as long as the money is being spent wisely and producing the goods for the community then if spending more money means providing more social goods then I am in favour of it. What I am against, of course, is spending the money and not producing anything because I cannot

see that anybody benefits.

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

HON M XIBERRAS

Mr Speaker, I think it is a very useful motion for the House to air its views on various matters relevant to the motion. I would like to take the opportunity of going straight to page 2 of the report in question and whilst I am finding my page I would also join in congratulating the Auditor on the work that he has produced though, Mr Speaker, I could possibly find more attractive reading I nevertheless, as a relative layman, appreciate the work that has gone into the production of this volume. On page 2, there is a paragraph 4 on the scope of audit and without knowing terribly much about the subject I must confess that this is more akin to the purpose of audit which I envisaged at the time that I suggested to the House that there should be Public Accounts Committee provided by the legislation which was introduced by the Financial and Development Secretary, the Finance Bill and so forth, Mr Speaker, the Auditor, in fact, does say that there is a possibility for the House of Assembly to set up a Public Accounts Committee and I feel that many of the points that are made by the Auditor and, in fact, the whole of the message of the Auditor, is that there should be a broader scope for the audit and that Members of the House, this is my deduction from that, should be involved more closely in the control of expenditure for precisely the same reason that the Honourable Mr Bossano has mentioned, namely, that of value for money and the possibility of being able to afford better services, wider services, for the same amount of money that we spend. Therefore, Mr Speaker, with this thought in mind I would like to take up Mr Bossano on what he said about control of expenditure must rest with the Government. I feel that certainly control of expenditure must rest with the Government. but ultimately it must rest with the House of Assembly and the House of Assembly, to my mind, does have, if not directly an audit function, certainly a function of pretty direct control of the expenditure that it votes. I think that if there was a better case needed for the creation of the Committee which I have mentioned, I think we have that evidence in the volume before us. For instance, Mr Speaker, the Honourable Mr Bossano has mentioned brooms. That in itself is a point which must be of some interest to Members of



the House but I would not care to bore the House in full session on a careful investigation of this. It follows, however, that it would have to be done elsewhere in another forum and this forum to my mind is a Public Accounts Committee, statutorily constituted, which would look into this and other matters. I took the point made by the Financial and Development Secretary earlier in these proceedings about the changes, in answer to a question from the Honourable the Leader of the Opposition, that some of the points made by the Auditor were the result, or explainable, by the changes in our legislation and the procedures that emanated therefrom. There has been a major change in this and I gather that it is the Financial and Development Secretary's view that perhaps the departments had not adjusted to the change in legislation. I wonder whether he would care to put me right on that one if I have gone wrong. Those, I think, are perfectly excusable because it takes some time for departments to adjust. There are other points, notably the one on page 22, the Water Advances, which is also commented on in another place, which concern me rather more at this stage and that is that I would not like to go away with the impression that matters are not brought to the House of Assembly for authority out of consideration for the political position of the Government. In other words, that the Government does not incur expenditure without the permission of the House purely because it wishes to avoid at a particular time the embarrassment of being questioned on that particular matter. That, I think, affects us not only as Members of the House but also involves a degree of fairness or opportunity to the Opposition to criticise these decisions when they are made, in fact, before they are implemented, otherwise on these controversial issues there might be a rubber-stamp effect which the House must try to avoid.

Mr Speaker, I wonder whether the various other points come under this category. I cannot help noticing that the Public Works Department especially in respect of sewers, and we have heard in previous Auditors' Reports about this, is not in line for some sort of systematic revision and I would commend to the Honourable and Learned the Chief Minister the thought that if this Committee were brought into being and it is now about six or seven months since it was suggested by the Honourable Mr Restano and myself, we spoke to the Taxpayers' Association about this matter at a particular time, it is now time when earnest consideration should be given to this and I wonder if it is not, following his suggestion that we might tackle department by department with this committee, whether the Public Works Department might not be an appropriate one or even an area of the Public Works Department might not be an appropriate one at which to start. As I say I am more



in the establishment of the committee than in the departments that need to be tackled but certainly there would be greater control by Members of the House and also, I think, that the support of both sides of the House for the doctrine enunciated by the Honourable Leader of the Opposition of trying to get value for money for the sums that we vote in this House, whether the Government would not be strengthened in its position to insist that this doctrine is carried out.

Mr Speaker, there is reference in the report of computerisation, and I had a question on computers at the last meeting of the House. I think that with the increasing supply of money being voted to the Government, an increasing complication in the jobs that it is asked to do by the House and it proposes to do itself, I think that this is a very important factor and I am glad to see that the Government had in fact before the production of this Report already called a seminar of people who might be involved in the service with union representation, as I understand it. I urge the Financial and Development

Secretary to contribute his bit on his side because obviously there is a need to use greater mechanisation. Mr Speaker, I do not detect a note of helplessness in the Auditor's Report but I do detect a rather more ambitious approach in the Report. In other words, that he wants more things done and perhaps he wants them done a bit faster. I can see that. I do not think that any Member of the House, including the Financial and Development Secretary, would differ with the Auditor on this and I think proof of this is the legislation which the Financial and Development Secretary brought to the House. I think the Auditor and the Financial and Development Secretary are not out of step on this particular one. There is a point about officers who are, I will not say accused, but officers who are criticised by the Auditor's Report should have every opportunity of defending themselves. If we in this House refer to any particular paragraph in this Auditor's Report we would thereby be joining in the implicit criticism of the Heads of Departments or the accounting officers. I feel that the only place where Members of this House could question Heads of Departments and allow Heads of Departments to defend themselves or to bring to the notice of Members any factors which have guided them in their decisions or, in some cases, lack of them, is, in fact, the committee about which I was talking. It provides a very useful kitchen-like atmosphere, familiar atmosphere, in which Members of the House can find out more as to how votes have been used and whether there have been excesses or what the procedure, generally, has been and what the activity has been. Mr Speaker, there is one item on page 20 of the Report, the sum of £21,896, I hate to disturb those who serve the fatherland whilst they sleep, this is in the Medical Department, in respect of drugs and dressings. I wonder

whether this is any expenditure incurred by agreement with the people supplying the dressings or whether it was payment for a bill which came at a higher cost because if it is the former then any agreement of this kind, I think members of the House at present as we are constituted now or if there was a committee, in committee, would be entitled to know about transactions of this nature. I do not ask that every transaction involving a change of price should be brought to the House but that the significant ones where there might be matters of policy involved, those should be brought to the House.

Mr Speaker, I support this motion and my final thought is that I would not like the idea to get abroad because this motion has been brought to the House that there is an irregularity to the point that money is missing, that money cannot be traced, that anybody has kept any money. This, of course, is absolute nonsense. It is a matter of the House voting for the funds at the proper time and the Report, which is pretty thick with criticism of various departments, it has nevertheless been produced in a particular context during which our laws have been radically and fundamentally changed. I am sure that the motion of the Honourable Leader of the Opposition can do nothing but good.

#### HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, before I heard what the Honourable Mover of the motion had to say and when I first read the terms of the motion, I was a little surprised at the first part of it, that the House was welcoming the excellent Report 1975/76, because that suggested to me either that this was the first Report or alternatively, that if it was not the first Report it was the first one that had been excellent. I do not know what the Principal Auditor would have made of that but if, indeed, it is considered to be an excellent Report and it is not for me to make any value judgement on that except in the very general sense, then I think I can, at least, claim some credit. Certainly I can claim some credit, I think, for the fact that it has gone into things very much more deeply, more thoroughly, than it has done in the past, you have only got to compare it with the previous year, because I made it quite clear to the Principal Auditor when I came to Gibraltar that as far as I was concerned he was entirely and completely independent of the executive and he was not subjected to any kind of direction whatsoever and that what he, in his judgement, thought it was necessary to write in the Report, I certainly would never quibble. So it may well be that having made that



clear to the Principal Auditor, how I stood in relation to an Audit Report, and it is the first report that he has compiled since I actually took over as Financial and Development Secretary, he felt perhaps freer than he had done in the past to examine in depth and completely objectively everything that he considered was not as it should have been. Having said that, I think it will be fairly clear perhaps that I, at least, am concerned at the lack of effective control over public expenditure in all its various facets and that goes, of course, considerably beyond the simple over-expenditure of a vote. There are many, many other facets which affect the overall control of public expenditure. The Honourable Mr Bossano has mentioned Stores which, of course, is an extremely important area. I cannot join collectively the Government with me on this although I feel sure there will be their sentiments, for the simple reason that the Government in Council of Ministers has not formally considered the Report and has not formally, therefore, expressed any collective view on it. But certainly, as the Financial and Development Secretary who is charged by the Public Finance Control and Audit Ordinance to ensure that a full and proper account is made to the House of all the Government's financial operations. I can say that I am as concerned as the Members opposite who have already spoken. But now I want to deal with the question of responsibility for ensuring effective control of public expenditure. Where does that responsibility really lie? The Hon the Mover of the Motion suggested that it was the responsibility of the executive. That is only partially an answer and it certainly does not go all the way to the root of the machinery for the control of public expenditure. It is a much more complex matter than that and simply to say that it is the executive's responsibility ignores the concept upon which our system of financial management and control is founded. The Honourable Mr Xiberras got very much closer to it when he said, as I think he meant to say if he did not explicitly say so, that the inherent duty of ensuring that there is effective control comes back into this House. But now the Government has a responsibility, very much so, because it is the responsibility of the Government for there is no other body that can be responsible for ensuring that the law, regulations made there-under and instructions given in accordance with that law, exist. That is certainly the responsibility of the Government and it is therefore very fair to ask whether this Government has, in fact, exercised that responsibility and I think that without question it can be said that the Government has exercised that responsibility. It started in 1972 when it enacted with, I am sure, the whole-hearted approval and consent of this House, the Financial Procedure Ordinance and, basically, that Ordinance laid down

the Government's statutory rules for the management and control of public expenditure. When I came here, as the House will remember, I considered that admirable though that law was and I had no quarrel with it in principle, it did have a number of defects and it certainly contained a number of areas which in my opinion were not properly covered and with the full support, and I must emphasise this, I have had the fullest support in everything that I have been trying to do in relation to the control of public expenditure, the instructions that I have issued, I have had the fullest support of all my colleagues, but I have brought to the House the Public Finance (Control and Audit) Ordinance. That Ordinance prescribes in precise terms for all matters concerning and pertinent to the management, control and accounting for public funds of Gibraltar and for the audit of these accounts. The Ordinance gives me the power to make regulations, such regulations as I consider necessary for the better carrying out of the purposes of that Ordinance. It also confers upon the Accountant General, as the Government's Principal and Chief Accounting Officer, the power to prescribe precisely how money, stores, etc., are to be accounted for and how the accounts themselves are to be prepared and presented and I have issued one set of regulations, one of which I would in terms of the generality of financial control I would like to read. It is issued, as are all such regulations, to Controlling Officers about whom I shall say something in a moment, and it reads as follows; "When the annual Appropriation Ordinance has been assented to, the expenditure for the year as set out in the approved estimates shall be held to be definitely limited and arranged and shall not be varied, firstly, except in accordance with a re-allocation warrant or unless supplementary financial provision has been obtained, in the case of expenditure payable out of the Consolidated Fund, in accordance with the provisions of Section 65 3(a) or 67 of the Gibraltar Constitution Order - that is the normal supplementary procedure or the issue of funds from the Contingencies Fund as prescribed by the Constitution - and shall not be varied in the case of expenditure payable out of the Improvement and Development Fund except in accordance with the provisions of Section 27 or Section 30 of the Public Finance (Control and Audit) Ordinance. So there is a clear instruction for those who are responsible for administering and spending money which is voted by this House for the service of any financial year. That is the Government's responsibility and it is difficult to think how much further the Government itself could go to insist on the proper conduct of its financial affairs in terms of the Ordinance without asking or seeking quite draconian powers on the part of individuals, presumably individual officers, which I feel quite sure that this House would not approve and would feel would be



quite wrong. Certainly I would never myself dream of coming to this House and seeking powers of that nature over individual civil servants. So we now come to the civil servants themselves, and this is really the vital bit because it is entirely part and parcel of the system or practice of financial control which is exercised in Gibraltar and which mirrors the broad practices and control of the parliament at Westminster, that the money which this House votes for a particular service is entrusted, shall we say, to a specified person who is known as the Controlling Officer and the Controlling Officer has unequivocal responsibility to control and manage the monies which are voted for the service for which he is the Controlling Officer. In fairness I have got to point out that this is nothing new. The old Financial Procedure Ordinance contains precisely the same responsibility and duty the only difference is that the Public Finance Ordinance put this in rather more explicit terms. Given the comprehensive statutory framework for the control and management of public monies which we have in Gibraltar, the primary responsibility for overspending a vote ~~for~~ attending to such areas of waste or unnecessary expenditure or for attending to the less effective means by which stores are obtained primarily devolves upon the Accounting Officer concerned. Just one word about overspending as a whole. The Honourable the Leader of the Opposition raised a question about this in terms of the sums specified in the Audit Report which from memory I think it is £423,000. Well, of course, it is I will not say invariable, that would be going a little too far, but certainly it is very seldom that there is no over expenditure at all, that is to say, expenditure uncovered by a formal and legal authorisation of this House, because over expenditure can occur in a great many ways. Many of them, admittedly, can be foreseen and therefore should be prevented, but there are occasions when over expenditure on a year cannot be foreseen and I am not going to go into details but I can assure you from my own experience that there are quite good reasons sometimes why it was impossible to not overspend a vote. The mover referred specifically to stores and I am assuming that he was referring in generality to all aspects of stores control, stores purchased, stores accounting, stock control, etc., and here I can say that a Working Party is already considering how best the existing regulations governing the control of stores, their issue, their purchase, can be improved. It has been one of my considerable concerns ever since I got here of the general laxity which we have over stores control and so this Working Party is at the present moment considering how we can improve and as part of its terms of reference it will certainly consider to what extent, if at all, staff should be strengthened or indeed whether in order to get things back on the rails, some

outside assistance might not be sought under technical co-operation. I think there is one point here I wanted to follow up from the Honourable Mr Xiberras' remarks. I think he suggested very kindly that a lot of the criticisms of Departments in the Audit Report possibly stem from the fact that as I explained in answer to the question, there has been some change of procedure. Indeed, there has been some change of procedure but the change was only to insist on what was constitutionally and statutorily proper an insistence which there had not been before, in other words, the procedures that we had been following were in my view wrong and they should never have been followed and it was therefore when I came here, over a year ago, before the accounts closed, that I refused to cover subsequently to the closing of the year on the 31st, expenditure which was over the top because it was wrong and I absolutely stand four square on that. The House will have to cover yes, that is perfectly correct, but it will only have to cover it and only be asked to cover it when the reasons for it have been ascertained and this is the proper way to do things. When it comes to the House then it is customary, the reasons having been thrashed out and maybe people have been criticised, but when it comes to the House then it is customary for the House to accept it on the nod, not to go over the ground again because that will have been done but come to the House it will have to but it does not come to the House until it has been investigated. I am not going to make any attempt, and I think it would be wrong in the context of this very general motion and it is a very wide motion because it covers all aspects of financial control not merely just overspending, I do not propose to attempt to, although I think I could and I am sure my Honourable Colleague on my left, the Minister for Medical and Health Services could quite easily do so since he keeps these things in his mind, to deal with the point made by Mr Xiberras in relation to drugs and dressings but that is the sort of thing which will be examined quite obviously. Mr Speaker, as far as I am concerned I can say that I am not satisfied and I have never said I was satisfied with the standard of financial control exercised in Gibraltar and it is certainly, if you get a report like that, quite obviously there are a lot of things that need to be looked into. I think that it does a great deal of good to consider a motion of this nature and the only thing I would like to impress upon the House is that there is no single simple answer whose responsibility is it to ensure. A great deal can be done and much has been done. The framework has been set and it will go on being tightened wherever a loose joint appears but beyond that the executive cannot do very much more.

HON A P MONTEGRIFFO

Mr Speaker, I would like, as far as the recollection memory, give an explanation as an example of what might happen to others, though I do not stand up to speak here on behalf of other Departments. We keep a very close watch and I myself as a Minister take a very close interest on how the money is going. As the Honourable Financial and Development Secretary explained there is bound to be overexpenditure of some sort or other every year. This is inevitable when you start preparing your estimates and your trend expenditure some time round about November, so much so as you will see from the Auditor's remark that at that time we thought that under drugs we would have money over to vire £500 to another vote. Though it is true that we had £42,000 expenditure over and above our total expenditure with £1,148,000, the true expenditure excess might have been £51,000 had it not been also because we found after the books were closed that our estimate for certain votes showed a surplus of nearly about £9,000 or £10,000. But as far as we were concerned we did inform the Treasury some time in March about the possibility of these £42,000 and where we went wrong because we had a new man who had just taken over from somebody else, was in not asking for the proper warrant. We thought that notifying the Treasury was enough. That is as far as I can recollect and I think I am pretty near right in what I am saying. The £21,000 was mainly drugs for the hospitals and drugs for the Group Practice Medical Scheme. The drugs for the hospitals I remember quite clearly at that particular time we had to bring on an emergency basis specific drugs costing very nearly £1,000 for a particular patient. As to the other, I would say that half of it was due to increases in the consumption of drugs in the Group Practice Medical Scheme.

HON M XIBERRAS

If the Honourable Member will give way. My specific question was, was it in relation to an agreement with the chemists, the £21,000, was it in relation to an agreement to supply drugs and dressings at a different price?

HON A P MONTEGRIFFO

We do not deal with dressings under the Group Practice Medical Scheme. The money for dressings was not exceeded. I think you may be right that there might have been an increase.

## HON CHIEF MINISTER

Mr Speaker, I encouraged my colleague to mention that as an example of the problems that you have in departments and as an example of the problem you have where there is a Minister with a reasonable amount of control or time and there are cases in which a Minister, say, for example, the Public Works Department, no Minister, not even the previous Minister, could despite his background and knowledge, could keep trace alone in the expenditure of such a huge vote and such a variety of subjects. In the first place. I am sure the House will have listened with great appreciation at the remarks of the Financial and Development Secretary and I am sure that the House as a whole will welcome the steps that he has taken since he has taken office to see that this concern about financial expenditure is implemented. He has not mentioned one aspect of it which may not be directly concerned with the terms of the motion but which in itself is very important and which was carried out with rather a surgical operation and that was the putting in into proper accounting of the Public Utilities Services. There was an area where the whole thing was chaotic and where, having regard to the manner in which the Working Party which he set up recommended something which I have been hoping ever since 1972 could be done, and that is that we could get knowledge of the exact amount of expenditure in electricity per unit, per penny on the rates and so on which has now been done, all as a result of the work which has been put in by the Financial Secretary since he took office. His concern about the general question perhaps can be recalled by his very first warning in his very first budget speech when he said; "Controlling Officers please take note." He sounded that word of warning on the first opportunity he had when he came here as Financial Secretary about the extent to which he proposed to exercise control. Insofar as the matter which was raised by the Honourable Member and not having been covered by legal authority according to the Report and which was the subject of a detailed reply by the Financial Secretary, let me say that I was fully aware from the Financial Secretary of the fact that he refused to have a cover mantle vote in all that as in other years and that I did not do anything to persuade him, as he will bear, to do otherwise well knowing that that in itself would bring about the sort of questions which, if I may say so with respect, may have been somewhat distorted in a certain way by certain headlines as if we were bringing money out of a bag, for which there was no legal authority. I think the answer itself which will, no doubt, be published in due course will give an idea first of all that it is spread over a number of Heads of Department from a considerable amount to even



ourselves here with £418 for which we ourselves are not covered by authority simply because the warrant may not have been in time and so on. So that, in fact, the concern of the Financial Secretary I have encouraged in every possible way though he does not need much encouragement, let me tell you, but I should put it the other way, I have not discouraged him in the least in his effort to exercise more control and to tighten up the regulations and so on. On the Financial Instructions he has read you a little piece but I have been landed in my office with all the Financial Instructions that he has issued for me perusal after he has done it of course, for my knowledge of what is happening, of the number of Financial Instructions that he has issued under the powers vested in him in the Ordinance in an attempt to exercise that extra control. But, of course, one of the things that has to be borne in mind, particularly in these days of rampant inflation and increase of prices which arises from month to month in essential goods, in materials and so on, that estimating is a very difficult matter and you can have the counter results if you make too much an effort to say that you must not exceed what you do, because then they ask for double the amount that they want in order to be covered. So that you have to place a rather careful thought that the estimation must be reasonably accurate with a certain amount of area for inflation that can be foreseen but if you make them account to the last penny then Heads of Departments will inflate their estimates in order to be able to be covered beforehand and that in itself could lead to another kind of wastage which is worse because there would not be the element of control that there is in this way. That is one of the aspects which I learned in the hard facts in the City Council when we were dealing with smaller items and they came for excesses and you asked why and then I learned the hard way that it was better to be able to make a Head of Department account for an excess than to encourage him so much by putting the works on him if he exceeded it too much to make the original estimate much more in order to cover himself. So that in all these aspects of this matter I think the Government is exercising the utmost control and I would, perhaps, in view of the explanations given invite the Honourable Mover if he wishes to, in order not to have a vote on this that might give the wrong impression, if he is satisfied, though not that everything is alright but that we are doing our best that everything be alright and I will come in a moment to the most important factor in which I am particularly concerned, that he might think whether he wants to take this to the extreme of a vote or not because seriously concerned really having regard to the fact that there have been improvements, if this had been moved two years' ago perhaps it might have been less inappropriate than it is now, at a time when in fact we are

trying to control and exercise further control than there was before. Now we come back to the question of the ultimate responsibility of the House in expenditure. I did say, in answer to a question by the Honourable Mr Xiberras some time ago, that I had been thinking about the question of a public Accounts Committee or an ad hoc Committee in the first place and I shall certainly finalise by thinking about this during the recess and perhaps I shall have something to bring early in the next session. I am concerned about creating a committee that is not going to carry out the functions that is expected of it because of the heavy time involved and I am more inclined in the way in which we originally carried out our ministerial responsibilities in advance of the Constitution to nominate an ad hoc Committee with a particular function to see how it works, to see the extent of the composition, to see the extent of time that it is to be allowed, to be given a task such as carrying out an area of Public Works, an area of another one, we do not want just to mention one particular head of a department, and so on, see the nature of the composition, the number of people that would suitably be able to do this work and the work that it will entail and then, perhaps, when that materialises into a practical effect, then we would have a much more formal Public Accounts Committee. I am not reneging in one word to what I said before but the way of going about it, I am a little more cautious because the worst thing that we can have is a Public Accounts Committee that does not work. At this stage we say; "Well, we have not got a Public Accounts Committee and if we had one these things would not happen." So I may be trading a little cautiously on this matter but certainly I am concerned and I know again from my practical experience across the way, I know the effect that it has on Heads of Departments when they have to blush in the presence of the elected members as a whole and to answer why this was done or why this was not done. Once that has happened, once the thought of not appearing before an inquisition which is what the Public Accounts Committee is, is in itself a very healthy outlook that will make them much more cautious and in that respect I propose to go cautiously over it but I propose, nevertheless, to carry out the undertaking that I gave and which is reflected in the latter part of the Financial Secretary's answer to the question by the Honourable Mr Bossano. I think that, as a whole, the House must accept that in the last 2/3 years and certainly since the first Financial Procedure Ordinance was confirmed, and certainly the present Financial Secretary I can tell you has tightened up things to such an extent that we have sometimes difficulties in authorising expenditure which we know will be justified and which we know is urgent and we do not want him to exercise his powers under the Contingency Fund as it is up to him to do so. We find that we ourselves in the new procedures, in the think-

ing in Government, have also got to adjust ourselves to the fact that you must have your authority first and then you must spend the money.

HON M XIBERRAS

On a matter which I missed and which I think is important and relevant to the House and to what the Honourable Member is saying. Paragraph 112 on page 37 reads: "However, I feel certain that the annual accounts in my Report would be of much more value to the House and lead to less misunderstanding if they could be laid before it prior to the Budget session which is usually held in March of the following financial year." If the Honourable Member will recall in my original letter to him on the Committee I suggested certain changes in the timetable for the consideration of Estimates and other things. Would he care to comment on this aspect?

HON CHIEF MINISTER

We would have to adjust ourselves. This is a matter on which certainly I would not like to commit myself because I remember previous Reports of Auditors being laid much later and a particular complaint made as to how difficult it was to obtain the material to make a report so that the fact that it has now been put before the House in July is already an advancement. This is a matter more of a mechanical and procedural matter to which the Financial and Development Secretary and the Treasury as a whole will have to get adjusted to gradually in a process of anticipating all the steps that lead to the presentation of the audit of the accounts. That is, of course, desirable but of course there are constraints, there have been this year, and there were last year, certain difficulties, certain industrial go-slow and so on in the Accounts Department which has made any proposals in this respect to go haywire. But the sooner that the accounts can reasonably be produced to the House, of course the better for everybody. On the whole, as I say, Mr Speaker, the fact that there was this question and the fact that the Financial Secretary refused to give the mantle of approval as has been done in the past to over-expenditure in order that there would be no awkward question is in itself a healthy and new procedure and I think that having regard to his efforts it would be appropriate if this matter, having been ostensibly satisfied to what has been done so far, if this matter were not to have to be taken to a vote where, of course, the Government would have to vote against.

HON J BOSSANO

Mr Speaker, I appreciate what the Honourable and Learned Chief Minister had to say and I am very conscious in fact of the efforts that the Honourable Financial and Development Secretary has been making since he arrived in Gibraltar to improve things. I am afraid I cannot agree to withdraw the Motion rather than not have it defeated because I feel that although it might be understandable for those to whom we are responsible, members of the public, that the Government having expressed sympathy with the terms of the motion should logically vote against it, I think it would be less understandable if it were withdrawn because then it might well be interpreted that the concern that the motion expresses has been satisfied by the debate in the House. I do not think it has been satisfied. I think that there has been a marked improvement and I have made a point of this in this meeting of the House, for example, Mr Speaker, in the degree of explanation the House has provided in the Supplementary Estimates. There is a marked improvement which is reflected in the qualifying adjective of excellent appearing for the first time, as the Honourable Financial and Development Secretary has said, a marked improvement in the effort that is being made to present accurate and detailed information to the House. Not every politician or legislator may look on the responsibilities of the Parliamentary system for control of expenditure in the same way as I do. My own view is that the House, as a whole, exercises its control by virtue of the fact that it holds politicians on Government benches responsible for public expenditure and it is their accountability to the House that ensures that they make the permanent officials produce the necessary explanations. I think the House exercises its control over public expenditure through the Government and it is the Government's responsibility to provide the explanations or else face the criticisms in the House of Assembly. In the large and very welcome improvement there has been in the presentation of information as a logical consequence there has, at the same time, been an uncovering of things that Members perhaps even of the Government were not fully aware of a number of years ago and consequently the concern that my Motion expresses is precisely because we are better informed now and it would have been more difficult to express concern, say, four years ago because it would have been more difficult to substantiate that concern, to point to the areas where there was grounds for concern. In fact, as Members of the House will recall I have found this particular hobby-horse ever since I arrived here in 1972. I was throughout most of this time having to fire shots in the dark, as it were, and draw conclusions from apparent inconsistencies, conclusions that sometimes were justified and sometimes were not justified but which



was in fact a logical consequence of the time I have myself devoted consistently to examining the figures presented in the House of Assembly by the Government on every facet of public expenditure and trying to square what different figures under different heads and so on produced and asking questions where there appeared to be anomalies. In providing detailed and concrete analysis of the working of the financial year like the Auditor's Report does, it produces a framework within which the concern can be expressed and the criticism can be expressed, based on factual information. I think this is vital. I think this is highly important because it is undesirable in fact to create a great deal of trust because one thinks that things are not being conducted properly based on the lack of information and it is for this reasons that I feel that the appearance of this Report which I am conscious could not have been possible if in fact the task of the Auditor had been made difficult and if he had not found the co-operation and I am very conscious in fact also of the very natural human inclination not to put oneself in the uncomfortable position of having ones mistakes brought to light, in fact that they should be brought to light is essential if they are going to be put right and therefor, Mr Speaker, I feel that in bringing the motion to the House, even if the Motion is defeated I am discharging what I consider to be one of my primary obligations as a parliamentarian and I am probably assisting the Government to be able itself to obtain a tighter grip on the control of public expenditure and produce for future accounting years even better Reports than this one and, hopefully, one containing less criticism.

#### MR SPEAKER

I will then put the question which reads as follows: "That this House welcomes the excellent Report for 1975/76 produced by the Principal Auditor and is seriously concerned at the lack of effective financial control which the Government appear to be exercising over public expenditure".

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

The Honourable J Bossano  
The Honourable G T Rostano  
The Honourable Dr R G Valerino

The following Honourable Members voted against:

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

The following Honourable Member abstained:

The Honourable M Xiberras

The following Honourable Members were absent from the Chamber:

The Honourable I Abecasis  
 The Honourable J B Perez  
 The Honourable P J Isola  
 The Honourable Major R J Peliza

The Motion was accordingly defeated.

HON G T RESTANO

Mr Speaker, I beg to move the following Motion: "Since the new system of international communications now installed in Gibraltar permits telephone communications to be made world-wide through London, this House considers that investigations should be made through the GPO into the possibility of using these facilities to introduce telephone communications with Spain via London". Earlier this year, Mr Speaker, new equipment was received in Gibraltar capable of coping with extended circuits and a system of indirect dialling to UK and this was made possible by a new system through Morocco. The result of this is that whereby before, any telephone communications from Gibraltar to London had to go through the trunk operator here who rang the trunk operator in London and this caused delays, now the trunk operator in Gibraltar dials directly the number in the United Kingdom. The result of this new system is that the delay that used to be caused before has now been reduced considerably and this is a very welcome thing for Gibraltar. An even greater problem used to be calls coming from the UK to Gibraltar where the delays were sometimes very

dramatic and could be up to three and four hours. The cause of these delays was apparently at the GPO itself and it is therefore very welcome to have read in the press recently that in the future, in the very, very near future, subscribers in England will be able to dial any Gibraltar number direct without having to go through either the GPO or the local operators. I hope that during the course of this debate there will be a ministerial confirmation of this and when in fact this new step was announced to him. This is a great step forward and it is particularly welcome because I am sure that it will mean additional revenue to Gibraltar because we will be linked to the international telecommunications throughout the world and it will be easy and very rapid to call Gibraltar from anywhere in the world in seconds as it will be to call from Gibraltar to anywhere else in the world within seconds. I wish I could say the same about air communications which seem to be on the decline rather than on the improvement but, anyway, the last step that needs to be taken to really have a very good system will be the direct dialling from Gibraltar to any place elsewhere in the world by the subscriber. I would imagine the bulk of our telephone calls in Gibraltar today are with the UK but, of course, we have to call other countries and in the past most of these calls were made through the telephone line which we have with Spain. This was often very lengthy and in fact it is still very lengthy. Now with the new lines that we have with the United Kingdom we can avoid using that landline and we will be getting a much better service with the United Kingdom. I say that I imagine the bulk of the calls today are with the UK but if it were possible for Gibraltar to call Spain I am sure there would be an enormous traffic to Spain, because, of course, we have the proof of this at Christmas Time and Easter time when Spain renews the links of our telephone communications and there are so many people on both sides of the frontier who wish to talk to each other. In fact, to have severed communications is, of course, a condemnation of Spain. It is inhuman to have cut off families from being able to speak to each other.

MR SPEAKER

I am sorry but you must not digress from the question before the House. We are just trying to improve our communications to London due to the new system.

HON G T RESTANO

But by severing communications families in Gibraltar have been cut off.

MR SPEAKER

I think we are beginning to get beyond that.

HON G T RESTANO

But there are so many examples that one comes across of the results of this inhuman severance of communications. I heard only recently of a person in Gibraltar who learned of her mother's death over the La Linea radio station. This is a terrible state of affairs. But now we have the opportunity, I think, a great opportunity to use the new facilities that have now become available to contact Spain through England. As I understand it, the technical difficulties are nil and all calls to Spain could be accepted by trunk operators in Gibraltar, would be channelled through the trunk operator in Gibraltar who would be able through the international subscriber dialling to call their families in Spain. The charges would be a lot greater than what we are accustomed to but I think the financial considerations in this is of no importance at all. What is important is the human problem of people being able to speak to each other and I am sure that people would not object to paying a bit more in order to be able to speak to their families. Perhaps, also, one difficulty that might occur is an administrative problem possibly a political problem, but I think that when there is a will there is a way. Mr Speaker, I commend the motion to the House.

Mr Speaker then proposed the question in the terms of the Honourable G T Restano's Motion.

HON MAJOR F J DELLIPANI

Mr Speaker, I am not going to dwell on the Honourable Mr Restano's motion but I would like to clear a couple of points for the benefit of the House in that, as I have said before in other sessions of this House, my Departments are open to members of the Opposition, I will discuss anything with them at any time for the benefit of Gibraltar and on this context the Honourable Mr Restano came to see me on this matter and I did say; "Mr Restano, do not bring a motion. Leave it to me, I am investigating the matter, give me a couple of months. If you bring it to the House it will harm whatever good work we are doing behind the scenes". As we are talking about international communications it would be of interest to



Mr Restano and the House that we have already automatic transmission to Switzerland, South Africa, Sri Lanka, Nigeria, Jamaica, New Zealand, Malaysia, East Africa, Singapore and India which is something new which we have just received but again I asked Mr Restano and I told Mr Restano that this is a question that I am already considering and I told him that the motion was totally unnecessary.

HON MAJOR R J PELIZA

Mr Speaker, I would like to support the motion. I think it is a very good idea to raise this matter and try and make it known publicly that even now and through international channels, Gibraltar is trying its best to overcome this inhuman attitude of a so-called democratic Government. I cannot see that this can do any harm at all to Gibraltar or, in fact, to anyone trying to negotiate the situation. I would have thought it would help in that obviously I doubt whether whoever is concerned having popular pressure publicly applied can in any way damage any effort that the Minister, and I know that the Minister is making and trying to achieve. I would not like to sit down, Mr Speaker, having made such a small contribution without congratulating the Minister on the great improvement on communications between Gibraltar and the United Kingdom. I do not know whether the Minister himself has had a go at dialling direct from the United Kingdom to Gibraltar but it is quite an exciting experience. It is readily available to anybody at the moment. It is really first class. The audibility is first class and if I may say so the calls from Gibraltar to the United Kingdom have also improved considerably and I would like to congratulate the Minister on that.

HON CHIEF MINISTER

The Minister has already said that these matters were being investigated. The position with regard to telephone communications since Spain decided to stop communications with Gibraltar is that the Gibraltar/Spanish link was a local agreement entered into in 1927, a purely local agreement which either party was at any time free to disconnect, but the international one was an international convention which the Spaniards in their very legalistic way of looking at everything connected with Gibraltar, they maintain. That is to say, they did not interfere with the landlines over Spain in our international communications and, in fact, most of the telephonic communications made from Gibraltar which is not to the United Kingdom, certainly up till recently to America and to all other places, was through Madrid and it has been done and there has been no

interference. Each country is, of course, the owner of its own system unless it is subject to international agreement. The difficulty about raising this matter in this way that the Minister has referred to is that perhaps the prospects of dealing with this matter which was not very good at the beginning may not have been enhanced. We are making the investigations and if it is possible it will be done and we are seeking legal advice on this regarding the international commitment of inter-country communication and in the present context if it is going to be a behind-the-door entrance in which the Spaniards will be able to stop it through any international agreement properly, I am sure that they will do it the same but that is no reason why we should not try. We ourselves do not like the motion because I think it would have done more harm than good in the efforts that we were making and we are just abstaining.

HON M XIBERRAS

Mr Speaker, I noticed a certain amount of irritation when the Honourable Minister responsible for Municipal Services spoke about this and said that he had asked the Honourable Mr Restano not to raise the matter in the House. My philosophic view of that is that a Member is entitled in the last resort to do it. Irritation or no irritation, Mr Speaker, is no reason for opposing a motion on a subject which the Government is pursuing and if the Government intend to show its irritation by abstaining, well, good luck to it. I was in two minds myself about supporting the motion because I feel that it is getting in through the back door rather and would be getting in through the back door to which, no doubt, the Honourable Mover would say that the back door is better than none. But I would not like to give the impression either, in spite of the human problems involved in the lack of communications, that one would accept as a return to normality that one should have to telephone London in order to reach people a stone's throw away. I would not like my support to this motion to be construed as in any way giving a sense to that proposition. Whether the motion is going to do harm or good I think is neither here nor there. I think it is an idea that has been put forward and is now openly known. It is an idea that struck people when we were invited to the new link of Cable and Wireless, so I think it can not do very much harm and as far as the good it might do it is a question, if people across the way read about these debates, people across the way realising that we do want communications restored. We would like an absolute return to normality because it is the civilised thing to do but that we are not desperate about it and that we have a special concern as indeed people across the way and in Madrid should have for

the problems of families, I support it mainly on the human aspect of things. There are other considerations such as business and so forth but these do not enter into my reckoning at this particular stage. It is not out of weakness but out of humanity that I think that the House should support this motion.

HON G T RESTANO

Mr Speaker, I agree entirely with the Honourable Mr Xiberras. It is not a return to normality it is very abnormal, in fact, to have to call London to get back somewhere a few miles away and it was certainly not intended that it should in any way seem to be as anything normal. It is abnormal because the situation is abnormal and because of the human element involved. The Honourable Major Dellipiani said that he seemed aggrieved that I should have put in the motion because he told me not to put it. Well, quite frankly, I will tell the Honourable Minister that he is no one to tell me what to do or what not to do.

HON MAJOR F J DELLIPIANI

If the Honourable Member will give way. I never told you not to, I said I advised you, I asked you. Asking is not telling.

HON G T RESTANO

"Told" is the word that I heard from here Mr Speaker, but as I say, it is everyone's prerogative in this House to consider whether or not he should say or not say whatever he wishes to say. The Chief Minister has said that he thought that the motion might harm rather than improve the possibility. I do differ with him on this point because I feel that with the new democratic Government in Spain I think they recognise, or at least there have been murmurings of them wanting to come to some sort of return to normality and I think it is precisely at this stage they would probably not object to having . . . .

HON CHIEF MINISTER

If the Honourable Member will give way on something completely new which I omitted. If he will allow me to mention one point which is relevant, too, in a general sense and that is that the lines that we now have available though I appreciate that it will be the exception, but the lines that we now have available have been on the basis of the present, particularly

the bulk of the traffic between the United Kingdom and Gibraltar and even if this were done and this were to be a success, then, of course, we would have to look for more lines without prejudicing the links that are so essential between the United Kingdom and Gibraltar.

HON G T RESTANO

Yes, Mr Speaker, but I also was led to understand that perhaps more lines could be made available. As I say there is a democratic Government in Spain and this is the time when I think we have a greater possibility of introducing these communications through London rather than at any other time. Mr Speaker, I commend the motion to the House.

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

The Honourable J Bossano  
The Honourable Major R J Peliza  
The Honourable J B Perez  
The Honourable G T Restano  
The Honourable M Xiberras

The following Honourable Members abstained:

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

The following Honourable Members were absent from the Chamber:

The Honourable A J Canepa  
The Honourable P J Isola  
The Honourable Dr R G Valarino

The Motion was accordingly passed.



The House recessed at 1.00 p.m.

The House resumed at 3.15 p.m.

HON J B PEREZ

Mr Speaker, I beg to move the motion standing in my name: "That this House is concerned at the apparent harmful effect of the recently increased tax on bunkers as evidenced by the fall in the number of ships calling at Gibraltar and considers the matter should be reviewed in the light of these effects". Mr Speaker, Honourable Members of this House will recall that in March, in our last Budget, the export tax on bunkers and fuel, diesel or gas oil, was increased from 6.67p per metric ton to 55p per metric ton, an increase of approximately 700% to 800%. No doubt Members will recall that at the time members of the Opposition expressed concern at this very substantial increase in export tax. After 3 months have elapsed signs are really showing that there is a substantial decrease in ships calling for bunkers at Gibraltar. I have some figures with me, Mr Speaker, which I have obtained from the company concerned which I accept full responsibility for and I would like to read out to Honourable Members of this House. In April 1977, 17,130 metric tonnes were sold as compared to April 1976, 24,233, a decrease of 29% and I think Honourable Members must bear in mind that in April ships had made arrangements prior to this increase. In May this year, Mr Speaker, 9,077 metric tonnes were sold as compared to May, 1976, when 14,206 tonnes were sold, a decrease of 36%. In June this year, 12,000 tonnes were sold as compared to June, 1976, a figure of 16,613, yet again a decrease of 25% and in July, in this month, the estimated sale is way down to 9,000 metric tonnes as compared to July, 1976, of 15,363 metric tonnes, which shows a decrease of 36% to 40% in the sale of bunkers. Mr Speaker, the importance of the port and of our exports in Gibraltar have been emphasised not only by the Minister concerned, the Honourable Mr Serfaty, but it was also emphasised at Budget time by the Honourable Financial and Development Secretary and I take the opportunity, Mr Speaker, of quoting the relevant passages in his statement. He said; "Despite the generally depressed state of the world economy, the Commercial Port has had a moderately successful year and last year's advertising campaign appears to have paid dividends, 2,553 merchant ships of which 1,092 were deep-sea vessels, entered the Port during 1976, an increase over the previous year of 4.9% and 5.9% respectively. More ships called to make crew changes and there were calls for medical assistance. In both respects Gibraltar offers service superior to other Ports in this part of the Mediterranean. The number of ships calling

for repairs also increased: for this purpose the increase is a substantial 20% from 113 to 135 - compared to 1975." He then went on to speak "of the benefit of a thriving port to an economy" and in connection with the export trade he said: "The total value of exports in 1976 rose sharply to £13.7 million an increase of nearly 20%, and the particularly encouraging feature was the increase in both the volume and value of fuel oil and petroleum products exported. These rose by 11% and 27%, respectively, compared with 1975".

Mr Speaker, the decrease in ships calling for bunkers at Gibraltar will have further adverse effects on our economy. The profits of the companies concerned will automatically and accordingly decrease which will in turn result in less company tax being paid by these companies. There will also be a decrease in Government revenue in connection with port dues, berthing fees and also in connection with the employees of the companies serving the oil to the ship. There will also be a reduction in the profit on the traders of Main Street because by less ships coming in their profit will accordingly stop. So, all in all, Mr Speaker, although at the end of this year there may be a substantial reduction in ships calling for bunkers, we may still at the end of the year show some increase on the revenue derived from the export tax. But in my submission, Mr Speaker, this will be balanced out by a decrease in revenue from income tax from the companies concerned. We must also bear in mind that we face fierce competition from Ceuta, the Canary Islands, Italy and North Africa. Mr Speaker, I think that what this House did in March this year was that it saw that the Port was reaching a stage of success, its advertising campaign was paying off and we were having an increase in ships calling for bunkers at Gibraltar but I feel that we have prematurely attempted to reap the benefit of this. I feel that by having the export tax as high as 55p a metric tonne what we are in fact doing, Mr Speaker, is discouraging ships from calling at Gibraltar for bunkers and I think our economy will lose out on this. Mr Speaker, Honourable Members will note the manner in which I have worded the motion standing in my name. I am not asking for Government to reduce the export tax, what I am merely asking Government to do is to review the matter in the light of the figures that I have quoted. It could be that after the matter is reviewed that a reduction may be thought desirable but I have phrased the motion in this way so that Members of this House can express their concern at this apparent harmful effect that the new tax is having on our economy. Mr Speaker, I commend the motion to this House.

Mr Speaker then proposed the question in the terms of the Honourable J B Perez's motion.

HON A W SERFATY

Mr Speaker, the figures that the Honourable Mr Perez has given us are more or less correct, that is, they coincide more or less with mine. Let us have a look at these figures again and we all know that the increased export tax became effective on the 1st April. In 1977, for the period January to March, I am talking of ships calling at Gibraltar, not necessarily for bunkering, I will come to that in a minute. From January to March, 1977, we had 642 calls and from April to June, 631, which compares, if we want to compare with similar periods over the previous year though I am informed that unlike in tourism where the trade is not seasonal the comparison should be more with the previous month rather than with the previous year for the corresponding period of the year. In April/June, as I said, we have had 631 calls which compares with the corresponding period of last year of 615, so the movement of ships whether you compare it with the corresponding period of last year, 615, over the previous 3 months, 642, is not that bad as 631, it is more or less steady. If we look at the ships that come for bunkering we had over the period April/June 133 ships calling for bunkers compared with 152 over the period January to March this year. But we are not at all certain that this decrease in the bunkering trade in Gibraltar is due to the export tax, not at all certain. In fact, executives of oil companies have been telling us at the beginning of the year that 1977 would see a decrease in the bunkering trade in Gibraltar and the information I have so far of bunkering in Ceuta, from British sources, is that it has also decreased. So the figure is not that tragic that 155 over the first 3 months of this calendar year, compared with 133 with these 3 months April/June. I was rather surprised that the Honourable Member has given actual figures of tonnes of oil bunkers which have been supplied because I understood that the oil companies did not like these figures to be bandied around. Now we are talking of the bunkers sold whereas a moment ago I was talking of the ships that came to Gibraltar for bunkers. Let us assume that January 1977 was 100% of the oil sold. In February it came up to 137 compared to January. In March before anybody knew anything about the tax, it was 58% of the January figures. In April it was 27, in May it was 56, in June it was 65. The Honourable Member has given a percentage of 29% as the reduction in bunkers sold in April 1977 compared with April 1976, so I think we should also look at the reduction in the bunkers sold in March 1977 compared to March 1976 and the reduction was very much the same,

28% 28% reduction in March 1977 compared to 1976 before the increase, 29% in April 1977 compared to April 1976. Let us look at the figures of 6.67p which was the export duty which has been paid since December 1959. That, then, constituted 1.23% of the cost of fuel oil. The tax of 6.67p was 1.23% of the cost of fuel oil which in 1965 was £5.40p. The present tax of

152 over the  
corresponding  
period last  
year April/June  
and

55p is less than 1% of the present cost of fuel oil which runs at about £56.00p. Whereas up to March 1977 the oil companies were absorbing the 6.67p that they were paying to the Government in fuel tax, as from April they are passing the whole of the 55p to the clients. They are not even absorbing the 6.67p that they used to absorb. The whole of the 55p is passed on to the client. I know that in a place like, for example, like Singapore they pass on to the client the export tax of £1.00p. As to the oil companies having been slow at increasing their charges too for lighterage charges and surcharges. The difference between a charge and a surcharge is that the ship owners must pay per ton of oil so much per ton and there is a minimum surcharge if the lighter has to go out to the anchorage, even if a ship only takes 20 tons. There is a minimum of a sum of money that I am going to tell you now. In 1969 this surcharge was £32.50p. In January this year it was £175 and since then it has been increased to £292. So if a ship comes up to anchorage and takes 20 tons not only must he pay the 55p, the £56.00p etc., it has to pay £14.50 per ton surcharge, so the oil companies have not been slow either. I think the Government of Gibraltar has been slow in increasing the export tax from 6.67p, that is my main complaint. Is it fair that the Gibraltar taxpayer should subsidise the shipping companies and the multi-national oil companies?

HON J BOSSANO

If the Honourable Member will give way. Can he explain what exactly the Government is losing money on in the service it renders to ships calling for bunkers that requires a subsidy?

HON A W SERFATY

The very existence of the port costs the taxpayer money. Of course it does. We pay the Ministry of Defence an annual rent for those berths where the ships come alongside for bunkering where they pay a very minimal amount. An ordinary ship coming pays 4p per registered ton for coming alongside and a ship that comes alongside to bunker pays something like .2p. That is a subsidy, too. I am pleased to say that in the last three months we have collected more money in this export tax, in fact, 50% more money than in the whole of the previous year. In fact, an increase of 405% over the similar period last year. We would be fools if we did not keep this matter under review. Of



course we will keep it under review whether there is a motion or not because we have got to try and make as much money as we can for the people of Gibraltar and we shall keep it under review. Whether we vote for the motion or not is another matter.

HON G T RESTANO

Mr Speaker, the Minister made a comparison between March last year and March this year. I think that is rather an unfair comparison to make because in between March last year and March this year there has been a very creditable campaign by the Captain of the Port to advertise Gibraltar. Therefore with that sort of advertising campaign, there should have been an increase in figures of ships calling. We should not look at this particular aspect of comparisons without taking that advertising campaign into account. Without that publicity the figures should not be the same they should be on the increase. On the question of the increased charges on bunkers the big danger, of course, is that if ships are prevented from coming to Gibraltar on account of the increased bunkering charges and the position is reviewed at a later date, it then becomes extremely difficult to get back the trade that was here originally. I think that particular publicity programme did an awful lot to create for Gibraltar that added attraction to shipping companies to come and bunker here. It was cheap, I agree with that, it was a cheap service that was being given, it was not a great export tax, but for this very reason ships were coming into Gibraltar. It may well be that although, as the Minister says, there has been an increased taking from last year, how long will that taking last? That is the problem, Mr Speaker, and I think that is what the Government must look very sincerely into. It is not just a question of taking the cream off the milk. As the Honourable Financial Secretary said in his Budget speech, the port was on the increase. Let us not kill the goose that is laying those golden eggs.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I have taken careful note of the very precise words in which the Honourable Mr Pere<sup>a</sup> has framed his motion, namely, he has included the word "apparent" in relation to the harmful effect and the motion itself asks no more than that the situation should be kept under review. In an area like this where the burden of what I imagine in 1959 was introduced as a

revenue tax, in an area such as this the tax falls on two large powerful commercial groups. To that extent, perhaps, it might be said that the tax is, I will not say discriminatory but it is certainly very specifically directed and therefore it is not surprising that when you are dealing with powerful interests they will certainly squeal at any alteration in a revenue tax which, over the years, has not kept pace at all with the rising costs of the service for which it was presumably originally intended, not to finance directly because that is not the way things are done here, but indirectly to finance the cost of the service which at any rate one of those interests uses when calling in Gibraltar. One thing I do think we should all recognise is that with only three months relevant figures since the export tax was increased available to us, it is, I think, undoubtedly premature to put it at its mildest, premature, to draw any specific or positive conclusions from it and indeed the Honourable the Mover of this Motion has not, in fact, drawn such conclusions, he has qualified his wording on this. But there have been suggestions that the fall in the number of ships calling for bunkers and the amount of bunkers supplied has been directly attributable to the incidence of the increased export tax. I do not think that any person can logically go along with that. That is not to say, and I do not say, that the increase in tax might have had some effect, but as the Minister quoted for various other things, it seems, and again one has got to qualify these remarks, it seems as if 1977 is going to be a year in which the general volume of shipping movement s calling at Gibraltar at any rate is going to be less, perhaps, than it was in 1976. I think that the only valid conclusion that one can draw, whatever figures one bandies about, is that it is too early to reach any positive conclusion. I know you can draw what conclusions you like from figures, you can make them mean almost anything, but in this particular case it is, in my view, too early to be positive that the increase in the export tax has in fact had any material effect on the number of ships calling at Gibraltar, specifically for bunkers, or, indeed, calling, generally, for the other services which Gibraltar provides, i.e., repairs, crew changes and so on. Indeed, I have a figure here and I have to qualify it because unfortunately when I made the note I did not copy down exactly all the correct information but the information that I copied down in general terms was that the amount of cargo handled so far in 1977 shows a significant drop from the amount of general cargo which was handled in 1976 in the corresponding period. Again one can say that is indicative of a general decline in the volume of shipping calling at Gibraltar. It may be an indicator but I think as I said just now, and this is the note on which I wish to end,

that it is premature at this stage to draw any firm conclusions from the very limited amount of statistical information which we have and to that extent, quite obviously, the Government is going to keep a very watchful eye on the whole situation.

HON MAJOR R J PELIZA

Mr Speaker, I am very glad that the Government is taking the suggestions made by my Honourable Friend Mr Perez seriously because I consider this to be a serious matter from the point of view of income to Gibraltar. Whether the Government is looking at it in the right concept I am not so sure. I fully agree that the figures as shown now do not necessarily, because the March figures were already low, do not necessarily indicate that the cause of the reduction in the sale of oil in Gibraltar is due to the tax but, on the other hand, I think, we have to look at the matter from the point of view that we are dealing with one or two big firms, as the Honourable Financial Secretary so rightly pointed out. They are gigantic in world size and of course monstrous compared to the size of Gibraltar. Even the local management probably has very little say as to where that particular firm will encourage their clients to go for bunkering. We have to remember that whatever is decided at their headquarters and whatever policy those particular companies adopt, will have, I think, serious repercussion in all the places where they have bunkering. I would have thought that co-operation between the Government and local management would have been, I think, a rather prudent thing to do and I hope they did it, if they do not I suggest that they start from there as soon as possible because what might appear to us to be insignificant on the question of pennies, I think may not be so insignificant in other places where perhaps it is more due to sympathy towards Gibraltar or due to the influence of local management that they attract shipping to Gibraltar, perhaps even more than the profit at the end of the day, although I must say that these companies obviously are rather heartless and profit is the thing that makes them move. The fact is, however, whether we like it or not that if the trend continues and it seems to me as if this is so from the figures that we have had since March or even if the March figure was more like an indicator of things to come on the part of the company, a sort of warning shot, and perhaps that figure is there already because of that, the fear that the tax was going to go up perhaps considerably or the fear that the tax as it is now is more than they are paying in other ports. I am afraid I do not have the knowledge of that but I think it would be interesting if the Government, in reviewing all this matter, were to make it rather a more extensive one than purely looking at Gibraltar and the port across the Straits where, by

the way, I understand the prices are lower than in Gibraltar. Perhaps the Minister can say something on that.

HON A W SERFATY

If the Honourable Member will allow. The price in Ceuta is the same as the price in Gibraltar, the cost per ton of fuel. We do not know what tax there is. And there is something further, these prices are subject to discount of which nobody here has any information. In Gibraltar and Ceuta we do not know the special discounts that are going on.

HON MAJOR R J PELIZA

So first of all there are two things. We do not know if there is a tax which means that there is no tax and, secondly, we do not know what the discounts are. Ceuta is a free zone and in another context I think I drew the attention of this House to the possibility of reducing the import duty but again that fell on deaf ears. I intend to pursue that point, of course, in another context.

HON A W SERFATY

If you will allow me once again. Ceuta is not a free zone, import duties are paid in Ceuta for the importation of electronic equipment, etc.

HON MAJOR R J PELIZA

There is no tax paid on fuel oil. We also know now that the discount which is up to the company, obviously to give away or not give away and here it just proves the strength of these companies. At the Budget session I congratulated the Minister for the success in his advertising and the way he was drawing shipping to Gibraltar but at the same time I stressed very much that I thought it was imprudent to raise the tax on fuel oil at this stage. Whether that is the cause or not I think there is this question mark now that that may be the cause and if this had happened without the tax having been increased then of course we would know that the tax had nothing to do with it and we would forget about that point. But the indications are that that may have been the cause and if that is so I think it is in the interest ~~first~~ of all of the Government for the very



reasons that my Honourable Friend Mr Perez has pointed out, not only may we lose in the duty paid by fuel oil because obviously the loss will be more than what we are going to gain through the increase and we may also lose in direct taxation from that company plus all the trade that this brings from Gibraltar indirectly. What I fear most is that if the volume of trade of these companies in Gibraltar fall down to a level where keeping them here is more of a nuisance than anything else, then if we lose these good bunkering facilities altogether because there is no good firm here to attract the client, then I think Gibraltar will have lost a lot. In my view it is a very serious matter. The figures are very considerable, the last one I think it was nearly 40% and they are already alarming figures for a place like Gibraltar and I think the Government would do well to give it a quick re-think and not just leave it as a matter of a review that takes place in the normal course of events but something that urgently requires attention and I would certainly welcome the Minister going into this very thoroughly and making a statement to this House perhaps when we meet again after the summer recess. I do hope that the Government will look at this seriously.

HON A P MONTEGRIFFO

The Government is of course prepared to keep a close watch because we are still not certain as to whether or not this increase in tax on bunkers is the reason why we are having less ships though there are of course conflicting figures or a conflicting approach in viewing the matter in the way the Honourable Mover of the motion puts his case and the way my Honourable Friend Mr Serfaty put his. I am very surprised that while we have been talking about the tax, this multinational company has increased its charges which may also damage the port of Gibraltar and no word has been mentioned about it and, if anything, perhaps there has been a failure on the part of the Government in not having a closer look as to whether those astronomical figures which I have just heard from Honourable Members on this side of the House and investigated them. I think it is our duty as Members of the House, in keeping a close watch as to whether the tax is affecting or not affecting the coming of shipping to Gibraltar, to inquire as to whether the charges that have gone up so steeply since March by the Shell Company which is not a poor company by any means, are justified or not. I am sure that the Government will take into account both things when it makes up its mind as to whether or not the tax should be reduced.

HON P J ISOLA

Mr Speaker, it appears that both the company supplying bunkers and the Government have both tried to get their cut at the same time and I agree entirely with the last speaker that when one is looking at the situation on that point of view I think one has to look at the cut everybody is taking because,

Mr Speaker, the sad fact is that due to the position of our economy and other factors, money has to be found by the Government and if money has to be found by a tax on bunkers, and it may well be right to reduce it. I would not do away with it, if the money has to be found from elsewhere and then that is when the public interest must come into our minds and consideration because whereas Members here may be quite happy to reduce the tax on petrol they might not be so happy if they were told at the same time tax on incomes would have to go up 2p or whatever it is in the pound to make up for it. I certainly would not agree unless it was shown that this particular export tax was having a really harmful effect on the Port. I think that the mover has allowed a certain amount of leeway on this in saying that the matter should be reviewed. I think one is inclined to agree with the position that this is something that has to be reviewed and one has to be certain that the cause for the drop in purchase of fuel oil is the tax and nothing else and not just the increase charges or whatever because I think it is fair to say that 1976/77 does seem to be a period of general recession. I am sorry for the Minister for Tourism, Trade and Economic Development, everything he is responsible for seems to be in recession, the fall in bunkers, you have the fall in tourism and you have the slippage in development. It is a bit sad, but it is, in fact, a year of recession it may have been an unfortunate time to put a tax on, or rather to increase the tax in the way it has been done. But I think the criterion must surely be whether the tax is the cause of the drop in purchase of fuel oil from Gibraltar, if that is the real and genuine cause if that is the sole cause. If that is the case then I think there is a big case for reviewing it. If, however, the fall in ships taking bunkers is due to increases in the surcharge put in by the supplying company, the recession in world shipping, etc., then I think, clearly, one has to wait and see the effects over a period of time. I agree with the mover and I agree with other Honourable Members who have spoken that you cannot leave it too long because obviously as I understand it, and this is one thing I would like to know from the mover when he replies, as I understand the situation, I do not know very much about it, I think that the purchase of bunkers for ships is something that is planned out quite some time ahead so obviously April and May and June may not, in fact, have been affected, it may be

just the normal recession. Possibly, to know the effects of the recently increased tax we may have to wait a bit longer. I think we must be careful, Mr Speaker, not to reduce the tax because the person or company or people affected ~~sh~~out because I should imagine if this was successful we would have the Gibraltar Taxpayers Association coming here and getting my Honourable Friend to move a motion to reduce income tax which I would hope would have much greater support in this House than this. I think that the mover is right in bringing this motion because I think the port would seem to me to have the greatest potential for outside revenue for Gibraltar, I think rather more than the airport. I think ships that call in do spend more, yachts calling in apparently spend more. We have more hope, as far as the revenue is concerned, I think, from the sea rather than from the air and that is why I think it is a very good thing that advertising has gone up in the Port and a campaign is being made to increase revenue from that side and that may be of course a good argument in itself for not giving the impression that the Port of Gibraltar overtaxes. But, again, to be fair to both sides, I think that the actual amount of tax in terms of percentage would seem to me to be very low. Unless it can really be proved it would not seem to me to be a ground for saying, "This is the reason for the drop of charges". If such an increase did in fact affect, then I would have thought the supplying company <sup>the</sup> would have thought twice before putting up the surcharge to extent that it has put it up. But again that may have been made necessary by the efforts of the Honourable Leader of the Opposition in other things, I do not know, but unfortunately we are all under the same pressures. The Government has to find the money and I suppose the Company itself has to find the money and if they can put up their own surcharges and get the Government to reduce their charges I suppose this makes sense. But on a serious vein, Mr Speaker, I think that the question of bunkers in the port is an important thing, I think that the fact that the company may make huge profits is not a bad thing because presumably it will have contributed to us in another way, in income tax, and I think what must be looked at is the genuine needs of the Port and the genuine needs of the Company. I think having discussions with the Company is a good thing so that we do not both put up our charges at the same time. Mr Speaker, as far as the motion is concerned I think it has achieved its purpose in calling the attention of the House to the alarming situation that in fact the purchase of bunkers seems to be going down and that the Government should review the position and review the causes that have caused this and let us know in due course their considered views in the matter.

HON A J CANEPA

Mr Speaker, I do not think that anyone in this House or even outside the House would describe me as an extreme left wing socialist, but listening through some of the earlier speakers, the mover, and those who followed him in support of the motion, my heart could not but help bleeding for the companies that have been assailed by the Government in this way. A company, Mr Speaker, which is able to pay its workers perhaps some of the highest wages and the best conditions in the private sector, a company which has no hesitation in being perhaps the first one to settle a wage claim in the private sector, and I refuse to believe that if a company can do this in order to maintain good industrial relations which are of tremendous importance in enabling it to carry on conducting its activities and making good business, I refuse to believe that that company can be so seriously assailed by the increase in the export tax. It is no secret Mr Speaker, that at the time when the price of oil was quadrupled in 1973/74, later on when the final accounts came in we found out that all these oil companies had made enormous profits. They were on to a good thing as a result of the quadroupling of the oil prices and I refuse to believe, Mr Speaker, that at a time when in 1973/74 the price of a ton of fuel was £10 a ton and the tax was 5.67p that the companies could increase the price of oil to fifty something pounds a ton but now, of course, if the Government put a tax of a mere 40 something extra pence, that is what kills the goose that lays the golden eggs. I am not convinced by that argument, it is the same sort of argument which the



gentlemen in the Opposition at the time and, naturally, because it is popular to oppose taxation, the same sort of argument that we had with the Airport Tax. There is a similar analogy. Air fares were increasing enormously but the 50p tax that the Government imposed in order to get tens of thousands of pounds relatively painlessly for the local exchequer that was what was going to cause the tourists to stay away from Gibraltar. We have got exactly the same argument now. It is the increase in the export tax that is bringing about the fall in the number of ships calling at our ports for bunkering. It could be, but we need to be sure. As the Financial Secretary said three months is not good enough, maybe Major Peliza's suggestion is a better one of a statement perhaps being made after the summer recess, that is, October, that will give us another three months. Perhaps if it can be without reasonable doubt established that this is the cause of the fall in bunkering, we may need to take remedial measures before too many months have gone by because it is clear obviously that once we lose a substantial number of ships, unless we act quickly, we may not get them back, that is obvious, but my view is that it is too soon, we need to be absolutely certain and I wouldn't, at this stage, give too much credence to the belly-aching of those who are at the moment affected because that is the immediate reaction of those that are affected by any measure of taxation and the thing must be allowed to find its level. Let us have some time to review the matter and then perhaps the Hon Minister, as suggested by the Hon Major Peliza, can make the necessary statement in October or November giving the results of these investigations. At this stage I cannot support the motion as it stands.

#### HON CHIEF MINISTER:

Mr Speaker, I thought when my colleague was speaking about the airport tax that he had already stolen something else I had in mind to say but there are so many examples of these new taxes bringing ruin upon Gibraltar that there are other examples. When we introduced the duty-free shops at the airport we had the then Member of the Opposition Mr Caruana weeping and saying that all the traders of Main Street were going to be ruined and that we were depriving everybody from getting the profits that they were getting. On the other hand we had a question earlier on in this session that people should be able not to pay duty in Gibraltar for what they were going to export. This is a perennial with Opposition and it is also a perennial of Government to have to look for the money.

Therefore, although I commend the moderation which the Hon Mover moved his motion and the terms which he has endeavoured to put into it to give leeway up to a point, I commend that very much, I was really not impressed by the follow-up that he tried to go down to the company paying less tax and the trader making less business all the way around because you could say that of any kind of commercial transaction. The pressures that has no doubt been brought about, and it is only proper by people affected, on Members of the Opposition, have been voiced to members of the Government earlier. It is only when they fail to convince the Government that the taxation should be repealed that, of course, they have recourse, very properly in a democracy, to lobby the other people in order to overstate the effects of any particular tax. But on the other hand let me say without any hesitation that this matter was the subject, precisely because there had been these representations to the Government, this has been the subject of discussion between my colleagues, certainly the Financial Secretary, we have spoken about this several times and we all came to the conclusion before the motion was taken, that this was a matter that had to be kept under review and that this was a matter that concerned us. We are in fact keeping it under review and had it not been like that we would not have had the research which the Hon Minister has in his brief available regarding quite a number of other features all of which he has not really dealt with because it covers a variety of matters not so connected with this. In the list of prices which my Hon. Colleague produced, he didn't mention Algeciras, though he mentioned Ceuta, and I notice that Algeciras and Ceuta are exactly the same as Gibraltar. In fact, the cost is the same and let nobody think that oil brokers and bunker brokers call at Gibraltar because they have a soft spot for the people of Gibraltar. These are hard business decisions to be taken and what they do take into account is the turnover of the port, the facilities that the port, here or there, the demurrage, the timetables of the ships, all the things which are taken into account and these are the things that tip the balance sometimes even with a little more expense. We have had that experience with water. Unfortunately, water has got to be expensive yet ships come here because they get the water and they know they get it and they also come here....

HON MAJOR R J PELIZA:

Isn't it fair to say that in Ceuta they get free water, or at least not as expensive as in Gibraltar?

HON CHIEF MINISTER:

No, it is not accepted. It is accepted that sometimes Ceuta has no water at all whereas we provide a continuing, even if it is a restricted one in difficult times, we supply a continuing service of water, that has been established and, in fact, funnily Ceuta has no water when there is a lot of rain which is when all their installations get flooded and they cannot provide water. This is the irony of the thing when, perhaps, we haven't got enough because we haven't been able to fill up our reservoirs. So that in keeping with the spirit of the motion but not with the wording with which we cannot go, and in order that there should be some record of the contribution of the Hon Member on this matter as being of concern of the House, I am moving an amendment, Mr Speaker I move that the motion be amended as follows:-

- (a) delete all the words after "House" in the first line to the word "in" on the third line and substitute the following words: "should keep under review"
- (b) delete the fourth and fifth lines of the motion and substitute it by the following words: "following on the increased tax on bunkers".

Mr Speaker proposed the question in the terms of the Hon Chief Minister's amendment.

HON J BOSSANO:

Mr Speaker, the amendment that the Hon and Learned Chief Minister proposes produces the impression in me that it is not a Spanish Admiral after all that we are going to get but the equivalent of the Spithead Review with the Hon and Learned Member watching the number of ships that stop at Gibraltar for bunkering to ensure that they don't drop. I think that the original motion as it stood, which did not ask the Hon and Learned Member with all his many duties, on top of that, to spend his time reviewing the number of ships coming in, simply limited itself to expressing concern at what is apparently taking place precisely in recognition of the fact that the element of time that has elapsed since the introduction of a higher rate of tax on bunkers was insufficient to enable one to make a categorical statement. Therefore I feel there is really no need for the Government to do away with the original words because in fact there is an apparent harmful effect which the Government itself admits, otherwise there would be nothing to keep under review. Then if the Government has seen no reason to suspect that anything

could be going wrong there is no reason for them to think that there is anything to review. If everything is going as predicted at the time that they planned to introduce the tax, then nothing has changed since Budget time and there is no more reason to review this tax than there is to review any other one. The reason why attention is being called to this is because it looks at this stage as if something might have gone wrong. We may be mistaken. We may find next month that the trend is no trend at all and that there is a dramatic upsurge in the number of ships calling but so far on the basis of the evidence that we have, there appears to be a drop in the number of ships calling which is correlated with the increase in taxes and correlated with the increase in other things, and when you have got a number of variables correlated with each other it is very difficult, of course, to establish cause and effect. In this context the only thing that we can do, of course, is ask for the Government's cooperation and hold them responsible for the possible effect that their decision might have had. We cannot hold them responsible for the effect that the decisions of the management of the oil companies may have unless the Government, of course, were to price control them and they would be taking on the responsibility. But as long as it isn't price controlled and there is a company free to raise its prices Government cannot be held responsible for any harmful effect that the increase in prices may have. It comes only in the sense that if they omit to do anything about it presumably it could be said that they should introduce something that wasn't already there to prevent it from happening. But I think that if the only contribution that the Government has made to the situation has been to increase the taxes, the only thing in which they can be asked to give, explanation is on that. It may well be that, as the Government has tried to argue, the shipping would have gone down for a number of other factors unconnected with the tax. That the effect of the tax is so marginal that it would not have made any difference one way or the other but if, as the Hon and Learned Chief Minister said, the decisions are taken in a hard business world where sentiments do not enter, I would have thought that even a minimal increase would enter into the computation of whether to call at Gibraltar or call somewhere else. One would need to be very well informed about the bunkering market to know to what extent minimal increases in taxation could keep the balance one way or the other. I think, Mr Speaker, therefore, that the change in the volume of shipping calling at Gibraltar which, as the Hon and Learned Mr Isola said, may be a combination of the recession that Gibraltar is entering into in a



number of other fields, nonetheless suggests that it was hardly the most appropriate time to introduce a tax on a falling market. It is our view that the greatest asset that we possess is the port and that in looking at the revenue that the port produces we must look at the overall picture and consequently the high wages that the Hon and Learned Mr Isola seems to dislike so much in the oil companies and so on, they, in fact, are also revenue-producing for the Government. If we choose to disregard, by attempting to over-exploit not directly the oil companies, the oil companies, as I understand it, would in fact still sell the oil, we are talking about an international company that would not lose business, it would be Gibraltar that would lose business and not the oil companies. They would sell the oil in any other port so I don't think that it is the oil companies whose interests we are defending here. In fact, what we are saying to the Government is that we are concerned that an error of judgement might have been made about the possible repercussions of the tax that you have introduced, and, if that is the case - we are not sure that it is the case - but if that is the case we think you should take another look at the matter. It isn't a motion that accuses anybody or any wrongful motive. It is a fairly mild motion, Mr Speaker, and I cannot really see why the Government cannot accept it, because it is not even a critical motion, it doesn't criticise the judgement of the decision. We cannot go along with the proposed amendment because if we take away the concern about the apparent harmful effect of the tax, in fact, if we were not concerned that apparently it has had a harmful effect, we wouldn't be putting a motion and we wouldn't be supporting it. If the Government is convinced that there is no substance in that concern they should ask us to withdraw the motion and not to amend it.

HON M XIBERRAS:

Mr Speaker, I think that the objection which exists on the Government bench to the motion as presented, and I must say it has been argued out very lucidly by both sides, is that the original motion attributes whatever fall-off in the rate of increase of shipping has come about post to the introduction of this tax by the Government, as to the possible sole cause. I can see from the figures the Hon Mr Serfaty has quoted that that position is not proven, if I may put it that way, by the Hon Mover. Nonetheless, I thought the Hon Leader of the Opposition's arguments rather ingenious when he spoke about the harmful effects and so forth but I do not think that he has a point there. I would say that the point that is substantial in the Hon Member's argument is the concern that the House must feel at the figures. Whether one accepts that the cause may be solely the new tax or whether it might be the attitude of the oil

companies, or whether it may be the changes, but certainly, the House cannot fail in my view, to show concern for the trend in shipping. Mr Speaker, if I had to introduce an amendment I would do it something along these lines. "That this House is concerned at recent trends in shipping calling in for bunkers in Gibraltar following the introduction of the tax and calls for a review of the situation in the full awareness of the importance of this service to Gibraltar both by the Government and by the oil companies." This is not an amendment because I have not moved it but that Mr Speaker, I think, is the real sense of the situation. I do not think that the Government can fail to be concerned by the apparent drop in the increase which we were coming to expect in this most valuable area of our economy. The very fact that the Government, following the pouring of oil on troubled waters by my Hon and Gallant Friend Major Peliza, who can be constructive as the Government must recognise, I think the Government is prepared to concede the point that there is a need for a review of the situation and that this review should not be in the normal course of events because even the figures quoted by the Hon Mr Serfaty would not allow the Government to act in that routine manner, but to have a review conscious of the fact that things are not going well in this area for whatever reason. Therefore, the House should express, to my mind, concern about this matter and bearing in mind what has been said on both sides of the House, I would have to support the original motion because it does show concern even though I do not agree that cause for this concern is attributable solely to the taxation. I think the Hon Member has proved that much. Another matter for concern for me is that we have had a number of contributions from Hon Members which makes this appear to be some sort of a duel between the oil companies and the Government or between members of the Opposition, the Government and the oil companies. I think there is enough sense in the House and common ground on the proposition to be able to present a common front on this to the oil companies and that the common front should not be one of antagonism but one of awareness that the oil companies do have a most important part to play in Gibraltar. I disagree with the Chief Minister that this is purely a matter of economics. I think that there are other things besides. I think the treatment the Government accords the oil companies is a factor, though I would not stand myself in Government for the Government being kicked around by a company even a company of that size. The company must be reasonable but I do not think it is prudent or even right to adopt a tone of confrontation with the companies especially companies which are fairly long-established. Perhaps confrontation is too hard a word but certainly a question of

"we are here and you must respect our rights" and I thought the Hon Mr Canepa's intervention was along those lines.

MR SPEAKER:

I think the Hon Mr Canepa said that whenever anything like this takes place there is always a moan by the people affected and they always seem to be able to assimilate whatever the effects in the long run. I am not saying whether he is right or wrong, I am just trying to quote him.

HON M XIBERRAS:

I think the Hon Members therefore must realise, and the House must realise, that there must be a bit of cooperation. Having said that I would admit to the logic of the Hon Member's argument that the tax seems to be quite small in comparison with the increased charges that have taken place. I detected from the Minister, a certain amount of concern, as concern there must be in this situation. The figures quoted about Algeciras and Ceuta show that competition is pretty high in these areas. In other words, we are now at exactly the same price and it is a question.....

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. The prices quoted were the actual prices of fuel oil. No question was ever brought in as to what other charges a shipping company is charged to buy oil at these various prices. It is the price of oil, pure and simple, bunker oil, nothing else about the charges, port dues, lighterage or anything, the price of a ton of oil.

HON M XIBERRAS:

I am glad the Hon Member has made that point clear because from what the Chief Minister and the Minister for Trade said one got the impression that the prices were the same. Whether that is not the case, perhaps, the Hon Member is saying that the prices are higher.

MR SPEAKER:

I know it is very, very difficult to differentiate whether you are speaking on the amendment or on the actual motion. It doesn't matter provided we get an undertaking from whoever is doing this that he does not intend to speak a second time and then you are free to say what you want.

HON M XIBERRAS:

I was merely trying to get a consensus on this one, Mr Speaker. I do not intend to take part in the debate again. In fact, one of the important things the Government should have done is to come forthrightly out at how much is oil in Ceuta, in Algeciras and state the price quite clearly so that I wouldn't be beating about the bush over this. Is any Hon Member willing to tell me what is the price of oil at Ceuta and Algeciras?

HON CHIEF MINISTER:

The Hon Mr Serfaty said that that was the price and he mentioned Ceuta and he made it clear and said that he did not know what the charges are and then I said it was the same as Algeciras because there is a belief here, for example, that water is free in Ceuta, that everything is free somewhere else, and I just wanted to show that even Algeciras has exactly the same price for bunkers and nothing else.

MR SPEAKER:

I think one is comparing like with like, that is the impression I got as far as fuel was concerned. The fact that there are other services in other ports is another matter but I think the actual comparison was like with like.

HON M XIBERRAS:

The answer is we don't know what it comes to in the end. I think it is enough to say that the difference can not be all that much if the basic price is the same, or we still do not know. We are competing with people just across the Bay but we still don't know how much it costs. Mr Speaker, I would imagine that even in that situation the Government should show some concern for the figures produced by the Hon Mr Perez which substantially have been corroborated by the Hon Mr Serfaty and if the Government does not want to pay any attention to this either after this debate or after the debate on the Budget when we paid a lot of attention to the port, then it is their own lookout, they can argue it out with the oil companies. But I think the people in the port are concerned and I feel that the Government should be concerned about this matter and that amendments should be introduced to register the concern of the House on this.

HON M K FEATHERSTONE:

I wonder if this House has been debating to a great extent on a wrong premise. I think that the Hon Mr Perez misled himself



and unconsciously misled the House to a great extent when he started talking about the falling number of ships visiting Gibraltar and the lesser amount of bunkers being taken comparing to the year 1976. If anybody takes the trouble to look up the Port Department Annual Report you will see that 1976, in the shipping world in Gibraltar, was what would be called, a "mirlo blanco" a white blackbird. There were some 19 million tons visiting Gibraltar, an increase over the previous year of 35%, the previous year 1975 was about 14 million tons, and the three previous years to that had been in the range of 13/14m. It would seem to me that where you get an unprecedented increase of 35%, and I don't think with the greatest of respects to the Hon Minister on my left, all this was due to the advertising campaign because the advertising campaign takes about a year to get into operation. This was an exceptional year and therefore I would submit that by comparing all our figures to 1976 we are leading ourselves astray. If we were to take the more average figure which has been appertaining in the years 1972 to 1975 of some 14m. tons visiting the Port then the figures of the three months this year are, if anything, a little above the average of those years, so that, I think that we are, to some extent, making a little bit of a mountain out of a molehill when we talk about this tremendous decrease in the number of shipping visiting the Port and I think the wisest course would be to follow the terms of the amendment. It would, I am sure, already be done by the Captain of the Port and the Minister for Ports but that this House asks that the figures are kept under close review all the time so that we can see, perhaps, by the end of the year or next Budget time whether we have reverted to what is the normal average for Gibraltar or a little more or a little less but not base ourselves on this white blackbird of 1976 which much as we would like we would hope to be repeated, possibly will not be repeated so easily.

Mr Speaker then put the question in the terms of the Hon the Chief Minister's amendment and on a division being taken the following Hon Members voted in favour:

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 following Hon Members voted against:

The Hon J Bossano  
The Hon J B Perez  
The Hon G T Restano  
The Hon Dr R G Valarino  
The Hon M Xiberras

The following Hon Member abstained:

The Hon P J Isola

The amendment was accordingly passed.

MR SPEAKER:

I will remind the House that the motion as amended reads as follows:- "This House should keep under review the number of ships calling at Gibraltar following on the increased tax on bunkers." The following gentlemen have already spoken to the original motion: Messrs Serfaty, Restano, Collings, Peliza, Montegriffo, Isola, Canepa and Hassan. Anyone else who hasn't spoken to the original motion is free to do so before I put the motion to the House. If there are no further contributors I will call on the Mover to reply to the motion as it stands now.

HON J B PEREZ:

Mr Speaker, I have no other choice but to be realistic and to say that we will be voting in favour of the motion as it stands now but I say so because I was in fact very surprised to find that the Hon and Learned the Chief Minister thought it fit to put in this amendment because the reason we are voting in favour and the reason I believe that the Government will be voting in favour of the motion now is because we are in fact showing concern at the matter.

Mr Speaker then put the question in the terms of the Hon J B Perez's motion as amended by the Hon the Chief Minister and on a vote being taken the following Hon Members voted in favour:

The Hon I Abecasis  
The Hon J Bossano  
The Hon Major F J Dellipiani  
The Hon M K Featherstone  
The Hon Sir Joshua Hassan  
The Hon P J Isola  
The Hon A P Montegriffo  
The Hon J B Perez  
The Hon G T Restano  
The Hon A W Serfaty  
The Hon Dr R G Valarino  
The Hon H J Zammitt  
The Hon J K Havers  
The Hon A Collings

The following Hon Member abstained:

The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon A J Canepa

The Hon Major R J Peliza

The motion, as amended, was accordingly passed.

MR SPEAKER:

May I tell the House that we have to recess early today because it is July 14<sup>th</sup>, Bastille Day, and I think some of us have certain commitments. There is still some official business to transact including one further motion which if the Hon Mr Xiberras gets leave of the House to suspend Standing Orders he will be in a position to move and there is still a Bill to go through Committee Stage and there may be official business, I am not sure. We can do one of two things, sit for another half hour and go through the Committee stage of the Miscellaneous Amendments Bill and then come back tomorrow for the motion on the Order Paper or recess now. My inclination is to go through the Committee Stage and Third Reading of the Bill and then recess after that.

HON CHIEF MINISTER

I understand that the Hon the Leader of the Opposition is not pursuing the question of the amendment so I think perhaps we could finish with that item of the business and start tomorrow morning.

HON ATTORNEY GENERAL

Mr Speaker, I beg to move that the House should now resolve itself into Committee to consider the Miscellaneous Amendments Bill 1977, clause by clause.

This was agreed to and the House went into Committee.

THE MISCELLANIOUS AMENDMENTS BILL, 1977

HON J BOSANO:

I would like just to say what I am not going to do. After listening to the arguments that were put at an earlier stage, Mr Speaker, I feel that the best thing is not to press ahead with the amendments. I know that the Government has got the whole of the Landlord and Tenant Ordinance under review and I would like them to give serious consideration for the next meeting of the House, after the summer recess, if they are not in a position to do anything more fundamental at least to try and do something about the state of properties which are at present under control.

HON CHIEF MINISTER:

Mr Speaker, I tried to envisage, when the Hon Leader of the Opposition was speaking earlier in this debate, his thinking on this, and to be quite frank I am not very clear and I would invite him perhaps to write a note to me as to what he has in mind in that and we will certainly look at it.

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

New Clause 9

HON ATTORNEY GENERAL:

Mr Chairman, I beg to move that the following Clause be added immediately after clause 8:

"Amendment of 9. Section 303(1) of the Public Health Cap.131. Ordinance is amended by the deletion of the words "Criminal Justice Administration Ordinance" appearing therein and by the substitution therefor of the words "Magistrates' Court Ordinance"."

Mr Chairman, this is a section which deals with the issue of summons for rates by the Accountant-General. Until 1961 the section read as it is down today and it provided that the provisions of the Criminal Justice Administration Ordinance which prevented a summons being issued unless within six months after the offence complained of, then it was time barred. So in Gibraltar and in the United Kingdom there was an exception in so far as rates were concerned. In 1961 the Criminal Justices Administration Ordinance was repealed and in its place there were two new Ordinances, The Criminal Justice Administration Ordinance, 1961, and the Magistrates' Court Ordinance, 1961, both of which are now are on our statute book. The provision as to time was removed from the Criminal Justices Administration Ordinance and put in the Magistrates' Court Ordinance and consequently there was a provision in the Criminal Justices Administration Ordinance, 1961, saying: "For references to Criminal Justices Administration Ordinance in any other Ordinance there shall be where the matter is now in the Magistrates' Court Ordinance, there shall be a reference to the Magistrates' Court Ordinance. So quite clearly, after 1961, the Public Health Ordinance Section 303 read: "Notwithstanding the provisions of the Magistrates' Court Ordinance". Unfortunately, the draftsman for the revision overlooked this and didn't change it at all, so it still reads "Criminal Justice Administration Ordinance." In a recent case in the Supreme Court the Chief Justice ruled that this was an error on the part of the draftsman and that it was in order to read the section as if the words Magistrates' Court Ordinance are already contained. So all we are doing by this amendment is making matters completely clear. No more



than that. Mr Chairman, I commend the additional clause to the House.

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 new clause 9 was agreed to and stood part of the Bill.

#### New Clause 10

HON ATTORNEY GENERAL:

Mr Chairman, I beg to move that the following clause be added immediately after clause 9:

"Amendment of 10. Section 2 of the Income Tax Ordinance is  
Cap.76. amended in the definition of "Commonwealth"  
appearing therein by the insertion  
immediately after the words "within the  
Commonwealth" appearing therein of the words  
"and having membership of the Commonwealth". "

Mr Chairman, we amended the whole concept of Commonwealth in May of this year when, instead of listing all the countries, we merely made a general reference to the Commonwealth. Some pundit in London has suggested that the definition we have included might give the impression that Her Majesty the Queen is not merely Head of the Commonwealth but Head of the Republics within the Commonwealth. I am not prepared to argue with them and so I have, at their suggestion, inserted these words here which the legal eagles think read better. Mr Chairman, I commend the additional clause to the House.

Mr Speaker then put the question which was resolved in the affirmative and new clause 10 was agreed to and stood part of the Bill.

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

#### THIRD READING.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to report that Miscellaneous Amendments Bill, 1977, has been considered in Committee and agreed to with amendments and I now move that it be read a third time and passed.

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

The House recessed at 5.05 p.m.

FRIDAY THE 15TH JULY, 1977.

The House resumed at 10.30 a.m.

MR SPEAKER:

We now go on to the motion still remaining to be moved by a private member. I will remind the mover that he has not complied with Standing Orders in that five clear days have not elapsed since his notice and perhaps he may wish to make an application in this respect.

HON M XIBERRAS:

Thank you, Mr Speaker. I beg to move the suspension of Standing Order No 19, which deals with notice of motions, so that the motion which I have on direct elections to the European Parliament can be taken now.

HON CHIEF MINISTER:

Mr Speaker, I do not propose to oppose the motion for the suspension of the Standing Order on this occasion for quite a number of reasons. First of all it is the last meeting before the summer recess, the matter is of importance and we have had a long session and I think we should not deprive a Member of raising this motion in this way. But I would like to say that it doesn't necessarily follow that notices of motion will be dispensed with automatically because a Member is late or because he has not been able to give notice. I just make that reservation because I do not want it to be thought that Standing Orders should not be complied with. I am quite happy on this occasion to allow the thing to continue.

HON M XIBERRAS:

I want to thank the Chief Minister for supporting the suspension of Standing Orders. I should say, in further explanation, that I was hoping that an agreed text of the motion could be brought to the House. I was in touch with the Administrative Secretary over this and I was delaying the tabling of the motion to see if such agreement could be reached.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 19 was accordingly suspended.

HON M XIBERRAS

Mr Speaker, I have the honour to move the following motion standing in my name; "that this House notes with concern the substance of the reply contained in the letter of 24 June 1977, from His Excellency the Governor to the Chief Minister regarding the representations made to Her Majesty's Government in favour of the enfranchisement of the people of Gibraltar in respect of direct elections to the European Parliament."

Mr Speaker, I have had circulated some copies of the letter referred to in the motion. I apologise that these are not terribly legible but they were photocopies of a photocopy which was sent to me. Mr Speaker, I propose to deal with this motion in the full knowledge that all Members of the House, certainly all elected members, who also belong to the European Movement, are in favour of direct elections to the European Parliament and of the enfranchisement of the people of Gibraltar for such elections. Therefore, it is not my intention to introduce any controversy in this matter, certainly amongst elected members of the House, who, as I say, also belong to the European Movement. Mr Speaker, I propose to deal with the motion by close reference to the letter in question. This letter, or a copy of it - the letter is dated 24 June 1977 - was passed on to me by the Chief Minister almost immediately after he had received it and subsequently as I explained earlier, I thought, because of the nature of its contents, that the matter should be raised in the present meeting of the House. I therefore proposed a motion to the Chief Minister who, in turn, I understand, wished to have consultations on the matter. I felt that it was not a matter that could be kept from the public, generally, and there was also a meeting of the European Movement which had been called at which I could not refrain from making public the contents of the letter. The first paragraph of the letter is important, it reads: "Dear Chief Minister, you wrote to me on 16 May enclosing a copy of a letter from Mr Xiberras about Gibraltarian participation in the elections to the European Assembly. I have now been asked to give you the following reply." The second paragraph reads: "You will be aware that on 3 May Lord Harris told the House of Lords that Annex II to the EEC Council's decision of 20 December 1976 stated that the UK will apply the provisions of this Act relating to direct elections only in respect of the UK. This, Lord Harris explained, meant that there were no plans to hold direct elections in Gibraltar or in the Channel Islands and the Isle of Man." I have read those two paragraphs, Mr Speaker, mainly because of the dates



involved. The date of my own letter to the Chief Minister which the Chief Minister passed on to the Governor with a date of his own, was dated 16 May. In the reply, the Governor refers to a statement by Lord Harris in the House of Lords on 3 May 1977, namely, Mr Speaker, that the decision not to enfranchise the people of Gibraltar, was communicated to the House of Lords on 3 May before the letter which I had written to the Chief Minister was passed on by him to the Governor. Certainly, on this side of the House and, I understand, on the other side of the House, there was no intimation that such a decision had been communicated to the House of Lords on 3 May. It is a matter of the deepest regret that this has been so because of the obligation that there is on the part of Ministers in London and, of course, of the Governor in Gibraltar, to inform, certainly the Chief Minister and other leaders, of any important matter concerning the interests of Gibraltar for which, of course, Gibraltar Ministers are not directly responsible. I would invite the Chief Minister to comment on the phrase "you will be aware that on 3 May Lord Harris etc. ...". I do not understand this phrase. I imagine that it refers to the general possibility that the Chief Minister might be aware from his readings of the newspapers, if it was published in the newspapers, or general information that might have come to him through channels other than the official channels of the Governor. But the phrase "you will be aware" is such, if my surmise is right, then the phrase "you will be aware" is most misleading and the House would welcome an explanation of this or confirmation of this from the Chief Minister.

Mr Speaker, Honourable Members are aware that it is the practice to communicate through the channel of Secretariat "for your records" documents which inform Members of what has transpired in either House of Parliament in the course of questions, motions or debates and these "for your records" papers are also sent for information normally to the press. This omission, as I say, must be deeply regretted, especially in view of the fact that everyone was well aware in Gibraltar and also in London that the Gibraltar Branch of the European Movement to which I say belong all the elected members of this House, was very interested in the enfranchisement of the people of Gibraltar in respect of these direct elections and that it would be taken very much amiss here that a decision should be reached even before representations were actually made. The paragraph in question, Mr Speaker, also deals with the EEC Council decision of 20 September, 1976, which was, in fact the decision referred to in the answer of Lord Harris on 3 May. I had no knowledge that this decision excluded



Gibraltar and it is a matter for added regret and I feel that the House should, in the course of this motion, express views about this. It is my purpose to allow Members the opportunity of expressing views on these matters that the House should comment on what can only be described as a fait accompli presented to Gibraltar leaders and to Gibraltar, generally, on this matter. In this paragraph, Mr Speaker, and having dealt in very temperate terms, if I may put it that way, with the question of consultation, may I add that there is a disjunction between Gibraltar, the Channel Islands and the Isle of Man. Even though the text would lead one to believe that the decision was equally applied to Gibraltar, the Channel Islands and the Isle of Man, one is aware that the position of the Islands in respect of the Treaty of Rome is not the same as that of Gibraltar and the text of letters on examination makes it clear that the Foreign Office and His Excellency the Governor are aware of this. The text reads: "to hold direct elections in Gibraltar or in the Channel Islands and the Isle of Man". There is a disjunction, as I say, there. There is a difference in the grammatical disjunction between, on the one hand, the Channel Islands and the Isle of Man, and, on the other hand, Gibraltar. I gather that in the Channel Islands and the Isle of Man there is not much feeling for the enfranchisement of the population in this respect; though I could not be absolutely sure about this. But, as is known here, it is a matter which is very important and very relevant to our status as Common Market nationals and relevant, I feel, to the general position of Gibraltar in the dispute between Britain and Spain and, of course, ourselves in respect of our status. Honourable Members will recall that the brunt of my letter to the Chief Minister of 5 May 1977 which the Chief Minister passed on to the Governor, the brunt of this letter was that we would suffer a diminishing of our status in our view as EEC nationals if we were not accorded the vote in respect of direct election. "In support of our request", I quote now from my letter of 5 May, "In support of our request", however, to be enfranchised we must point out that once direct elections are accepted and the people of the UK together with all other European nationals enfranchised, the right to vote will be an important, if not essential, civil right in the community and the exclusion of any group of community nationals could be interpreted as a derogation of the status of those affected, a position that would be hard to reconcile with community leaders' statements on the democratic nature of the proposed innovation." Mr Speaker, this argument is taken up in the letter in reply received from the Governor which

states: "the position of Gibraltar and the Islands was considered very carefully at the time of British accession to EEC and again when EEC elections were under discussion, but the conclusion was that it would be inappropriate for Gibraltar which is not directly represented at Westminster or in the present Assembly to be included in arrangements for direct elections." Mr Speaker, it is not acceptable that because we, in Gibraltar, do not have the right to elect someone to Westminster that thereby we should be deprived of the right of vote for members to the European Parliament. If one is deprived of one right that is of course no reason to be deprived of another right. M

Mr Speaker, I do not know what the position is in respect of all other small territories in EEC, of French territories, of places like Andorra and so forth. It is a matter we have not been able to find out yet, but it seems to me that the arguments put forward in my letter stand, namely, that the right to elect to the European Parliament is an essential civil right and that it can be given expression to if there were willingness on the part of HMG in the first place and of the British Parliament in the second place to enfranchise us in respect of those elections. Our complaint, to my mind, must obviously be directed not against European institutions but against HMG for failing to recognise this right and to the British Parliament if the Bill on direct elections were to go through all its stages without recognising this right. Coming to this Bill in the British Parliament I must point out that even though the Second Reading has been taken, the Committee Stage and Third Reading is still to come and though it is late to make representations it is by no means too late to make representations even now, on this matter. Therefore, Mr Speaker, when Honourable Members consider the motion they should bear in mind, I think, firstly, that this is an important attribute of EEC nationality and, secondly, that it affects Gibraltar in such an intimate way that we still should, to my mind, make use of the opportunity which is still available to make further representations on this matter. Mr Speaker, the letter goes on: "the British Government realise the importance which Gibraltarians attach to their position within the Community, namely, that except from Gibraltar's exclusion from CAP, the Customs territory and the application of VAT, the Treaties apply to Gibraltar as a territory, for whose external relations the member state is responsible but these are most important exceptions." Mr Speaker, as all Honourable Members are aware the exclusion of Gibraltar from CAP, the Customs territory and the application of VAT was a decision taken with the support of all Honourable

Members of the House when membership of Gibraltar, along with Britain, was mooted here in Gibraltar. At that time, however, it was also explained in the clearest terms that only because of our economic position, was it advisable in the view of Her Majesty's Government that we should accept membership along with Britain under Article 2274 with our exclusion from these areas of economic agreement of the Common Market. It was also explained that in no other way would there be a diminution of our status in respect of the Common Market and that we were fully Common Market nationals as one might describe it today in a phrase that is more in vogue today than it was then. There was no indication given to us that we would be excluded from the non-economic agreement that might be reached within the Market and this one is an exclusion which was therefore not anticipated by elected members at the time of our agreement to the conditions proposed by Her Majesty's Government in respect of our inclusion in the Common Market. The letter continues:

"Gibraltar's position as regards Article 13 (3) - the provision concerning a directly-elected parliament." This provision, Mr Speaker, is, as the letter says, the one which has allowed Member States subsequently, to enfranchise people and to give their agreement to direct elections to the Common Market. The letter continues: "At that time there has been little prospect of an early move to implement that Article and it was in any case clear that a new agreement between Member States approved by their Parliament would be needed for the purpose. It was appropriate to clarify the position as regards Gibraltar in that agreement hence Annex II." If direct elections were not an immediate possibility at the time of our inclusion in EEC along with Britain, certainly, to my certain knowledge, there was no explicit exclusion of Gibraltar from these provisions nor was there agreement by elected members at that time that they should be excluded when the provisions of this Article came for effective consideration in the Councils of Europe. In other words, we did not barter our rights away at that time. Therefore to quote in retrospect our agreement to membership almost as a reason for our being excluded now is totally unfair and totally unjust. It is a mistification which the House should not be prepared to accept lightly because this calls into question what is, in fact, our position within Europe and what was the significance, the meaning, of the Agreement that was reached then in 1972. The provisions of this article could very well have been made to apply now by inclusion in the Bill before Parliament in London and there is no impediment to



it and the letter should not, to my mind, suggest that there was such an impediment. The letter continues: "The position of a Colony must inevitably be different from that of a parent state which is an independent member of the Community. Gibraltar's external interests are looked after by HMG which takes into account the views of Gibraltar Ministers. This is why it was explained to Gibraltar Ministers before British entry that Her Majesty's Government would be responsible for Gibraltar's representation in the Community." Mr Speaker, I do not like the reference to the word "Colony" the word normally used is that of "Dependent Territory" certainly in the European context and to emphasise the inequality, the unjustifiable, to my mind, inequality which exists between the status of Gibraltarians and status of other Community nationals in Britain is something of a challenge to Honourable Members in this House and to the people of Gibraltar, a challenge that should be taken up in the proper quarters. But in the context of Europe, Mr Speaker, the use of such a word is even more unacceptable to us that there should be distinction between European nationals in a Dependent Territory in respect of this important right of voting for our representatives within the Community and other European nationals in Member States, to my mind is completely unacceptable and contrary to the philosophy and the doctrine preached on the basis of the Treaty of Rome by all manner of European leadership since the Treaty of Rome has been in existence. The Treaty of Rome is a document for democracy and the European Community is a democratic institution and a statement such as this, to my mind, belies all or gives the lie to many of the statements that have been made in respect of the complete equality of the nationals of the European Community. Again it is a matter which Honourable Members must consider very carefully and if there is to be recourse, perhaps even a legal approach to the legal institution of the Common Market, it is something that can not be left lying as it is. We had no understanding that we would be second class citizens within the European Community and this is, to my mind, the implication of the use of the word "colony" here. Mr Speaker, the argument is that at the time of our accession we agreed that Her Majesty's Government would look after our foreign affairs and that because our foreign affairs are looked after by Her Majesty's Government there is no need, perhaps, and then no claim, for us to be represented directly in Europe by virtue of our own constitutional arrangements in this respect. This, Mr Speaker, is quite unacceptable to my mind. It is not for a moment that we do not think that Her Majesty's Government would be unable to represent our



views if, of course, we were properly informed of what decisions were being taken at any particular time in the many Councils of Europe, it is a question of now, under a completely different umbrella, that of the Common Market, as opposed to the Britain/Gibraltar umbrella, it is a right that we have to elect representatives who would, by the terms of my letter of 5 May, be British Members of Parliament but for us to elect these ladies or gentlemen or help to elect so that our views could be democratically represented in the Councils of Europe. In other words, we would have a democratic voice. Not one by agreement that we should not elect, for instance, the Governor or the Secretary of State or help in their election but that now the link between European Parliament and Gibraltar through a constituency of the United Kingdom should be a democratic link, this would represent, of course, important progress for the people of Gibraltar and would be a much more up to date relationship which would reflect much better the general aims of the EEC.

Mr Speaker, the implication that because our views on foreign affairs are normally represented by Her Majesty's Government, that this implies that we were giving up our right to elect members to the European Common Market, is again completely contrary to the fact. This matter was not put to us in that way at all in 1972 when the discussions took place, and I think that Honourable Members on both sides of the House would bear testimony to this, and to twist this constitutional relationship into a negation of democratic rights, to my mind, is something that again the House should refuse to accept. The letter continues: "The direct elections are essentially a matter for EEC Member States and are, from Gibraltar's point of view, an aspect of external affairs. The question of citizenship and the description of Gibraltarians as UK nationals for Community purposes are not relevant to the franchise. As already pointed out, Gibraltarians are not directly represented at Westminster." This is a direct no to the argument in my letter that the vote was an important aspect of the civil rights of all Community nationals. That is a view, Mr Speaker, which I feel should be challenged, here and elsewhere if need be. I think that Community nationals must, if they are to feel themselves part of this Community as we do here, especially now that the European Movement is gathering strength and gathering support, I feel that all members of the European Community would feel that their rights are diminished by the fact that they will not have a vote for the election of their representatives in the highest democratic European organ, which is the European Parliament. It is an argument without any foundation to my mind to say that

it is not an important aspect of being called a Community National. Then what meaning, Mr Speaker, can we attach to the phrase "United Kingdom national for Community purposes". We already have some difficulty in our entry into Britain. If they are going to pare off all meaningful advantage from this definition with what are we left? Are we left with a meaningless stamp on our passport? And what was the meaning, the significance, attached to the agreement to get Gibraltar into the Common Market along with Britain as in 1972? Mr Speaker, the House should consider that Her Majesty's Government should provide a definition of what being a "United Kingdom national for Community purposes" represents for the people of Gibraltar. One would have to add the rider "except for" a. b. and c. and one of them is except for the right to vote to the European Parliament. Mr Speaker, there are also practical difficulties in the way of Gibraltar's inclusion in the arrangements in that she is not of course large enough to merit a seat of our own and could not realistically be assimilated to any UK constituency, but these were not the basis of the decision. Mr Speaker, in respect of that argument may I remind the House that members of Her Majesty's Forces stationed in Gibraltar at the time of the Referendum were allowed to vote in the Referendum whether Britain should go into the Common Market or not and that their votes were thrown in with other votes in the London area irrespective of where their home constituencies were. What we are asking for is not a Member of Parliament of our own, we are asking for the vote to help to elect a Member of Parliament from Britain. I would also remind Honourable Members that the areas to be covered by the constituencies in respect of the European Parliament Elections are very broad and they take in a lot of diverse regions and they are rather large and the votes of Gibraltar are not likely to signify a swing between one party and the other party, a controversy which we do not wish to enter into. What difference could 14,000 Gibraltarians voting possibly make to the inter-party situation? And as to the practical arrangements, Mr Speaker, there is no difficulty there either and I feel that this is a completely invalid argument. "For the reasons indicated, the British Government could see no possibility, the letter continues, of Gibraltar participating in direct elections and could see no way of logically making the case to Community partners for her to do so." That, Mr Speaker, invites the comment that Her Majesty's Government must be a very unresourceful Government if it can find no way of representing that Gibraltarians should have a vote in respect of



the proposed elections. Surely, there are ways, there are arguments and if Her Majesty's Government cannot provide them surely at least she could advance the arguments which I put forward from Gibraltar for them to be turned down by the Community if necessary. But they are being turned down not by the Community but by Her Majesty's Government and, in fact, they have not even been given a fair chance in Parliament, in the Bill itself. There have been questions which have been asked, and I shall come to this in a minute, but the proposition has not been incorporated in the Bill and Parliament, Members of all sides, have not had an opportunity of free comment in London about the views of Gibraltarians and I think that this again is something that the Gibraltarians could expect of Her Majesty's Government, that the matter should be debated fully because it might be a small community but the principle involved is a very important principle, the disenfranchisement in a democratic community of a given number of people. Mr Speaker, there have been other small groups whose position have been attended to, I think, with greater care. There has been the position of British subjects working abroad in various colonies, a French Colony and so forth, diplomats and so forth. There, Mr Speaker, we have people who are not established who might not be entitled to vote for one election but would be entitled to vote for the following election if they were to reside in Britain. It is a matter for argument whether they should have been given the vote by Britain herself but we have no other status than British and we have no other home than Gibraltar and our home is a British home, our territory is a British territory and it is a British territory incorporated under Article 2274 approved by the Community and a territory of the Community and therefore our exclusion is doubly unfair. "They will - the letter continues - as before, have a full voice in their own affairs through elections in the House of Assembly and through the appropriate constitutional channels for communications with the British Government. The main decision-making body in the Community will continue to be the Council of Ministers where the British representative will continue to look after Gibraltar's interests." Well, Mr Speaker, we hope that with the help of the European Movement we may be rather better informed about what happens in Community circles which affects Gibraltar. We hope, Mr Speaker, that we get better information through our position as elected members of this House, especially in view of the fact that this is the argument that is used for our disenfranchisement, the fact that we are kept well informed about these matters

and we are able to discuss these matters in the House of Assembly. But if we are to take as an example of that democratic process and of that information the events that have happened recently, Mr Speaker, then we have no democratic control at all, we have no democratic say at all, because, Mr Speaker, on 25 May a question was asked by Lord Bourne in the House of Lords which specifically deals with Gibraltar and which goes into considerable amount of detail about Gibraltar. That matter in which Lord Goronwy-Roberts turned down, once again, the representation that we should be enfranchised, that question was not communicated to Honourable Members here and yet we are told by Her Majesty's Government that we should not go for direct elections because we have sufficient democratic control and sufficient say in this House of Assembly.

, which can pass on its views through our elected leaders, which can pass on its views through Her Majesty's Government which can pass on our views, if they are our views by that stage, on to the European Parliament and yet we do not even know that the case was rejected and arguments were given which are, in this context, I can say, in the context of Lord Goronwy-Roberts' statement, quite shameful. Shamefully undemocratic and unrepresentative of the people of Gibraltar. For instance, Mr Speaker, the indication in the answers which I will allow my Honourable and Gallant Friend Major Peliza to go into in more detail the indication that we in Gibraltar did not feel very much one way or the other how we stood on this issue, that there was a letter from the Chief Minister and he would be getting a reply. Mr Speaker, I think my Honourable and Gallant Friend should quote from this but he has asked me to do so. Lord Bourne said in the House of Lords on 25 May 1977: "My Lords, I beg leave to ask the question which stands under my name which is about the enfranchisement of people. Lord Goronwy-Roberts, in answer: "Mr Lord, the Government did not overlook the position of Gibraltar in the arrangements for direct elections to the European Parliament but considered that it would be inappropriate for Gibraltar which is not directly represented at Westminster or in the present Assembly to be included in these arrangements". Members will note the similarity between this and the letter from the Governor received on the 24 June. Lord Bourne: "My Lords, whilst thanking the Minister for that reply may I ask him first why not Gibraltarians who are very interested in this transaction and, secondly, what consultations took place between the Government of Gibraltar and Her Majesty's Government. Is he aware that I have just received a letter from Gibraltar which says "My passport reads 'Holder is



defined as a United Kingdom National for Community purposes"? Have the Gibraltarians been told that that excludes them from voting?" Here was a man making a very good case on our behalf there. Lord Goronwy-Roberts replies: "My Lords, I think the true answer to that is that Gibraltar Ministers are able at all times - and communication is in no way difficult - to make their views known through the Governor to the British Government who invariably take the Colony's interest into account in all relevant matters discussed within the Community context. I would add that we have quite recently, I believe last Monday, received a communication from the Chief Minister" and so forth.

HON CHIEF MINISTER

I have not seen that question.

HON M XIBERRAS

Lord Goronwy-Roberts continued: "No reply has yet been sent, but our reply will be very carefully considered before it is despatched. "Very carefully copied, Mr Speaker, no doubt from the Hansard of the day, perhaps even photocopied, Mr Speaker. Lord Bourne: "My Lords, is the Minister convinced that Gibraltarians have been fairly treated in this matter." Lord Goronwy-Roberts: "Yes, completely, My Lord." - I hope the Hansard will show the laughter in the House because I hope Lord Goronwy-Roberts gets a copy of this Hansard. - "One could go into some detail on this. I am sure that Gibraltar Ministers and indeed Gibraltarians, generally, will agree with me that there has always been the most complete rapport between Her Majesty's Government and them and I am glad to give that assurance to the noble Lord." Mr Speaker, the Earl of Onslow also took part.

MR SPEAKER

We are not going to read the entire Hansard from the House of Lords.

HON M XIBERRAS

Mr Speaker, perhaps this can be photocopied and given to

Honourable Members opposite and of course to the press and thereby through this very long chain, Mr Speaker, to the people of Gibraltar.

MR SPEAKER

If the Honourable Member will let me have that I will see that Honourable Members get a copy before the lunch recess.

HON M XIBERRAS

Yes, Mr Speaker. May I quote one little bit more for my purpose. "My Lord," - that is Lord Goronwy-Roberts," I respectfully disagree (about the feeling in Gibraltar). It may well be that people are not aware of the exchanges between Governments. That is not to say that what is generally known through the normal media - and surely this is a situation which was not secret to anyone - May I disabuse the noble Lord about the position of Honourable Members in this House and Honourable ex-Ministers and Honourable ex-Chief Ministers and no doubt . . . .

MR SPEAKER

With due respect to the speaker, we are getting to the stage when we do not know, particularly for the preparation of the Hansards, when you are quoting and when you are making a comment. At this very moment you have done that and it is impossible to prepare a Hansard in this particular way.

HON M XIBERRAS

Mr Speaker, it was my disagreeable duty to have been quoting from the statement from Lord Goronwy-Roberts. Therefore, Mr Speaker, this is a very sorry tale of lack of consultation and a hardly democratic way of proceeding in these matters. I am glad that the House will have an opportunity of commenting. I shall say no more at this stage. If there are any other points I shall take them up in reply to the motion. I would ask Honourable Members, though, to give an indication (a) of the strength of their feelings on this matter and (B) any indication as to what can be done in this respect even at this stage. I have left the motion at the stage of expressing concern and

my concern is not solely about the fact that we have been disenfranchised but at this stage almost principally about the fact that arguments have not been even properly considered and that the process of consultation has been invoked in vain, completely in vain in respect of these representations. Mr Speaker, I commend the motion to the House.

MR SPEAKER

I will propose the question which is: "That this House notes with concern the substance of the reply contained in the letter of 24 June, 1977, from His Excellency the Governor to the Chief Minister regarding the representations made to Her Majesty's Government in favour of the enfranchisement of the people of Gibraltar in respect of direct elections to the European Parliament".

HON MAJOR R J PELIZA

I have very little to add to what my Honourable Friend Maurice Xiberras has said. I think he has made a very thorough and good case of the Gibraltarians having a right to participate in the elections and I will certainly not inflict myself on the four Ministers and other members of the House who heard me last Thursday when, I think, I expressed my views in no uncertain manner. But there are two points that I would like to clear, one is that at no time when this question of Gibraltar accepting to be part of the TEC with Britain, was it ever stated to me or any member of my Government, and I think any Member of the House then, that in doing so and accepting under 227(3) that we would be deprived of universal suffrage stated in the Treaty of Rome so we would not be disenfranchised. At no time was that mentioned, on the contrary it was specifically stated more than once, when queried, that the only thing that we would be exempted from are the three quoted there, in other words, we would be outside the Tarriff Barrier. In every other respect we would be subject to the Treaty of Rome. In fact, by the mere fact that all legislation coming through has had to be harmonised by this House shows that that is so. The other point was that I was told that if at any time we wanted to go and be behind the Tarriff Barrier that we could apply for it and that it could be achieved. Not only did I get this at the time when we accepted but also later on by Sir Alec Douglas-Home himself who stated the position quite clearly.

Mr Speaker, really I have nothing more to add other than to clear those points that I think were very important.

HON CHIEF MINISTER

Mr Speaker, I would first of all like to explain one or two things of the original remarks of the Honourable Member because I think the House should know. In the first place the letter from the Governor of 24 June in the second paragraph said: "You will be aware that on 3 May Lord Harris told the House of Lords that Annex 2". I have checked this morning with The Convent and certainly that phrase was not used on the basis of any information given to me by The Convent before the writing of the letter and therefore it is a phrase. It could have said: "as you might be aware . . ." but in fact I had not attached a lot of importance to that until I heard of the proceedings in the meeting the other night of the European Movement where this matter was raised and I think I owe it to the Honourable Members and to the whole of Gibraltar, to say that as far as I was concerned I was not aware of what had happened in the House of Lords. I am sure Members will accept that as a true statement of fact. The next thing to find out is why I was not aware and why were Members not aware. The question of the matters which are raised in Parliament - I have also made enquiries about this - the question of matters raised in Parliament which, if I may say so, I introduced this question not just of telling the leaders on the other side but for everybody to have copies of what happened in Parliament as the Spanish restrictions got worse and so on, this question of having things "for record". What happens, as I understand it, is that what happens in Parliament that affects any particular territory is repeated by the Central Office of Information to the various territories and when we get it we get it on the clear because it is a report which comes from Parliament. It does not come through the net of confidentiality it comes on our own telex, actually, and what happens is that normally they show me the telex if it is something very important, a photocopy of the telex is advanced when I go to the office and at the same time the people in my office start reproducing it and sending it to Honourable Members and to the media. We did not get anything on 3 May, nor did we get anything on 25 May. In fairness I should also say that although we have received from time to time Questions and Answers from the House of Lords it seems as if they are more interested in sending what happens in the



Commons, though of course we do receive sometimes stuff from the House of Lords.

HON M XIBERRAS

But I think it is accepted that we get copious records from the House of Lords, there might be one or two excluded but we do have Lord Merrivale and other friends of Gibraltar there and we get what they say here.

HON CHIEF MINISTER

Quite, I am not saying that it does not but I say that perhaps because there are more things in the House of Commons I am saying that normally . . . certainly, in fact there are things that have happened even in the House of Commons as I can remember whilst I was in London for the Jubilee that was not reflected in this information regarding the silly question raised in debate about the opening of the frontier for the benefit of soldiers and it was as a result, if I may say so, of my strong representations when I was there that that should have been answered that that was really ridiculous that I imagine, I can only say this, that I imagine that the person who said it later put a written question for which there was a very good written reply from Mr Judd saying that this was not one of the things because I complained about that aspect of the matter because I had the opportunity to say that this sort of thing does not help us, to say open the frontier in order that soldiers can have a better time in Gibraltar. I imagine that because the thing went unanswered and I complained

because I happened to be there and I happened to hear it on the news in the morning on the Parliamentary report from the previous day, whether it happened because of that or not, the fact is that subsequently the same Member put that as a written question and he got a written answer, the reply of which I think will have satisfied Honourable Members on that matter that there were many other things and that the British Government's view was . . . I think that happened in that way. So, really, I was not aware when I received this letter and indeed I am very glad that the report was 2/3 days before the Honourable Member's letter was received otherwise it might have been even more suspicious that the thing had followed the letter without anticipation but as

it happens the dates in that respect are above suspicion because in fact the letter was written on 5 May and passed on on the 16th. So on that matter I was not aware and the phraseology there is routine and I am informed that this follows the form in which the directions came as to what we should be answered on this matter. I rang up The Convent specially before I came here this morning because I knew that this point had been taken by the European Movement the other evening. Nor of course, did I know of the rather sadly amusing exchanges of 25 May. Lord Bourne, I know personally, and he has contact with Gibraltar companies and he has taken a great interest, he has been here several times. I have not prompted him on this one but certainly I know that he is au fait with what happens and I know he has many friends who could easily have had approach to him and that he has sufficient background knowledge to ask questions and to draw attention to the pertinent reference to the endorsement in the passport. Once this is explained, the Honourable Mover has asked for an indication of our feelings in this matter. My feeling on this matter is that unfortunately we have been caught up in a morass of British difficulties themselves in the question of direct elections and I would like to think that has prevented the matter from being cleared, although it is no excuse, but it is no secret that there has been a considerable amount of controversy about direct elections and it was only until last week that the Second Reading was passed. It was a bit of a patch-up operation, there is an alternative for Proportional Representation in order to maintain the Lib/Lab Lab/Lib coalition and indeed there was a very extraordinary situation not only of five Cabinet Ministers but a host of junior ministers, as I saw in the voting results in The Times; going into the lobby against the Government measure, something most extraordinary. Whatever one may say about Parliament it has certainly not been a very edifying situation to see that a matter which had been so clearly expressed in the referendum had been the subject of this controversy. I am not going to interfere in what happens in the House of Commons or in Parliament, this is a matter for them, as I would not like them to interfere in matters that we do here, except in so far as it affects us and that is why I made that comment because I think the preoccupation of the British Government on the question of direct elections, there was a point in "time" some two or three months ago where it was even doubtful whether that could be done and had it not been for the loss of a number of bye-elections



and the need for maintaining the Lab/Lib pact, I do not know what would have happened but, anyhow, that, as far as I am concerned, I only mention it here because I would like to think that we have been a very, very small flotsam in the morass of what has happened with regard to direct elections in the United Kingdom. On the other hand, I think it is only fair to say that we have come a little late into the picture for a matter of this importance. I remember hearing the Honourable Major Peliza saying, before the European Movement was established in Gibraltar, I remember him saying; "Perhaps it is too late this time but we must make sure that next time we are included". He said that on two or three occasions in this House in the past and it may well be that we have been a little late in this matter. Not late in the matter having been considered, no, because the matter was there and they say they have considered it, what I mean is late for building up a climate of opinion to have been able to lead up to this long before the matter was taken up. This is my view that it may well be a little late now to do that because of the time-table in Parliament but by all means if the Movement think that further representations should be made in respect of the Committee Stage, that is a matter which I think the Movement could well do and I certainly would not disagree with that attitude but as I stated in one of the meetings of the Movement I think we must make a slight distinction in the representations that are made by the Movement and the representations that are made by the Government as such. We cannot be really a rubber stamping operation for what the Movement thinks is proper in this matter because if a decision has to be taken in so far as the Government is concerned, unless we speak for the elected members and then it is just a House of Assembly matter as we are deciding today, it is a matter for the Government on which of course if it going to take the strength the whole of the Government of Gibraltar the matter has, as the Honourable Mover well knows, to be taken in two separate stages in different quarters. It is true, too, that so far as the meeting that I remember is concerned which was held in the ante room when Mr Ford was here, I do not think the question of direct elections was mentioned but page 2 of the letter, and I think this was the understanding of section 224(7) that we were in as a territory for which Britain was responsible for its foreign affairs and it does say here: "It was explained to Gibraltar Ministers before British entry that Her Majesty's Government would be responsible for Gibraltar's representation in the Community." I do not know, I was not a Minister at the time, the Honourable Major Peliza was Chief Minister and

he says that he was not told that we would not be represented in Parliament. I am not disputing his word but whether they made a distinction with that and the question that Her Majesty's Government would be responsible for Gibraltar's representation in the Community generally speaking in all matters connected with the Community other than Parliament, it may well have been, that was not a matter within my knowledge nor are papers, if there are any papers of communications to Ministers at the time, available to Ministers of this Government, I do not dispute the statement made by the Honourable Major Peliza about that. I think we can certainly go with this motion to note with concern the substance of the reply contained in the letter and I think, perhaps, having regard to part of what I have heard on the questioning of 25 May when in fact the representations that had been made in a very able letter from the Chairman of the Movement which I found very little to add to except to support it, was before the Government, I think from what I have heard, and I can only say from what I have heard and I have heard enough, I think, on that, it looks as if the arguments that were put in that letter were not being given, certainly on 25 May, the consideration and the respect that they deserved even if they had not agreed with it but certainly I think the matter was not treated with that consideration that a letter of that nature warranted.

HON M XIBERRAS:

I haven't got a copy of the Chief Minister's note. Will he please read it out.

HON CHIEF MINISTER:

I am very glad that the Honourable Member has asked me because he asked for a copy of the letter that I had sent with his letter which I supplied and precisely as I was saying before the letter was a very considered letter making the point for that and I wrote to the Governor saying: "I forward herewith a copy of a letter which has been addressed to me by the Chairman of the Gibraltar Branch of the European Movement regarding the elections to the European Assembly. As the letter states all elected members in the House of Assembly are members of the Gibraltar Branch of the Movement and I confirm that they fully support the request that the people of Gibraltar, as Community nationals, should be able to vote in the elections when they are held. I should be grateful if Your Excellency would forward this request to the Foreign and Commonwealth Office." I think that was the note that the Honourable Member wanted me to read. I got an interim reply sending it to England and then of course we got the further disappointing reply. As I say I have a feeling



that the Movement perhaps has given a fresh impetus, very rightly, to this matter but unfortunately the Movement itself perhaps has come a little late for this purpose and perhaps it is too late now effectively. If it is not I would be the first one to rejoice but I must, in all fairness, give a word of caution knowing how these things go unless of course we could get somebody, or rather the Movement could get somebody in the Gibraltar lobby to try and get some proposed amendment in the Committee Stage where the whole matter could be debated.

HON A J CANEPA

Mr Speaker, the events of the last two months since May, particularly those relating to the lack of knowledge at this end of what was really going on in the minds of the British Government and what was taking place in the House of Lords, cannot but be described as extraordinary. I think it is an extraordinary state of affairs and I think the FCO should also think it as an extraordinary state of affairs that here you had, on 5 May, the Chairman of the Gibraltar Branch of the European Movement in Gibraltar, writing to the Chief Minister and expressing strong arguments in support of the enfranchisement of the people of Gibraltar for the direct elections to the European Parliament when only two days before it appears that in the House of Lords the whole exercise had only been effectively torpedoed. Does it not seem strange that the Chief Minister was not aware of this statement which was made in the House on 3 May? Does it not seem even more strange that none of us were aware of the exchanges that took place in the Question and Answer session in the House of Lords on 25 May? I think that the whole affair Mr Speaker, is pathetic, not to say disgraceful. In my intervention in Lausanne, Mr Speaker, in the General Assembly of the Council of European Municipalities, I used precisely the same argument that had been used by the Chairman of the European Movement in support of the enfranchisement of the people of Gibraltar. This was on 9 June. Two weeks after the Question and Answer session in the House of Lords and the argument that I used did not take any account of the fact that there had been a negative reply on 3 May in the House of Lords

or that there had been an even more negative reply on 25 May bearing in mind that by then the British Government had received the letter of the Chief Minister which enclosed the letter of the Chairman of the European

Movement. I think it is extraordinary as well that the letter was only referred to by Lord Goronwy-Roberts in a somewhat flippant way in answer in the course of supplementaries and it is also clear, I think, from the exchanges there that the arguments advanced in the letter of the Chairman of the European Movement with the Chief Minister's letter that these arguments were not being given any weight at all. I wonder whether Lord Goronwy-Roberts has seen, in fact, the correspondence. It does not seem to me as if he had. Sir, in the letter of reply from the Governor to the Chief Minister we have been compared and reasons have been adduced for excluding us in conjunction at the same time as the Isle of Man and at the same time as the Channel Islands. It is my understanding that the Isle of Man and the Channel Islands only have associated status with the EEC. They do not have the status that the people of Gibraltar have, whatever our status is, because to me it is now clearly in doubt. It is clear, Mr Speaker, to my mind, anyhow, the fact that we are outside the Tarriff Barrier, that we do not subscribe to the Common Agricultural Policy, as if we could, and that we do not have the application of Value Added Tax in Gibraltar. To me these are not arguments for excluding the people of Gibraltar from the right to vote. Perhaps, and I am not prepared to accept it, perhaps there might be an argument in saying: "You cannot vote because you do not have representation in the Parliament of the Member States." That, perhaps, could be valid but the other one, really, Mr Speaker, as far as I am concerned, it does not wash with me. Though I was not a Member of the House in 1971 or early 1972 no impression has ever been given to me that the fact that we were outside the CAP, the Tarriff Barrier and VAT did not apply to Gibraltar. I was never under the impression that that in any way derogated from our status as Community Nationals. I think, Mr Speaker, that this is a matter of very grave concern. I am a very strong European, I believe in the ideals of a united Europe and to me it is a matter for very grave concern that Gibraltar should be described and treated as a Colony in common with other Colonies of Member States. Whatever other colonies Member States of the EEC have these are not European-dependent territories and none of them, to my mind, are members of the EEC under Article 227(4), so I think that a very clear-cut distinction must be drawn there. What has now happened in the last two months, Mr Speaker, clearly brings into question the whole issue of our membership of the EEC. We now need to have it made abundantly clear as to what is our position exactly under Article 227(4) of the Treaty of

Rome and I am very glad that the elected members, in a meeting which we held recently in the office of the Chief Minister, took a decision, on another matter, to seek clarification, a decision that ought to, in the long run, make our position clearer in this respect and in respect of another matter. I am very glad that that decision has already been taken by the elected members and the events in the House of Lords, the reply which we have received and the events of the last few days have made it doubly clear that the elected members on that occasion in that meeting that I have referred to, were acting with a certain amount of vision and foresight. Mr Speaker, is the next argument to be that because our membership of the EEC now appears to be in doubt, certainly in so far as direct elections to the European Parliament are concerned, that, for instance, the question of the Spanish restrictions against Gibraltar may not matter? Does it mean that Spain can apply and get into the EEC without lifting the restrictions because we are not really nationals of the European Community? These are very grave issues, Mr Speaker, which I think the events on what is perhaps not such a fundamental or important matter as that of the future of Gibraltar vis-a-vis the closed border and vis-a-vis eventual Spanish membership of the EEC is concerned. It may not be such an issue but I think that it is pointing in that direction. And what can be done, the Honourable Mover asks? I think the immediate thing obviously is that the Hansard of this debate must be transmitted to the Foreign and Commonwealth Office with, perhaps, a special note for Lord Goronwy-Roberts to be enlightened. Perhaps, also, the Movement, in addition to the decision that was taken at a general meeting last Wednesday, should consider writing to the European institutions, to the President of the European Parliament, to the Council of Europe and to Roy Jenkins himself, enclosing copies of the Hansard of this debate in the knowledge that the motion here today and the whole question of the enfranchisement of Gibralterians in respect of the direct elections to the European Parliament has the unanimous support of all elected members of this House who are the representatives of the people of Gibraltar.

HON P J ISOLA

If we are to send copies of the Hansard to all the persons that have been suggested, then I think we should try and keep that Hansard as short as possible, otherwise they will



never read it. I just want to say quite simply that the answers of Lord Goronwy-Roberts in the House of Lords, and the answer to the Chief Minister completely beg the question of the whole purpose of the European Parliament which is to allow the ordinary man and woman of the political entity of Europe or the countries that are together, to have a say directly in discussions over Europe. It is not a governmental matter at all. Of course, we are represented by the British Government in questions relating to external affairs. We are very happy to be so represented but this is all utterly irrelevant to the issue. The elected representatives of Gibraltar are mature people and all that is being sought here is representation in the democratic processes of Europe where the ordinary national of Europe is being asked to participate in an Assembly elected by the ordinary man and woman of Europe and we are UK nationals for Community purposes and as such we should have a vote. How our vote is going to be exercised, whether it is part of a constituency in England or any other way, those are practical matters that can be sorted out but the principle has to be respected. The principle that we, as UK nationals for Community purposes, have a right to exercise our vote in a European Parliament. As far as Brussels is concerned, well, we are represented by the British Government but we are not talking here of that at all, we are talking purely and simply of elections to Europe and I agree that, although the matter is not a matter of life and death in Gibraltar, it is a matter of very great important principle for Gibraltar because, as the Honourable speaker who spoke last has pointed out, this could have ramifications, could have consequences, we could be told "but you are not really Europeans, you do not take part in the process of election to Europe"; and as that process of elections to Europe in fact develops possibly, as they hope to do some sort of European Government elected direct from the different countries, I think that is quite far ahead but if it should develop that way, we would not have a vote in that election. So, Mr Speaker, in order to keep the Hansard short I entirely concur with the motion. I am extremely surprised that a British Minister should answer with such little regard for what he must know are the wishes of the people of Gibraltar with regard to letters that were presented before him. The Honourable Mr Canepa has said that he cannot believe that he could have read the letter before he answered these questions in the House of Lords. I cannot believe it either that that is possible, but on the other hand I cannot absolve



him from responsibility because of that, because if there was a letter there on this subject he should have read it before answering questions in the way that he did with so little regard for the obvious wishes of the people of Gibraltar as expressed in these letters. He was, in fact, misleading the House of Lords.

HON J B PEREZ

I would like to say first of all that there is very little left to say in this matter after what was a most formidable and admirable address by the Honourable Mover, the Honourable M Xiberras, but I feel I must express my own opinion on this matter because I see there are two points of grave concern here. The first one is the fact that Her Majesty's Government are not making any representations on our behalf for the right to vote for the European Parliament, but the second aspect of concern, and, I repeat, grave concern, is the lack of consultation that there has been with our own Chief Minister. I feel that he has been completely and utterly ignored in this matter and as I have already said it is a matter of grave and serious concern. I have heard the Honourable Mr Canepa express his feelings and also the Honourable the Chief Minister but what I have not been very satisfied with, in hearing the Chief Minister, is what his intentions are or what he intends to do now.

HON H J ZAMMITT

Mr Speaker, I would like to say a few words and I think what the Honourable Mr Peter Isola said bears, in my view, great value that the shorter we keep this if we are to send the Hansard as a matter of urgency, the smaller the contributions are the better for our friends to be able to read and hasten the matter up if anything can be done between today and the Third Reading. Mr Speaker, if I said that I would concur fully with the sentiments expressed by the Honourable Mover and by all other contributors I think that one would be contributing to the general concern of the Hansard and therefore I wish to say no further than that.

HON J BOSSANO

Mr Speaker, the matter that has been brought to the House

by the Honourable Mr Xiberras has got two, I think, very important aspects which transcend the intrinsic value that there may or may not be in the Gibraltarian citizens having the opportunity to exercise the right to vote for a representative on the European Parliament and I think the issue should be looked at not in terms of the practical value that there may be to having a European representative but in fact the disregard for the views of the elected representatives of the people of Gibraltar and for the views of Gibraltarians themselves on the importance that they attach to this issue and I think the importance that they attach to being able to exercise a right as nationals of the EEC is something that goes to the essence of the nature of our membership of the EEC and I think that the Honourable Mr Canepa was absolutely right in saying that every time something like this happens that seems to go against what we have been led to believe, it puts another question mark about exactly where shall we stand, whether we have got one foot in the EEC, one foot out, or none of them in. I think the practical difficulties of carrying out an election and tying in Gibraltarian representation as part of a larger constituency in the United Kingdom has not, in fact, been a major consideration in taking this decision or in deciding that Gibraltar should be left out. I, myself, feel that the major consideration has been the political difficulty of Gibraltar's colonial status which, to my mind, is a major problem in our integration into the European Community, in that it is a peculiar situation for two European Communities to be part of a United Europe and for one of them to be the Colony of another. It is, in fact, the essence of our relationship with the United Kingdom as a Colony that adds a political dimension to the problem of extending to Gibraltarians the right enjoyed by other EEC nationals. Were it not for that political dimension, I think, we would not have to get so heated about the situation because the physical and practical problems would remain but we could look at the obstacles purely as obstacles that require a solution as a tricky problem that one has to find how to cope with and, of course, thinking in terms of a parliamentary representative in a European Parliament with a large constituency of which Gibraltar would be a very small part obviously, in practical terms, shows that the direct benefits that would accrue to us in our having a voice in the European Parliament would not in fact be all that great but, nonetheless, the fact that we had exercised our right to put that person there would mean that we were considered in this important dimension equal to Englishmen, Frenchmen, Italians etc. and I think when one thinks of what is

happening in places like Rhodesia, where people are fighting to have the right to vote and the entire Western world is putting pressure on the white minority to recognise the right to vote, I think if the European Parliament is not just a paper exercise, if it is intended to be a meaningful institution that is going to have a significant say in the direction of Europe and in the future of the life of the people of Europe, then it is a fundamental tenet of democracy that the people whose lives are going to be affected by the decisions of the policy makers, should have a voice in deciding who those policy makers are going to be. The other aspect of this unhappy situation has been the almost indecent haste with which it appears to have been handled in London and in fact I think certain misrepresentations that appear to have taken place in the exchanges in the House of Lords where, if one had not read it here, one would have gained the impression there that we were fully in the know of what was going on and, indeed, that there was no major disagreement or that no major views that had been put in this respect. I think that this should have happened is a bad thing and I think it is important that it should be known that we do not like it because if this is a sign of the sort of situation that could develop in other areas where our interests are more intimately affected then, I think, we could spend a lot of time, Mr Speaker, talking in the Gibraltar House of Assembly to each other to no avail whilst matters were being decided, affecting our lives, over our heads and either we have got to come to terms with reality and admit to ourselves that we are just playing games here or else we have got to do something to put a stop to it.

HON I ABEÇASIS

Mr Speaker, I would just like to quote one bit of the House of Lords Hansard where Lord Bourne says: "My Lords, is the noble Lord aware that this is all a big surprise to the Gibraltarians themselves?", and the answer from Lord Goronwy-Roberts is "My Lords, that remains to be seen". It has been seen without a shade of a doubt that it was a big surprise, as no doubt Hansard will show. That is all I have to say.

HON M XIBERRAS

Mr Speaker, I expected the motion to be supported by all



sections of the House but I am no less grateful for the support it has received in fact. I expected the support because the views that were represented to Her Majesty's Government were clearly the views of all elected members of this Chamber, as they were indeed of the European Movement as a whole and as I think they were of the people represented by the elected members, namely, the people of Gibraltar. What has been highlighted, however, in this debate is how fundamental this issue is in the context of Gibraltar's situation. I think the Honourable Mr Canepa spoke very well and the Honourable Leader of the Opposition has echoed the views expressed by Mr Canepa as did the Honourable Mr Peter Isola. It is fundamental not for the practical considerations so much as from the status which the people of Gibraltar will enjoy within the Community and such a status when it is determined cannot be irrelevant to the status vis-a-vis Spain and vis-a-vis Britain herself. The European Movement, Mr Speaker, was born rather later but the issue even if the European Movement did not exist today would be one of very great importance to the people of Gibraltar ever since we agreed to join the European Community for Movement or no Movement this is a fundamental matter for us on which there should have been consultation as to whether there was popular interest in this or whether there was not. This was fundamental to our position and consultation should have come not on the unofficial or demi-official net but officially from the Secretary of State through the Governor, to the Chief Minister, other elected leaders and to Members of the House and the people of Gibraltar, through that channel. It is a matter for the deepest regret that our wishes in this matter have been disregarded and, indeed, as has been said in the House, partly misrepresented to the Members of the House of Lords. Mr Speaker, the letter which I sent the Chief Minister has been praised by Honourable Members but I must emphasise that it was not my representation as Chairman of the Movement or the Movement's representations that went to Her Majesty's Government, they were, in fact, the representations of all elected members of this House and even though the Movement does carry a considerable amount of weight because to it belong all elected members of the House nevertheless, there are issues which the Government of Gibraltar qua Government must take up and this, in fact, was one of them. If the Chief Minister, in passing on the letter, made the argument his own, I am most grateful and most flattered but, on the other hand, it should not be misunderstood that this was a representation of the European Movement to Her Majesty's Government but a representation of elected members on both sides of the House.



If the Honourable Member will give way. I think in fairness the reference to the fact that there was a letter from the Chief Minister by Lord Goronwy-Roberts made that quite clear.

HON M XIBERRAS

Mr Speaker, the European Movement voted to have a petition on this matter at a meeting two days ago. It was for consideration because of the nature of the European Movement that it should have the support of all sectors of political opinion here and from independents as well. I am encouraged by the fact that members think that something can be done even at this stage and I am sure that such a move would be supported by all sides of the House and therefore it is my proposal, which I shall discuss further with representatives of the various parties within the Movement, as to whether there should be a petition on this matter, one to arrive in Britain, hopefully, before the Committee Stage is taken but if not it can serve the very useful purpose of showing for the next time round that we are not prepared to take this lying down, that we do attach importance to all aspects of our relations with Europe and that we will insist that Her Majesty's Government and European institutions, possibly even the European Commission for Human Rights, is fully aware that our feelings on this matter are sincere and strong. I commend the motion to the House, Mr Speaker.

MR SPEAKER

I will then put the question which is: "That this House notes with concern the substance of the reply contained in the letter of 24 June, 1977, from His Excellency the Governor to the Chief Minister regarding the representations made to Her Majesty's Government in favour of the enfranchisement of the people of Gibraltar in respect of direct elections to the European Movement."

The question was unanimously resolved in the affirmative and the motion was accordingly passed.

The Honourable Major R J Peliza was absent from the Chamber when the vote was taken.

MR SPEAKER:

I have been given notice both by the Chief Minister and the Minister for Municipal Services that they wish to make a statement. As we all know the rule or procedure is that they do not need either the leave of the Speaker or of the House to make a statement but that they have to give notice that they are making them. I therefore call on the Minister for Municipal Services to make his statement.

HON MAJOR F J DELLIPIANI:

Mr Speaker, on Tuesday in reply to a question from the Honourable Dr Valarino, I gave certain information to this House regarding the state of the engines at the Generating Station. The situation has changed considerably in the short period since the information was prepared and in order not to mislead the House I consider I must now make a statement.

This week TGWU have instructed their members in all Government Departments and in the Generating Station to go slow and work to rule and have also blacked any replacement filters for No.13, the largest and newest engine in the New Station.

This means that the largest engine cannot be run at all and all the remaining engines that are serviceable are required to meet the demand for electricity at peak periods.

Repair work on the engines has been so badly affected by the very slow rate of working, for example it has taken four men a whole working day to pour two drums of oil into an engine, a task which normally takes two hours, that No.12, the engine I said would be ready on Tuesday or Wednesday, will not now be ready for several more days.

If this engine is not ready and any other engine needs repair at all at a time of peak demand it will be impossible to meet the requirement and the only possible course of action will be to introduce load sharing. This means that selected areas of Gibraltar will be without supply for periods of time. It is unlikely that it will be possible to give any warning of such cuts.

In normal times it would be possible to ~~share~~ the load with the Dockyard Generating Station but the TGWU has also blacked the supply of filters to the MOD and they are no longer able to run their engines to assist the Government Generating Station.

I also said that work on the new foundation for No.10 engine was progressing well.

I must now report that the TGWU have also blacked the use of the crane to assist the contractor. This is necessary to remove the large amount of old concrete and the alternative use of wheel barrows can only delay the rebuilding of this engine.

The House will be well aware of the need for regular maintenance of these valuable engines. It is at this time of the year when work can be done to put things in order for the winter time when the demand is higher and more engines are required at any one time. The effect of this quite unnecessary industrial action can only be to jeopardise the future and if such action continues even for a short while there is a real danger that power cuts will also be necessary in the winter time when the effect can only be the more serious.

MR SPEAKER:

I will say that since this is the last meeting before the summer recess and there has been very short notice of this statement, that even though only questions as to clarification can be asked, I will be very liberal if members wish to ask any questions on the statement.

HON M XIBERRAS:

Is the Hon Member saying whether the TGWU have been made aware of the Government's interpretation of the likely result of this industrial action?

HON MAJOR F J DELLIPIANI:

Mr Speaker, the Union is too well aware of what goes on in the Generating Station.

HON J BOSSANO:

Can he say whether in fact the Gibraltar Government has been supplying electricity to the Ministry of Defence throughout this week?

HON MAJOR F J DELLIPIANI:

I cannot tell you offhand whether we have been supplying electricity to the Dockyard this week. I haven't got the information at this moment but what I can say is that we have a system where when we need assistance they give it to us and when they need assistance we give it to them. I have just been informed that we have not supplied electricity to the Ministry of Defence this week.

HON M XIBERRAS:

In view, Mr Speaker, of the fact that the industrial action being taken appears to be localised in the sense of the number of people involved in this industrial action....

MR SPEAKER:

No, I think the Minister said that it was a general decision to go slow which is also affecting the Generating Station. That is how I understood the Minister's statement.

HON MAJOR F J DELLIPIANI:

The TGWU has instructed their members in all Government Departments and in the Generating Station.

HON CHIEF MINISTER:

Mr Speaker, this is the last meeting before the House goes into recess and I think I should inform the House of the present position in regard to a matter of great importance not only to the large number of persons in official employment but to the community as a whole. I refer to the question of the blacking of the Official Employers which has been going on for 4 months and to the question of the pay review for 1976 and 1977.

Pay reviews, by their nature, are complicated matters. But the position of the Gibraltar Government, and of the other Official Employers, is perfectly simple. The Scamp Report, which the Official Employers accepted in toto, said that, in 1976, wages and salaries in Gibraltar should correspond to 76% of wages and salaries in UK and that, in 1977, this proportion should rise to 80. of wages and salaries in UK.

Because we, as a Government, are committed both to social justice and to peaceful industrial relations, we have decided, along with the UK Departments, that the 80% relationship should be advanced by one year.

In other words, instead of achieving 76% of UK rates in 1976, all Unions in Gibraltar are now able, if they wish, to agree to 80% in 1976. Any Union which accepts this will



enable its members to receive the corresponding increase as soon as the necessary arrangements can be made to pay it.

But this is not the end of the story. The Official Employers have also offered an independent inquiry to decide what percentage of UK rates of pay should be paid in Gibraltar in October 1977. Both these offers were conditional on the blacking being lifted. Moreover a letter from the Chairman of JIC addressed to the District Officer of TGWU which was published last Saturday included the following statement:

"You were also informed that any evidence for a claim beyond 80% would need to be referred to an independent inquiry."

If it were to be the wish of the Union, and of course of Unions as a whole, the Official Employers would favourably consider bringing the inquiry forward by one year to 1976. The effect of this, of course, would be that 80% would not necessarily be the final figure for 1976, a point which, I know, has been causing concern to unions generally. In a nutshell, the position of the Official Employers is therefore as follows:-

- (1) 80% of the UK rates is now payable, back-dated to 1st October 1976, a full nine months; and
- (2) an independent inquiry could, if this is desired, be asked to establish on the evidence available whether 80% is the correct figure or not from 1st October 1976 onwards.

In the meantime, and for no reason that the Official Employers can understand, the TGWU continues the blacking action which it began 4 months ago and which is now having the following effects:

- (1) essential public services such as, to mention but a few, repairs to roofs, schools and housing are being delayed;
- (2) because of shortage of materials, such as timber and paint, the Gibraltar Government can no longer continue to provide overtime work. The effect of this cut in overtime is obviously to reduce the pay packets of the employees. The Union's response to this regrettable but necessary cut in overtime has been to order a general go-slow;

- (3) the situation at the Generating Station is becoming dangerous; you have just heard a statement to that effect in detail;
- (4) the serious effects on the Dockyard, where overtime cuts have similarly been imposed, have already been made public.

The most baffling thing about this situation is that the Official Employers' proposals for a settlement are open-ended. One is almost forced to the conclusion that there is no wish for a reasonable and peaceful settlement. Certainly, as far as the Official Employers are concerned, the door to negotiations, or, if so desired, to informal contact with officials, remains wide open.

HON P J ISOLA:

With that invitation, Mr Speaker, it depends on the Hon the Leader of the Opposition to make a statement of the position as far as he is concerned.

MR SPEAKER:

As a matter of fact whenever statements have been made I have always allowed a more free hand to all Leaders of the Opposition to say a few words in reply if they so wished. I think Hansards will show that and I will allow other Members to ask questions if they so wish.

HON J BOSSANO:

I think there is something we ought to clear up otherwise we are going to have a lot of sniping going on for a very long time in this House of Assembly. I am here elected by the people of Gibraltar as a candidate for the Gibraltar Democratic Movement. I happen to be employed by the Transport and General Workers' Union and as an official of that Union I follow the majority decisions taken inside the Transport and General Workers' Union. I don't, for example, Mr Speaker, think I have got a right in the House of Assembly to ask the Hon and Learned Mr Isola what he does for his clients who pay him as a lawyer or to ask the Hon and Learned the Chief Minister what he does for his clients and therefore I do not think the Hon and Learned Members have got the right to expect me, as a Leader of the Opposition, to make statements about what I do in the Transport and General Workers' Union.

HON P J ISOLA:

I think the Leader of the Opposition has got me all wrong. I was inviting the Leader of the Opposition to make a statement as the Leader of the Opposition, if he can. That is all. I wasn't asking him to say what his employers want him to say but as a representative of the people of Gibraltar what is the view of the Leader of the Opposition on this matter, that is all. Please do not think I was trying to ask him to give his views as an employee of the Transport and General Workers' Union.

HON CHIEF MINISTER:

I move the adjournment that the House stand adjourned sine die.

The adjournment of the House sine die was taken at 12.35 pm on Friday the 15th July, 1977.