

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

24th OCTOBER 1978

HOUSE OF ASSEMBLY - VERBATIM REPORT

A copy of the Report of the proceedings of the House of Assembly meeting held on the 24th October, 1978 is attached.

2. In case of any amendments Hon Members are kindly requested to hand them in not later than Friday the 9th February, 1979.

A handwritten signature in black ink, appearing to be 'A. L. ...', written over the printed title of the Clerk of the House of Assembly.

19.1.79

Clerk of the House of Assembly

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Twelfth Meeting of the First Session of the Third House of Assembly held in the Assembly Chambers on Tuesday the 24th October, 1978, at the hour of 10.30 o'clock in the forenoon.

PRESENT:

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

GOVERNMENT:

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

The Hon J B Perez

OPPOSITION:

The Hon M Xiberras - Leader of the Opposition
The Hon P J Isola, OBE
The Hon Major R J Peliza
The Hon G T Restano

INDEPENDENT MEMBER:

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS.

The Hon F E Pizzarello, Acting Attorney-General took the Oath of Allegiance.

HON CHIEF MINISTER:

Mr Speaker, I would like on behalf of all Members, to welcome Mr Pizzarello in his acting appointment as Attorney-General. It is not the first time that we have had a Gibraltarian acting as Attorney-General and we hope that this time it will be just a little more than that.

HON M XIBERRAS:

I welcome Mr Pizzarello in his acting appointment as Attorney-General. He is not, as the Chief Minister rightly said, the first Gibraltarian who has filled this post in the House but, perhaps, the first Gibraltarian of my generation to do so and I am very happy to associate myself with what the Chief Minister has said in welcoming Mr Pizzarello.

MR SPEAKER:

I myself would like to join in these words of welcome and congratulations and to warn the Hon and Learned Member that I will certainly make use of my right to seek his very learned advice whenever I need it.

MR PIZZARELLO:

Mr Speaker, may I thank you, the Honourable the Chief Minister and the Honourable Mr Xiberras for their kind remarks of welcome.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 26th June, 1978, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

The Register of Electors (1978 Supplement) Order, 1978.

Ordered to lie.

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

- (1) Accounts of the Central Fund and the General Account of the Board of Governors of the John Mackintosh Home for the year ended 31st December 1977.
- (2) The Employment Injuries Insurance (Medical Certification and Treatment) (Amendment) Regulations, 1978.

- (3) The Employment Injuries Insurance (Medical Certification and Treatment) (Amendment) (No. 2) Regulations, 1978.
- (4) The Regulation of Dock Work (Appeal) Regulations, 1978.
- (5) The Regulation of Dock Work (Forms) Regulations, 1978.
- (6) The Prison (Amendment) Regulations, 1978.
- (7) The Employment Survey Report - April, 1978.

Ordered to lie.

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

- (1) The Traffic (Taxi Fares) (Amendment) Regulations, 1978.
- (2) The Traffic (Taxi Fares) (Amendment) (No. 2) Regulations, 1978.
- (3) The Landlord and Tenant (Rent Relief) (Terms and Conditions) (Amendment) Regulations, 1978.

Ordered to lie.

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

- (1) The Animals and Birds (Amendment) Rules, 1978.
- (2) The Soft Drinks (Amendment) Regulations, 1978.
- (3) The Skimmed Milk with Non-Milk Fat (Amendment) Regulations, 1978.
- (4) The Group Practice Medical Scheme (Amendment) (no. 2) Regulations, 1978.
- (5) The Group Practice Medical Scheme (Amendment) (No. 3) Regulations, 1978.

Ordered to lie.

The Hon the Minister for Education laid on the table the following documents:-

- (1) Accounts of the John Mackintosh Hall for the year ended 31st March, 1978.
- (2) The Educational Awards (Amendment) (No. 2) Regulations, 1978.

Ordered to lie.

The Hon the Minister for Tourism and Postal Services laid on the table the following documents:-

- (1) Accounts for the Gibraltar Museum for the year ended 31st March, 1978.
- (2) The Museum (Entry and Fees) (Amendment) Rules, 1978.
- (3) The Museum (Entry and Fees) (Amendment) (No. 2) Rules, 1978.

Ordered to lie.

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

- (1) The Pilotage Administration Charge Rules, 1978.
- (2) The Pilots (Amendment) Rules, 1978.

Ordered to lie.

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

- (1) The Consular Relations (Merchant Shipping and Civil Aviation) (Polish People's Republic) Order, 1978.
- (2) The Consular Relations (Privileges and Immunities) (Polish People's Republic) Order, 1978.
- (3) The Gibraltar Regiment (Amendment) (No. 2) Regulations, 1978.
- (4) The Wireless Telegraphy (Amendment) Regulations, 1978.

Ordered to lie.

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

- (1) The Currency Note (Demonetisation) Rules, 1978.
- (2) Supplementary Estimates Consolidated Fund No. 2 of 1978/79.
- (3) Supplementary Estimates Improvement and Development Fund No. 2 of 1978/79.
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 5 of 1977/78).
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 2 of 1978/79).

- (6) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 3 of 1978/79).
- (7) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 4 of 1977/78).
- (8) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No. 1 of 1978/79).

Ordered to lie.

ANSWERS TO QUESTIONS

Questions asked in the House by the Hon Members together with Answers thereto and Supplementaries are attached to these Minutes as Appendix "A".

The House recessed at 1.10 pm.

The House resumed at 3.25 pm.

Answers to Questions continued.

The House recessed at 5.20 pm.

The House resumed at 5.40 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MR SPEAKER:

The Honourable the Chief Minister has given notice that he wishes to make two statements; the Honourable the Minister for Labour and Social Security, the Minister for Tourism and Postal Services, and the Minister for Municipal Services have also given notice that they wish to make statements. I will now call on the Honourable the Chief Minister to make his first statement.

HON CHIEF MINISTER:

The House will recall that Supplementary Appropriation (1977-78) (No. 2) Ordinance 1977 under Head 27 - Treasury provided, inter alia, for the sum of £11,000 to be made available to cover the costs of the libel action brought by the then Deputy Governor, Mr H E Davis, against Mr S Wall.

Sir Howard Davis has now written to me and in so doing has repaid the amount of £10933.57 which the Government had paid as costs in the said libel action. I am therefore pleased to say that there has not been any charge whatsoever on public funds in respect of this matter.

The text of Sir Howard's letter is as follows:-

'You will recall that when I resolved to sue Mr Stephen P Wall in respect of certain libels which he published against me, the Government in accordance with established practice decided that as my action was forced on me in defence of the integrity of my office and the administration, it would stand behind me for the amount of costs that I might incur in its successful prosecution. As you know, after a fully contested hearing in the Supreme Court in March, 1977, the Jury found unanimously in my favour and awarded me damages in the sum of £19,500 plus costs. In actual fact, the costs of the action which amounted to £10,933.57, substantially exceeded the amount of the costs that I would have recovered from the other side on a party and party basis, mainly because, as had been agreed, I had instructed a UK Silk to appear for me at the hearing. The costs recoverable under the Court Order are estimated at £4,600, which normally would have left me with the sum of £6,300 to pay out of the award of damages, without having to look to the Government to assist me in any way. On the day after the Judgment, however, Mr Wall left Gibraltar and it then appeared that there was very little prospect of my succeeding in recovering any part of the award of damages or the costs.

In these circumstances, you will recall that about mid 1977 the House of Assembly voted (with some abstentions) the sum of £11,000 which the Government sought to meet the costs of the libel action and which then had to be paid.

As you are aware, in an endeavour to recover at least the amount expended by the Government on my behalf, bankruptcy proceedings against Mr Wall were subsequently instituted at my expense. In the course of these proceedings the Receiver in Bankruptcy of Mr Wall has succeeded in recovering £13,811.90 in respect of transactions voidable under the Bankruptcy Laws or as being in fraud of creditors. The recovery of these funds has entailed a hearing before the Supreme Court, fully contested by the bankrupt's daughter and her company, Newall (Holdings)

Ltd, who were represented by UK Silk, and an Appeal and Cross-Appeals from the decision of the Supreme Court to the Gibraltar Court of Appeal.

I have financed all these proceedings without recourse to or charge against the funds recovered which have now been made available to me by the Receiver and in accordance with the undertaking I gave you in my letter of the 8th July 1977 I now enclose my cheque for £10,933.57 in full reimbursement of the amount voted by the House of Assembly. You will appreciate that - as yet - I have not obtained anywhere near the damages awarded nor the costs, and in effect I am applying the greater part of the funds recovered in the Bankruptcy proceeding to repay the Government. I would be grateful if, when you inform the House of Assembly, this could be made clear and if at the same time you would convey to them an expression of my thanks.'

I think we should express our admiration for Sir Howard's great efforts in obtaining these funds to repay the Government the moneys expended on his behalf.

HON M XIBERRAS:

Sir Howard Davis' ^{should} action be welcomed unanimously by the House.

HON CHIEF MINISTER:

I am glad to be able to inform the House that the Government is now ready to proceed with the appointment of a Public Accounts Committee. Before making this announcement I invited the Hon Leader of the Opposition to come and discuss the matter with me. Having done so, he then requested me to put my proposals in writing. This I did and I think I can do no better, in informing the House, than to read the letter which I sent to him on the 17th October and which summarises the proposals. The text is as follows:-

"On two or three occasions in the past you have asked me in the House of Assembly about the setting up of a Public Accounts Committee. In reply I expressed certain doubts about possibly difficulties but stated that I was favourably disposed to pursuing the matter and starting off perhaps in a small way by identifying particular departments for examination.

On the last occasion, in April this year, I stated that I would invite you to come and discuss the matter with me. This I did yesterday and, having

previously gone into the matter in detail in consultation with the Financial and Development Secretary and the Principal Auditor, I proposed the appointment of a Public Accounts Committee. I handed you copies of materials supplied by the Clerk of the Overseas Office of the House of Commons and by the Principal Auditor and I explained the main features of my proposal. You asked me to put these in writing and they are accordingly described below.

On the question of membership of the Committee, the Overseas Clerk informs us that an approximate party balance is maintained and that the Chairman is always an Opposition Member. It is also the practice that neither Ministers nor the Leader of the Opposition are members of the Committee. It seems to me that we should follow the practice in Britain as closely as we can and the Ministers and the Leader of the Opposition should not be members. I therefore suggest that the Committee should be chaired by Mr P J Isola and that the members should be Mr G Restano and Mr B Perez. I have asked Mr Bossano whether he would wish to serve on the Committee but he has declined to do so. You will note that, because of local circumstances, it is not possible to maintain a party balance in the Committee; indeed, at some future date, should there be no backbencher on the Government side, the Committee would have to consist entirely of members from the opposite side of the House'.

I enclose a note prepared by the Financial and Development Secretary on the scope of the Committee's examination, how the Committee would function and how it would be serviced. You will see from paragraph 2 of this note that the Principal Auditor would be the Committee's technical adviser and that a senior Treasury Official - the Finance Officer - would attend all meetings as an expert witness. I invited you yesterday to discuss all aspects of the proposed Committee with the Principal Auditor with whom, you told me, you had previously had one or two informal discussions.

I stressed at our meeting yesterday the special non-party nature of the work of the Public Accounts Committee in Britain. This is made clear in paragraph 20 of the note enclosed with the letter from the Overseas Clerk as well as in paragraph 6 of the note provided by the Principal Auditor. In this

context I think it worth drawing particular attention to the following quotations from statements by an eminent former Chairman of the Public Accounts Committee of the House of Commons, Sir Harold Wilson:

'The essential fact is that this Committee is a Committee of the House, responsible to the House as a whole, and is not a battleground for party factions I believe it is true to say that the authority of the Committee is greatly enhanced by its unanimous character and, I hope, the complete objectivity of its reports. It is fair to say that many Hon Members of both parties have made great endeavours and have sometimes sacrificed personal views to ensure that this should be so.'

'..... I am sure that I speak for all Hon Members - I certainly know that I speak for all members of the Public Accounts Committee - when I say that I do not regard this debate as one that should take place on party lines.'

The report of the Committee would be laid before the House and published together with a record of the proceedings and any memoranda supplied by departments (see paragraph 21 of the Principal Auditor's note which goes on to state that the debate in Parliament follows the spirit of the Committee's deliberations and avoids division on party lines). I informed you yesterday that, as I understand it, matters coming within the scope of the Committee's functions would not be raised or debated in the House until the Committee itself had examined such matters and reported to the House, when, of course, a full debate could ensue.

As to the matters to be dealt with by the Committee, the first priority, in my view, would be to inquire into excess expenditure over authorised votes in the 1975/76 and 1976/77 accounts. I would have thought also that the Committee might think fit to look into the accounts of the Public Works Department as the largest spending department of Government. The Committee would, however, be free to direct its attention to any matter within its scope but, in arriving at its decisions, would no doubt take into account any advice or guidance offered by the Principal Auditor. I also informed you yesterday that the Financial and Development Secretary had reported to me that he had studied the reports of the Principal Auditor on his enquiries into allegations of malpractice in the purchase and supply of stores

and that he had concluded that there was no evidence to support any allegation of malfeasance on the part of any officer. It was, however, found that there was a widespread failure in the Public Works Department to observe stores regulations and the normal procedures for checking the receipt of and payment for stores. Departmental instructions on the correct procedures to be followed were issued at the beginning of the year. The Financial and Development Secretary has suggested, and I agree, that the matter should be ventilated in detail before the Public Accounts Committee and that the Committee should address itself particularly to the question whether the new arrangements introduced by the Department are sufficient to ensure that the situation reported by the Principal Auditor does not recur.

I also informed you yesterday that while, as in Britain, we should perhaps introduce a Standing Order to provide for a Public Accounts Committee, my view is that, initially at least, the House should be asked to appoint such a Committee by motion. We are in a sense experimenting in a new field of activity and it would be easier to introduce any alterations that might become desirable in the light of experience if it is established by motion rather than by Standing Order. I accordingly intend, if we reach agreement on this matter, to propose two motions on the following lines at the next meeting of the House:

'That a Select Committee should be appointed, to be designated the Select Committee of Public Accounts, to examine the accounts showing the appropriation of the sums granted by the House to meet the public expenditure and such other accounts laid before the House as the Committee may think fit and to report from time to time.'

'That the following members should be nominated to the Select Committee of Public Accounts:

The Hon P J Isola
The Hon B Perez
The Hon G Restano '

I hope that you and your colleagues will feel able to agree to the above proposals. The Committee could begin its work immediately after the necessary motions have been passed and its first report could be debated in the House as soon as this can be produced. I imagine that this would happen in the fairly near future."

Sir, in view of the interest that has been taken in this House - and elsewhere - in the contents of the Principal Auditor's report, and indeed on allegations of malpractice, I thought it desirable that the House and the public should be aware of my proposal that these matters, and any other matters of a similar nature, should be investigated, in depth and in detail, by a Committee of this House.

In his reply to my proposals, which I received yesterday afternoon (Monday), the Hon the leader of the Opposition stated as follows:

"I acknowledge the receipt of your letter referring to our recent meeting on the subject of the Public Accounts Committee. I have now carried out preliminary consultations with my colleagues in the House, and am in a position to give you a preliminary reply.

I am very glad that after two years pressing the Government on this issue of a Public Accounts Committee, acceptance has been gained on the need for it and that you have made specific proposals. Our views on these must, however, be deferred until we have been able to consider them further and, as it would appear to be necessary from our point of view, we are able to make certain counter proposals.

Since it was your intention, as you told me at our meeting, to make a statement during this meeting of the House, I should advance our view, that the suggestion contained in your paragraph 6 and 7, which would effectively prevent the opposition, including Mr Bossano, who apparently does not wish to form part of the committee, from raising in the House matters connected with the 1976/1977 accounts and I presume the Principal Auditor's Report covering that year, that is totally unacceptable to us, in view of the fact that at the time when this report was before the House there was no firm commitment on your part to accept a Public Accounts Committee. We must, therefore, reserve our right to act in respect of this period, as if the means available for debating the issue remained unchanged.

I agree with the point you make in your paragraph 3 'that we should follow the practice in Britain as closely as we can' but we note that further on in the same paragraph you make a substantial departure from that practice when you say 'that, because of local circumstances it is not possible to maintain party balance in the committee'. Whilst appreciating both your points, we must reserve the right in making our counter proposals to make similar departures from the practice in Britain because of local circumstances as we see them.

At this stage I would only make one more point already mentioned during our meeting. If you refer to our correspondence on this matter you will see that the proposal for the establishment of a Public Accounts Committee, which I made, was part of my general concern that procedure in the House did not allow the opposition sufficient opportunity appropriate to the purpose of exercising its fundamental duty to control expenditure. Acceptance of the principle of PAC is most welcome in this context, but by no means covers all the issues I was raising at the time."

I now await these counter-proposals and they will, of course, be given the most careful consideration.

It might, however, be useful if at this stage I were to comment briefly on two other points contained in the Hon Leader of the Opposition's letter. The first of these arises from the statement made in my letter to the effect that, as I understand it, matters coming within the scope of the Committee's functions would not be raised or debated in the House until the Committee itself had examined such matters, when, of course, a full debate could ensue. The Hon Leader of the Opposition states that this suggestion would effectively prevent the Opposition, including the Hon Mr Bossano from raising in the House matters connected with the 1976/77 accounts and, presumably, the Principal Auditor's report covering that year, and that this is totally unacceptable to them because when that report was before the House there was no firm commitment on the Government's part to accept a Public Accounts Committee.

It might perhaps be helpful if I attempt to clarify this point. Far from attempting to prevent debate of these matters in the House, what we are doing by proposing a Public Accounts Committee is in fact to open our books to the Opposition so that they can examine any item of expenditure they wish as well as any alleged irregularities or malpractices. I think previous debate and questions have shown just how difficult it is to pursue in this House the matters which a Public Accounts Committee could deal with far more effectively. Many of these matters are complex and require detailed investigation; the Principal Auditor and the Finance Officer would be available to assist the Committee in a manner which they clearly cannot do in this House; and finally, and perhaps most important of all, the Committee would be able to question directly and in detail the civil servants who are responsible for administering the funds granted by the House. Not only is this by far the best way of dealing with these matters, but also, as I have said, the House would in any event have a full opportunity to debate the Committee's report as soon as this was ready and, of course, the report and related documents would be published.

The second point which I should like to clarify, arising from the letter from the Hon Leader of the Opposition, relates to the practice in Britain. As I said in my own letter, local circumstances make it necessary to deviate from this practice in so far as maintaining a balance between the parties is concerned. The Hon Leader of the Opposition stated that the Opposition reserve the right, in making their counter-proposals, to make similar departures from the United Kingdom practice. The Government will, of course, consider any such proposals strictly on their merits, subject to the spirit, and as far as possible the letter, of the United Kingdom practice in these matters being observed.

Sir, I very much hope that the Opposition will be able to let us have their counter-proposals in the near future and that they will consider very carefully what I have said in relation to the procedure whereby the Committee, as in Britain, would first carry out their examination of the accounts and other matters and their report would then be debated in the House. There are three points which I should like to stress. First of all, as I emphasised in my letter, The Committee's approach should not be based on party lines; this is a Committee which the House as a whole appoints to investigate on its behalf the manner in which civil servants have administered the funds voted by the House under the policies adopted by it. Secondly - and this is closely related to the first point - I would stress that it is the civil servants, the Controlling Officers, whose actions are to be investigated, not the policies of Ministers. Thirdly, there is no doubt that the Principal Auditor's report and the allegations of malpractice which have been made in recent months have led to an apparent belief in some quarters that wide-spread irregularities exist. In my view it is essential that both the Auditor's report and the allegations should be investigated in detail, with all the necessary facts and figures being made available to the Committee, as soon as possible. Not to do this would be unfair and unjust on all whose reputations may have been smeared by interpretation of the Auditor's report and by rumour, allegations and speculation. Should any malpractices in fact be brought to light those responsible will be dealt with; on the other hand, those who at all times have acted properly will be quickly and rightfully cleared of any undeserved suspicion. I hope therefore that it will be possible to reach agreement in time for the Committee to be appointed at the next meeting of this House.

HON M XIBERRAS:

Mr Speaker, I am very glad to see such a strong advocate of the Public Accounts Committee in the Chief Minister after pressing the point on him for the last two years. I would like to ask some questions in clarification and I hope the House will bear in mind that the Chief Minister's statement is, in fact, an argument in favour of his view of matters and that therefore it is difficult for me

MR SPEAKER:

Yes, but on the other hand the Leader of the Opposition must accept that by the fact that the Government are governing they are entitled to make statements on policy or whatever else and that the only questions that can be asked are for the purposes of clarifying any matter which is not understood from the statement. Of course, I always allow the Leader of the Opposition a little latitude.

HON M XIBERRAS:

I would like to because of the nature of the statement, Mr Speaker, which I was about to explain that in fact, my reply of the 23rd of October was in answer to a request by the Chief Minister that I should reply before this meeting of the House so that a statement could be made outlining the areas of agreement in this matter. I am afraid there has been a different stress to what I expected in this respect in the Chief Minister's statement. I haven't got a copy of the statement yet

MR SPEAKER:

You will get it within two minutes.

HON M XIBERRAS:

Yes, it is here, I beg your pardon. The Chief Minister says that 'the Government is now ready to proceed with the appointment of a Public Accounts Committee'. I was not sure whether the Chief Minister had said that the House was able to proceed with the appointment of a Public Accounts Committee. I confirm it is the Government. The Opposition is not ready to proceed with the appointment of a Public Accounts Committee as was made clear to the Chief Minister in the meeting that we had and also in the letter which I sent him, until we have had a chance to consider the proposal. Mr Speaker, there is something put into the statement which I do not think properly belongs there, if I may say so, but it was one of the subjects touched on in our meeting and that is allegations of malfeasance, allegations which it has been said now that there is no evidence of malfeasance. That I do not think, in fact, touches upon the question of the principles of setting up a Public Accounts Committee and I would ask the Chief Minister to confirm that these are matters which we have been treating, himself and myself, quite separately.

HON CHIEF MINISTER:

Yes, except to the point that those matters of which I could only give you a general reply because I had not had a full report, I say that these are matters which were worrying the Leader of the Opposition which could well be looked at by the Public Accounts Committee.

HON M XIBERRAS:

It could well be looked at but I hope that the Chief Minister will note that we consider on this side of the House that to be

a separate issue.

MR SPEAKER:

The Chief Minister is saying that the Public Accounts Committee could be used for this purpose too.

HON CHIEF MINISTER:

Mr Speaker, if I hadn't said that I could now be accused of saying "Yes, but you are not including the things they are looking at".

HON M XIBERRAS:

Mr Speaker, what I am saying is that we are considering the actual composition and so forth of the Public Accounts Committee quite separately from any individual case. The third point, Mr Speaker, is, would the Chief Minister confirm to the House that even at the meeting that we had prior to these letters being written, I told him quite categorically that because the Public Accounts Committee was not in existence there was no firm commitment to it being established on the Government side, I was able to accept no restriction on the open debate that has been held and the practice to hold on the matter of the Principal Auditor's Report and I could not commit my colleagues in my Party, nor could I commit the Honourable Mr Bossano who apparently does not wish to form part of the Committee, to limiting debate or even postponing it until the Public Accounts Committee had looked into these issues. For the future and after two years of pressing, certainly, Mr Speaker, we think it is a very good thing, but to interrupt the debate that has taken place in the House when there was no Public Accounts Committee would be to restrict the freedom of Members not only in my own Party but one who is not.

HON CHIEF MINISTER:

Mr Speaker, it is very difficult to please the Honourable Leader of the Opposition whichever way you act. I would accept that he said that he would not like to be debarred from the public discussion of the Committee but the argument now used that because the matter has been raised before the suggestion of a Public Accounts Committee was not used at that interview, that is an argument which has been used in the letter but I do not accept that he told me that. Where I think both the Honourable Leader of the Opposition and those around him sharing his view are wrong is that they looked at this as if this were a way to close discussion. Very much the opposite, it is in order to open discussion but discussion of the details. We saw this morning the difficulties of the Financial and Development Secretary in answering certain questions, as far as we were concerned another spate of questions like today at the next meeting with another spate of answers, we would have said: "You have exhausted all your ammunition and that is the end of it." But that is not the intention of the Public Accounts Committee, the intention of the Public Accounts Committee is not putting questions and getting answers

and putting supplementaries and leaving the people in the air as to what really happened. The purpose of the Public Accounts Committee is to determine the facts and to find out and, in fact, I think, if I may say so, it is a credit to the Government that because of the numbers and the way in which this House is composed, that I offered the Honourable Member a majority of his Party to look at the matters which they were thinking that they were finding wrong. That, I think, is the extent to which we trust that the Public Accounts Committee would do its duty properly and end would be able to investigate matters. There is no question of saying, "Ah, but the majority could decide something that would go against the Government". It is not the Government that is in point in this matter it is the administration and we, all Members of the House, both Members opposite and Members on this side, are interested to see that the Public Servants carry out their duties and that is the quotation that I pointed out from Sir Harold Wilson, that the Committee is appointed to enquire into the manner in which the monies which are voted by this House are dealt with by those who deal with it who are not Ministers, who are not Members of the Opposition but who are Accounting Officers. That is what we want and that cannot be done across the floor of the House in a general debate, it can be done by looking at books, by following up entries, by a thorough examination. That is what I am offering the House and Gibraltar. The books of the Government are open to the Opposition for a Public Accounts Committee to look into it and find whatever is wrong and let it be known but if something is wrong then let this almost semi witch hunt which is going around in Gibraltar since the Principal Auditor's Report was published, this witch hunt which is going round Gibraltar and which is doing no politician any good nor Gibraltar any good, let that be finished by a thorough examination into the accounts.

HON M XIBERRAS:

Can the Chief Minister confirm

MR SPEAKER:

We are not going to debate. With due respect, I think I have given a tremendous amount of latitude.

HON M XIBERRAS:

If the Chief Minister had agreed to a Public Accounts Committee some time ago there must have been no need to push him to the point where now he stands up and advocates it so strongly after two years of pressure, a Public Accounts Committee, and tells us of the virtues of it. We have contributed to bringing a Public Accounts Committee and we shall contribute.

MR SPEAKER:

Order, order.

HON M XIBERRAS:

Mr Speaker, I have another point of clarification.

MR SPEAKER:

Which is what?

HON M XIBERRAS:

Does the Chief Minister, when he speaks like this in support of the Public Accounts Committee at this stage, is he aware that Ministers can exceptionally be summoned by a Public Accounts Committee?

MR SPEAKER:

With due respect to the Honourable Leader of the Opposition that is not a matter of clarification on the statement. A matter of clarification is something that you have not understood within the statement. What you are saying is something which is completely and utterly right that, perhaps, in certain circumstances, Ministers are entitled to serve in the Public Accounts Committee but that is a matter which can be debated at another time.

HON M XIBERRAS:

In order to give balance to the so-called statement outlining areas of agreement, could he confirm that at the meeting that we held, in fact I said that ultimate responsibility of Ministers and, indeed, of the House, could not be ruled out by us, by my colleagues and myself, in these matters. Even though we accept that it was Controlling Officers that the Committee will be mostly involved with, ultimately it is the responsibility of the Government as a whole and of this House, in my view, certainly, and in the view of my colleagues.

MR SPEAKER:

I am not going to have a debate now as to what was said in private conversation or in consultation between the Chief Minister and the Leader of the Opposition exclusively for the purposes of clarification of a statement made by a Minister. I think in fairness to the House one must draw the line.

HON M XIBERRAS:

If I may say so, Mr Speaker, it was precisely in fairness to the House to show to what extent there was agreement between the Chief Minister and myself on this issue that I was asking him to confirm it.

MR SPEAKER:

Fair enough, but then we open the debate and we must not do that.

HON CHIEF MINISTER:

The fact that the Leader of the Opposition says that ultimately the Government is responsible for everything, for an earthquake, for anything, this is his line and what can you do? Let me say

one thing about the delay in the Public Accounts Committee, let me explain one thing, that I knew the difficulties about the Public Accounts Committee, I knew because of the composition because of the servicing I knew of that and when I first was asked the Hon Leader of the Opposition was more favourably impressed than he thought he was going to be by my favourable answer in the course of the debate on the Budget and this is where it arose and subsequently he has raised it. I know the difficulties, I have always said that the time that is required, the fact that there are part time politicians, I have always said that these were difficulties and that is why it has been delayed but now there is a very good reason for it. There is a very, very good reason and that is that there is a smear campaign generally, and innuendoes.

HON M XIBERRAS:

Public concern.

HON CHIEF MINISTER:

Well, public concern by innuendoes inspired by certain quarters, whatever it may be. It happens that it is necessary to look at that Report and therefore the difficulties that I anticipated I have tried to find solutions to that difficulty to the extent of giving a majority to the 5 to 10 the majority 2 to 1. This is what I have done so that shows the difficulties that would be found in the Public Accounts Committee and I would like the Public Accounts Committee if it is set up to function for what it is and not as a platform for something else.

MR SPEAKER:

I will now call on the Minister for Labour and Social Security.

HON A J CANEPA:

Mr Speaker, Government has lately been giving further detailed consideration to the suggestions - or should I say, requests - that have been made that persons who are over pensionable age and who have not qualified for contributory Old Age Pension from the Social Insurance Fund (but who may be receiving a smaller non-contributory pension, i.e. Elderly Persons Pension) should be allowed to join the Social Insurance Scheme on payment of a sum by way of notional past contributions, and thereupon be entitled to Old Age Pension. Consideration of this matter has followed on:-

Firstly, acceptance by the House of Assembly of the motion moved by the Hon J Bossano at the meeting of the House on 26 June 1978, as follows:-

"This House urges the Government to review the position of senior citizens who were precluded from joining the Social Insurance Scheme by paying arrears, on account of their age on the operative date, with a view to providing them with an improved income";

Secondly, written and oral representations recently made directly to the Minister for Labour and Social Security by a group of senior citizens concerned; and

Thirdly, a petition of pensioners generally, organised by the Juventud Socialista de Gibraltar and the Gibraltar Youth Association, which was signed by about 2,700 persons and delivered to me on 12 September 1978. This petition stated, as one of its aims, that "every retired person should receive a pension, which should be based on, and be not less than, the average level of earnings".

I regret to have to say that, as a result of this further consideration of a subject which has already been studied and discussed at length with various parties for some considerable time, Government is still unable to see its way to acceding to the proposal that persons already over pensionable age should be able to come into the scheme.

The financial implications to the Social Insurance Fund, and to present contributors who would have to bear the brunt, are very considerable indeed, but even so they are not, in Government's view, paramount.

The over-riding difficulty is that the consequences of allowing persons over pensionable age to come in at this stage would be that the whole social insurance scheme would be effectively destroyed. If persons who have not contributed in the past - for whatever reason - and who are already over pensionable age were allowed to join the scheme on payment of a lump sum covering the contributions which they would otherwise have paid if they had been insurable when they were still under pensionable age, and thereby acquired title to the present relatively much higher level of pensions under the scheme, an opportunity would, in equity, also have to be given to those already in receipt of pension at a reduced rate to be allowed to "make up" the gaps in their deficient contribution records on which their reduced pensions are assessed.

The number of cases with reduced pensions is considerable - some 500 (or 23%) of all current local pensioners. And if this were done, what argument could reasonably be advanced against allowing a similar option to aliens and others not in Gibraltar, or to all similar cases in future? i.e. to those who on reaching pensionable age at a future date do so with a deficient contribution record. And then what would be the incentive for anyone - particularly the younger people - to pay contributions regularly, when they could wait until shortly, or even after, pensionable age, and then pay all their arrears? As I have already said, the basic principle of contributory insurance would go by the board, and the basis of entitlement to benefit would be so seriously undermined that the scheme would effectively be wrecked.

The Government cannot see its way for this to happen to a scheme which, starting from small beginnings, has not only been going on

for 23 years, but has evolved so much - particularly in recent years - and now brings such benefits to workers on reaching pensionable age, whether they are retired or not, many of whom would otherwise find it impossible to make ends meet with their sometimes meagre or totally non-existent pensions from former employers.

In view of all I have said, Government is satisfied that it is only through the non-contributory Elderly Persons Pension that an avenue is offered whereby steps can be taken to improve the lot of the over 900 persons of 65 years of age or over who are not within the scheme, some of whom may be experiencing hardship to greater or lesser degree as a result of the increased cost of goods, services, etc.

For much the same reasons that these persons cannot be allowed to join the Social Insurance Scheme, it would be wrong to increase the Elderly Persons Pension, at considerable cost to the taxpayers, to the same level as the contributory Old Age Pension. With these considerations in mind, Government has today brought two Bills to the House; one of them with the purpose of increasing the Elderly Persons Pension considerably from the present £5 per person a week to £8, and another with the purpose of abolishing the additional income tax clawback, leaving the Elderly Persons Pension subject only to normal tax at whatever maximum rate the particular individual may be paying. After every considerable study of the matter this is as far as Government feels it can go, but both measures combined - the £3 (or 60%) increase in the pension and the abolition of the tax claw-back will go part of the way towards helping this fairly large group of pensioners and removing most, if not all, of their present grievances.

To conclude, may I point out that on the same day that the Bills for these two measures were published, i.e. the 12 October 1978, and after this statement had been drafted, I received a very long letter from the Hon Leader of the Opposition, dated two days previously, in which he put forward his views on a series of matters concerning elderly persons and pensions generally and particularly. The issues raised by his letter are so many and varied that I am sure that he cannot expect me to have gone into them in any depth in this short space of time, let alone give him considered replies. But at least he will have noted that one point in which he urged me to take immediate steps - i.e. the abolition of the income tax claw-back on Elderly Persons Pensions - had already been decided and acted upon by Government when he wrote the letter.

HON M XIBERRAS:

Mr Speaker, any improvement in the lot of the elderly citizens is, I am sure, welcomed by the House. I cannot say that I agree with all that the Minister has said nor can I promise that I will dissent my efforts to get him to change his mind on the question of inclusion. I look forward to receiving his reply on the points which I have made to him.

MR SPEAKER:

I will then call on the Minister for Tourism and Postal Services to make his statement.

HON I ABECASIS:

Sir, on taking office a few months ago I was asked what immediate action I intended to take to stimulate tourism to Gibraltar. I am now in a position to make a statement.

On 5 July last I inaugurated the Gibraltar Government Tourist Office in London and I am glad to report that there is every indication that the promotion of tourism from the United Kingdom is now better handled from this new Office than from the small room we had in Trafalgar Square.

From this office, and with the assistance of our Public Relations Consultants and our Advertising Agents, we are able to assess the anticipated trends on tourism, especially from the UK, and then suitably plan our marketing and selling operations.

For the 1979 season it is predicted that there will be heavy pressures on disposable income: people having to decide between cars, domestic durables or holidays abroad. There is likely to be a slow growth in holidays with a public increasingly price-conscious and consequently selective. In 1977 slightly more overseas holidays were sold in the UK than in 1976 and trends point to a continuing slight increase. Certain holidays shoulder and off-peak will offer good value to those who can go out in the off-season period. Self-catering holidays are growing rapidly.

In Gibraltar everything is being done to cater for this type of tourist and we are fully conscious that we are facing sharp competition with large companies marketing last minute availability very effectively.

With the support of my colleagues I propose to make an all-out effort to improve the product.

For a start we have decided to extend the air terminal building which presently is inadequate to meet peak demands.

We predict that the UK holiday market will grow in the next few years and have therefore to think in the very long term of a totally new air terminal building to meet these and other needs and demands in traffic over the next twenty years.

We have to strengthen our reputation in the UK as being a desirable resort with facilities for an enjoyable holiday and one that provides total relaxation once the holidaymaker arrives. In this day and age freedom from anxieties is one of the most important ingredients of a holiday package.

We cannot therefore and should not accept a lowering or deterioration in standards generally. We must make an all-out effort to maintain and improve on what we have. Tourists expect, want and demand a friendly and happy atmosphere. This we have plenty of. But as you know the more highly developed European countries value cleanliness, tidiness and speedy and good customer service above all and are prepared to pay for it. It is therefore essential and vital to us that we provide for these wants and

desires. After all it is these visitors to Gibraltar who make a considerable contribution to the economy.

Secondly, I am happy to be able to say that for the 1979 summer season we shall be having an increased number of charter services to Gibraltar as compared to 1978. Excluding the Ministry of Defence charter operations, we anticipate that in summer 1979 six whole 'plane charters will be scheduled to service tour operations, an increase of 100%. There are also the significant and welcome additional seats on Gibraltar Airways' new Boeing 737 schedule service from Gatwick commencing in April 1979. We understand that British Airways will simultaneously operate Boeing 737 on the route. These increases in capacity will, to some extent, ameliorate the exasperating situation faced during 1978 and especially in peaks when travellers, particularly short notice business travellers, were unable to secure a seat of their choice because, in our opinion, the scheduled services were unable to meet the demand on direct air services London/Gibraltar and vice versa. The very high load factors recorded during the year more than confirm that the scheduled service in 1978 has been inadequate for the community's needs. It is to be hoped too that this proposed initial increase in air seat capacity will not only provide for high yield traffic but also effectively provide for low fare passenger custom.

I am happy to record that in the first eight months of the year there has been an increase of 17% in all arrivals and a 16% increase in tourist arrivals in hotels in 1978 as compared to 1977. All guest nights sold increased by 18.6% and tourist guest nights sold by 20%. These are encouraging figures and we expect the trend to continue.

A few days ago I had a meeting with the Gibraltar Hotel Association and I am confident that together a lot can be done to improve tourism generally. It was felt that in the future our marketing and promotional efforts will generate the necessary traffic increases not only for the charter services but also for the important scheduled operations.

One important feature this year is the successful Jersey/Gibraltar operation in the late season utilizing spare Gibraltar Airways Viscount capacity. I have reason to believe that this pilot scheme may develop into a more permanent feature perhaps from a UK point of departure if the tour operator can find a suitable aircraft.

Sea excursion traffic from Morocco showed increases in the first half of 1978 compared to 1977 and the GTO's selling visits to agencies in Tangier have increased. I aim to visit the south of Morocco and assess the tourist possibility for myself in the not too distant future.

I must, before I close, underline that tourism is a highly volatile industry and at present largely if not wholly dependent on the transportation industry for its success. In Gibraltar this means air and sea communications.

We believe that transportation policies should be subject to tourism planning needs and not the other way round. In the long term therefore in my view the Government should give serious consideration to acquiring a major or controlling interest in such services upon which Gibraltar is so dependent not only for its tourist needs but also its social and economic progress.

I can assure this House that I will do everything possible with the cooperation of the Tour Operators and the Hoteliers to bring to Gibraltar the tourists, a resort in the Mediterranean deserves.

MR SPEAKER:

The Minister for Municipal Services.

HON DR R G VALARINO:

Sir, I gave notice that I wanted to make a statement to the House concerning the generating station just as my predecessor did a year ago. This notice was given on Monday 16 October. Unknown to me, notice of a motion had already been given and I therefore intend to hold back my statement until the debate on this motion in order not to duplicate matters and save valuable time. Most of the report is highly technical and I crave Mr Speaker's indulgence in order that I may read most of this statement during the ensuing debate. Thank you.

M O T I O N S

HON A J CANEPA:

Mr Speaker, I have the honour to move

MR SPEAKER:

Before you go any further may I seek the leave of the House so that the Honourable the Minister does not have to read the very long motion which he has to move. It has been circulated with plenty of time to all Members, it is highly technical and it was sent out to Members with the agenda for the meeting.

HON A J CANEPA:

Thank you Sir. I therefore have the honour to move in terms of the first motion standing in my name which seeks to amend the Social Insurance (Amendment of Contributions and Benefits) Order, 1977.

Mr Speaker, as this House is aware Section 52 of the Social Insurance Ordinance requires me to review every year the rates of contributions and benefits which are payable under the Ordinance and to advise the Governor thereon having regard to the general level of earnings and prices in Gibraltar in such manner as I may think fit. The Ordinance then goes on to prescribe that the standard rate of old age pension for a single person shall not be less than 33 $\frac{1}{3}$ % of the average weekly earnings of weekly paid full time male employees in Gibraltar as shown in

the latest available employment survey and not less than 50% for a couple. Sir, the figure for average earnings at the April 1978 Employment Survey which has been tabled earlier in these proceedings, is £43.64 per week but in looking at this figure I have not lost sight of the fact that it was arrived at before the settlement of the 1976/77 and 1978 pay reviews in the public sector and of the wages and salaries agreement which have also since been reached in the private sector more appropriately covering July, 1978. It has therefore been estimated, Sir, that after taking account of these increases the average earnings in January 1979 will be about £60 per week and because of this, although strictly speaking it is not necessary in law to provide for a pension for a couple of more than £22 a week, the order which is the subject of my motion seeks to set this pension at £30 a week for a couple as from next January.

Looking at a different way, Sir, the standard pension for a couple was set at £22.50 in January, 1978, and the increase proposed is exactly 33 $\frac{1}{3}$ % yet the increase in the Index of Retail Prices during the past 12 months has been 13 $\frac{1}{2}$ % and is not expected to exceed 15% for the whole of 1978. Any other considerations apart therefore, the proposed increase of 33 $\frac{1}{3}$ % in the level of the pensions will not only help to keep pace with inflation but will increase quite appreciably the real value of the pension. The other provisions of the Order are intended to raise widows and widowers benefits also by 1/3rd and all other benefits by 1/5th. What do all these increases mean in terms of costs? In their last actuarial report for the period 1970-75, the Government actuaries sounded a warning that urgent consideration needed to be given to an increase in the level of contributions under the Social Insurance Ordinance to prevent the Social Insurance Fund diminishing in the future when the increase ultimately required would be larger. I wish to quote the relevant paragraph from the Report, Mr Speaker, this is on the heading of the adequacy of the contribution. The Government actuaries recommend that: "It is suggested therefore that urgent consideration needs to be given to an increase in the level of contributions bearing in mind the fact that the longer the increase is postponed and the fund allowed to diminish the larger will be the increase ultimately required." End of paragraph. Sir, the increases in contributions during the last two years have already been quite appreciable but, in fact, since 1973 benefits have in all successive reviews been progressively increased by a higher percentage than the contribution. Moreover, the proposed increased benefits for 1979 and which are the subject of this Order, are estimated to involve additional expenditure of about £640,000 over that for 1978. This increase it is proposed to cover by raising contributions by 54% or in other words by 57p a week for male adult employees and 70p from the employers. The cash increases in respect of contributions being slightly less for women. I should also point out, Sir, that the contributions which are payable by the self-employed and by a handful of voluntary contributors, are not being increased at all since for them the burden is relatively greater and this also brings us closer in line with the practice in the United Kingdom. Whilst, therefore, increased contributions will just cover increased expenditure and there will be no diminishing of the fund, total expenditure on benefits will for

the second year running exceed contribution income by about £210,000 a year which will be met from investment income without serious effect on the fund which should continue to grow although at a slightly lower rate. Finally, Sir, I would like to mention as a matter of general information, that including the increased Group Practice contributions which are being introduced by my colleague the Minister for Medical and Health Services under the Group Practice Scheme (Amendment) Ordinance which is also before the House, the combined contributions payable by a man will be increased by 64p to £2 a week and that by his employer to 77p to £2.30. a week. Mr Speaker, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Hon the Minister for Labour and Social Security's motion. Mr Speaker then put the question which was resolved in the affirmative and the motion was accordingly carried.

HON A J CANEPA:

Mr Speaker, with the leave of the House I have the honour to move in the terms of the second motion standing in my name which seeks to amend the Employment Injuries Insurance (Amendment of Benefits) Order, 1977, and again I seek the leave of the House to spare me having to read it.

MR SPEAKER:

I am sure the Honourable Minister has the leave of the House.

HON A J CANEPA:

Sir, when introducing my previous motion, I mentioned that all the benefits under the Social Insurance Ordinance were proposed to be increased by 20% in January, 1979, except for Old Age Pensions and Widows Benefits which were being increased by 33 $\frac{1}{3}$ %. I also mentioned that the 20% increase was confidently expected to more than compensate for the increase in the cost of living during the 12 months ending January, 1979. I shall therefore be very brief now and simply say that the Order which I am asking the House to approve by this motion is solely concerned with increasing injury benefits and all the other benefits and allowances which are payable under the Employment Injuries Insurance Ordinance, by 20% as from the 1st January, 1979. In this case, Mr Speaker, contributions are not being increased and I commend the motion to the House.

Mr Speaker proposed the question in the terms of the motion moved by the Honourable the Minister for Labour and Social Security. Mr Speaker then put the question which was resolved in the affirmative and the motion was accordingly carried.

HON A J CANEPA:

Again, Mr Speaker, with the leave of the House I hope it will not be necessary to read the whole motion and I therefore just formally move in the terms of the third motion standing in my

name which seeks to amend the Non-Contributory Social Insurance Benefit and Unemployment Insurance (Amendment of Benefits) Order of 1977. Sir, this third motion which I am moving today is solely intended to increase again as from January 1979, the weekly rates of retirement pension and unemployment benefit. In the case of retirement pension the increase is of 30% in order to maintain the relationship of this benefit with the corresponding group of reduced old age pension under the Social Insurance Ordinance and it will mean, in fact, that in two years the pension will have been increased by almost 90% for the pensioner himself and by 80% if he is in receipt of an addition for his wife. In cash terms the increase this year is from £12.20p a week to £15.90p for a single person and from £19 to £24.40p for a married couple. Sir, the standard rate of unemployment benefit is being increased from £12.60p to £15.12p a week plus of course the additions for the wife and the children and this is in fact the normal 20% which is being applied to all other benefits under the other Ordinances except for all age pension and widows benefits and which as I have indicated is more than warranted purely by the rise in the cost of living during the past year. Sir, I commend the motion to the House.

MR SPEAKER:

I now propose the question in the terms of the motion moved by the Honourable the Minister for Labour and Social Security.

HON P J ISOLA:

Mr Speaker, I would just like to say something which is relevant to the last motion. It seems to me that if the contribution rates are not going to be increased, I wonder whether that particular motion should not have come into effect straight away it would seem to be a bit hard on somebody who has an accident between now and the end of the year. If there is no need to increase contributions rates then it doesn't really have to be related to a commencement date of January 1979. It is a small point but it seems to me that once you announce the intention, people do not choose when they get injured whereas in the other two cases it is understandable.

MR SPEAKER:

Mr Bossano, do you want to say something?

HON J BOSSANO:

Mr Speaker, would the Minister not agree that there should be some sort of relationship between basic wages and the level of unemployment benefit and that in fact there has been a very significant increase in basic wages as a result of the introduction of parity wages with the United Kingdom but an increase which effectively is looked at in terms of whether it keeps ahead of inflation is obviously a welcome improvement in a social benefit in that people will be that little bit better off if we are anticipating 15% inflation and 20% increase we are talking

about a 5% improvement so that in fact the fact that there has been an improvement in unemployment benefit looks quite small when compared to the sort of increase in basic wages that there has been over the last 12 months compared to what it was like. say, two years ago.

MR SPEAKER:

Perhaps the Minister would like to reply.

HON A J CANEPA:

Sir, first of all Mr Isola's point. We have now for some years been undertaking annual reviews and they all come into force at the beginning of the social insurance year, in January of that year. Benefits are increased from the first week in January and contributions are increased generally for all funds, if they are to be increased, from the beginning of January. I don't think that it is possible, Mr Speaker, when legislation has to go through the House some time before, I don't think that it is possible to implement it immediately otherwise it can happen at any time. If we were to implement this, say, from the beginning of November then does that mean that in future we shall have reviews of the Employment Injuries Benefits in November of the following year and, if so, when would I have to take the legislation through the House, would it be sufficient in October or would I have if perhaps as has happened on some occasions there has been no meeting of the House in October or would I therefore have to play safe and bring the legislation to the House before the summer recess, and if I can do that then why not increase the benefit the following month. I think it is fair, all things considered, Mr Speaker, to do it from the beginning of the year. I agree that any person being injured particularly in December and more so if there should be an unfortunate industrial death, would be somewhat aggrieved that had it happened later they would have been able to get the benefit of the increases but this is the way that it has to be. I honestly do not see how it can be done any other way. As regards to Mr Bossano's point, although in the few words that I have said in moving the motion I have linked it to cost of living considerations, I can tell him that in fact I have taken the movement of basic wages into account in arriving at the increase for unemployment benefit in this way. In the case of a married man who has two children he would be entitled under the proposed increases to receive in unemployment benefit £29 per week. Then I think it is fair to add to that the fact that during the time that he is unemployed he would be credited with social insurance contributions, he would not have to pay the social insurance contributions whereas a man in employment would so so, so I think we can add another £2 to that. He would be entitled to considerable rent relief as per the new regulations. I have roughly allowed for that £5 a week as what he would be saving in rent and that brings him up to £36 a week without tax. If we deduct the element of tax from a labourer who is now in the public sector getting £44.80p I think that there is a fairly close relationship.

HON J BOSSANO:

Mr Speaker, I will put this to the Honourable Member that in fact

not all workers are living in accommodation that is subject to rent relief unless he is talking in fact about people getting rent relief in government hostels or something like that. In fact, they tend to get chucked out of their residence when they lose their jobs.

HON A J CANEPA:

I was thinking mainly of Gibraltarians in this case. They would all be entitled to rent relief. I think what the Hon Member has in mind is aliens, perhaps.

HON J BOSSANO:

In fact, Mr Speaker, the truth of the matter is that immigrant workers tend to be in employments that are less secure and to lose their employment more frequently. In areas like the construction industry I think the ratio of immigrant to local workers is something like 9-1 and the construction industry is a notorious one for people being dismissed and re-employed every time there is termination and completion of a contract and of course those workers are making exactly the same contribution to the Social Insurance Fund as local workers so they should get exactly the same benefit.

HON A J CANEPA:

Sir, I don't think the increases proposed are unreasonable. I wouldn't like to do at this stage what we have done on one previous occasion and that is you have a snap amendment. Instead what I would prefer to do would be that I do not anticipate that wages and salaries are going to increase enormously over the next 12 months and therefore after the next pay review, say, in the middle of 1979, if wages were to go up by say 10%, I would try to take the point which the Honourable Member has made into account in respect of our aliens but I should also point out to the Honourable Member that it was precisely as a result of an amendment that he made on one occasion under the Employment Injuries Ordinance that we removed the ceiling for aliens and I am informed that in fact the practice is for aliens to claim for rather more than two children which of course brings them even closer to the basic wage of a labourer. I feel fairly confident, Mr Speaker, we are getting it just about right, all things considered.

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

HON ATTORNEY-GENERAL:

Sir, I have the honour to move in the terms of the notice given to you that I would seek the leave of the House not to have to read it.

MR SPEAKER:

I am sure the House will grant leave to the Honourable Member not to have to read the lengthy Registration and Naturalisation regulations which amends the fees.

HON ATTORNEY-GENERAL:

This is just an increase of fees under the Naturalisation and Registration Licensing and Fees Ordinance.

MR SPEAKER:

You do not wish to say anything in support of the motion?

HON ATTORNEY-GENERAL:

No, Sir.

Mr Speaker proposed the question in the terms of the motion moved by the Honourable the Attorney-General.

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

The House recessed at 7.30 p.m.

WEDNESDAY THE 25th OCTOBER, 1978

The House resumed at 10.30 a.m.

BILLS

FIRST AND SECOND READINGS

THE PRICE CONTROL (AMENDMENT) (NO 2) ORDINANCE, 1978.

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Price Control Ordinance (Chap. 177) 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.

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that this Bill should now be read a second time. The purpose of this Bill is to restore to the original Ordinance in their entirety those sections which were amended by the legislation which was subsequently declared to be unconstitutional by the Supreme Court. I have the honour to commend the Bill to the House.

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

HON J BOSSANO:

Mr Speaker, what the Bill seeks to restore is something that the Government amended originally in order to afford greater protection to the consumer in Gibraltar and it is something that I supported at the time. Therefore, since I supported its elimination I am obviously against its restoration whatever the views of the Supreme Court on the subject. I would like to know what further action the Government intends to take in this matter to ensure that it achieves the objectives to set itself originally, an objective that I supported, and that it does it in a way that does not infringe the Constitution.

MR SPEAKER:

Are there any other contributors?

HON M XIBERRAS:

Mr Speaker, I am in no position to question the legal ruling of the Chief Justice but I think that this exercise in which the Government brought a Bill to the House was warned by Members of the Opposition that they were going straight into an unconstitutional puddle, if I may put it that way, but persisted in stepping right into it, is a salutary exercise because it shows that certain members on this side of the House were in tune with the rights and freedoms of individuals as we know them in the Constitution.

The grounds on which the withdrawn legislation was declared unconstitutional will probably be dealt with by my Honourable and Learned Friend, Mr Peter Isola. On the political side I think it is important that whatever legislation in respect of this Ordinance is accepted by the House should have the guarantee that it will not be in its turn declared unconstitutional once again. Apart from pronouncing on the unconstitutionality or otherwise of the measure at present before the House, nonetheless, I would like to draw the attention of the Government to the ruling of the Chief Justice and to ask them whether in fact they have paid heed to what he had to say and whether they are satisfied in fact that this legislation, this Bill, conforms with that ruling or otherwise as the Honourable Mr Bossano, has said, what they intend to do about the situation that might arise even now. As I recall - and this is a matter more for the Committee Stage than for the Second Reading of the Bill - the Bill talks about the officer on a warrant going into premises to seek information. I appreciate that this was in the original Ordinance but I wonder the undefined nature of this activity of seeking information would still transgress against the ruling of the Chief Justice. I do hope that in this second time round the Minister for Labour who was quite emphatic, to put it mildly, about the virtues of the previous legislation, has done his home-work on this occasion and is able to come to the House with assurances that

this present Bill confirms with the ruling of the Chief Justice in the view of the Government and according to the advice it has received from the Attorney-General, "To seek information" should be defined. Does it mean that an officer authorised according to the Bill would be able to go on a matter concerning an article whether it is price controlled or not, and to ask, for instance, for books, sources of importation and so forth. It is covered, Mr Speaker, the point is whether this conforms with the rules of the Chief Justice or not. In my opinion it is not unreasonable provided the measure is used with prudence, to require such information though in discussing the other Bill, I said that I would like to see a procedure such as existed with the Statistics Ordinance where a particular exercise was defined by this House, the limits of which were defined by this House, for instance in respect of motor cars spares or anything else and in those cases full information such as accounts books and other documents should be legally available to the enquiring officers. I appreciate that this Bill does no more than what the original legislation was setting out to do. Nonetheless, the Minister should assure the House that this is in conformity with the Chief Justice's ruling. Our approach to this Bill is one of cautiousness, certainly of support to the intention to control profiteering where such exists, but also being mindful of the rights of the individual as defined by the Constitution and interpreted by the Court.

HON P J ISOLA:

Mr Speaker, I was very happy to hear the Honourable Mr Bossano defending the Constitution and agreeing that the provisions of the Constitution must be upheld.

HON M XIBERRAS:

He didn't say that.

HON P J ISOLA:

I am sorry, Mr Speaker, he didn't then. The Hansard will show what he said. I am sorry he didn't then because of course as all Honourable Members must agree it is in the Constitution that the rights of the people of Gibraltar are enshrined, not only the civil rights as members of a free community and as a democracy but also of course their international political rights which are more important to a great number of people than the other small print in the Constitution. Clearly, we cannot just pick and choose in our Constitution, we have a Constitution and it stands or falls as one whole. A judgement has been made by the Judiciary in Gibraltar which has shown the legislature and the executive was wrong in seeking to put forward a Bill that contravened the principles of the Constitution. If the executive didn't agree with the ruling of course it could have appealed to the Gibraltar Court of Appeal and eventually to the Privy Council. Since it did not do, one must assume that it accepted that ruling and quite properly as a result brings forward now another Bill which it hopes is within the principles of the Constitution. Mr Speaker, I think it is

very important and I am sure the Hon Members of the Government will agree, that in a democratic society the Constitution and the rule of law must be uppermost. I think the difference between democracy and totalitarianism whether it be by way of communism or by way of fascism is that in a democratic state we freely choose our law, we freely pass them and we have regard for the rights of an individual. In a totalitarian State those that govern decide what is for the benefit of the community and the individual be damned. That is in general terms, others might not agree with that in general terms, and therefore I think it is important that we should observe both the spirit and the law of the Constitution. Accordingly, Mr Speaker, we would certainly wish to be re-assured by the Honourable and Learned Attorney-General that the present Bill before the House does not contravene the terms of the Constitution. For example, the powers requiring or submitting to the search people's properties, as well as person, I think this seems to provide not for the search of the person but for the search of property, books and so forth, is not contrary also to the Constitution. It would be terrible if the Government was again taken to the Courts and it was discovered that this measure was also unconstitutional. No one denies, Mr Speaker, that in the sensitive area of price control or in the sensitive area of consumer protection there is a need for price control legislation. I do not think anybody would deny that. What I think we ought to be careful is that we apply the price control and the rules under the price control within the spirit of the law and we do not for the sake of convenience or because we happen to be annoyed about how any particular trader acts, pass or find ourselves or fall over each other, to pass laws that clearly infringe the provisions of the Constitution. I think in this particular matter, Mr Speaker, I think in a way we must be grateful, if I may put it that way, to the Chamber of Commerce in Gibraltar, a body that is not necessarily devastatingly popular among the community but a body who had the guts, if I may say so, to take the Government to Court, not many people do that, to take the Government to Court and say, "this measure that has been passed is unconstitutional." I think it is not a bad thing for democracy in Gibraltar and it is not a bad thing for the rule of law, that people should be free to go to the Courts and take even the highest authority in the land to Court, if necessary, if that authority has infringed the provisions of the Constitution. So to that extent, Mr Speaker, I think we do owe some gratitude to the Chamber of Commerce for acting in this particular case as the guardian of the rights of the people, as enshrined in the Constitution, which we have freely accepted and agreed to abide by.

Mr Speaker, having said those general terms, and having sought these assurances from the Honourable and Learned the Attorney-General, I hope we get them. One last point I would like to say, Mr Speaker, I know this is the re-introduction of a measure that was in a previous price control before the Bill was unconstitutional and that is the procedure in section 3A of the Bill. I certainly would like to hear from the mover how this works in practice because it seems that under that section if somebody makes a report to the Price Control Committee, that, for example, he has been sold a chair at an excessive price, say, £50, apparently under this section the consumer or somebody, the Governor, is

told about this and he comes along and he says that this price is unreasonable and then by notice in writing he tells that seller that that chair must be sold at £30 and that is the price that is fixed for that chair. But under this law it seems that that is the price that is fixed for that chair for that trader. However, the trader 5 yards down the road can still continue to sell that chair at £40 or £50 and as long as nobody complains about it he carries on selling that chair at £40 or £50. That seems to me, Mr Speaker, to be a little odd. I don't know how it works but it seems to me odd that a particular shop is told: "You will sell at this price and nobody else." I say it at this stage because I think when this actual section came through the House I do not think nobody noticed this or mentioned this on this side of the House and I think it is something that requires some explanation.

HON A J CANEPA:

We did mention it on this side.

HON P J ISOLA:

Well, perhaps the Honourable Minister will not take it amiss if we ask him to repeat the reasons for it because it does seem to me a bit odd and possibly a bit unfair and I do not quite see how it protects the consumer if the consumer can buy an article in one shop at £30 unless he happens to know that a complaint has been made to the Consumer Protection Officer about a particular shop he may be buying it at a higher price at other shops, I don't know, but I would certainly welcome some explanation on that. With regard to section 5 of the Principal Ordinance which is now repealed and again replaced by a new section I think it is there that we would like assurances from the Honourable and Learned the Attorney-General that this does not contravene Section 7, I think it is, of the Constitution.

HON CHIEF MINISTER:

Sir, I think we should remind ourselves of the reason for the original amendment to this Bill which was later found to be unconstitutional and that was a recommendation by Dame Elizabeth Ackroyd in her very helpful report about consumer protection in which she suggested measures of this kind which should be introduced in order to avoid abuse in respect of particular items instead of having to control the whole range of those articles. In so far as the Constitution is concerned, immediately the Chairman of the Chamber of Commerce informed me before it was passed, that if, in fact, it was passed they would question the matter before the Court, I gave him an assurance that we would pass the law because we were advised then that it was perfectly proper but that it would not be put into force and await the result of the appeal so that nobody has been ill-treated by the attempt of the legislature to protect certain people from abuse of prices in certain respects though it may have been done in a manner which was not acceptable to the Supreme Court. Equally, we were not concerned with an appeal either to the Court of Appeal or the Privy Council on this matter which would have prolonged the position and would not have helped because it has never been

the intention of the Legislature, certainly not of the Government, to legislate other than constitutionally even though there may be the odd occasion and I think a salutary one to remind us that the Courts are supreme in these matters in so far as the Constitution is concerned. There are sections in many laws in the Income Tax law in many other laws in which certain rights are given to people and they have laid unquestioned. That does not mean that if somebody wants to question one it may or may not be found. There are people, certainly not here, but there are cranks in England who spend their time looking for loop-holes in the Constitution and take the time of the Court for that but just as a pastime not as a bona fide effort as was done in this case by the Chamber of Commerce. We intend to restore the position as it was before it was questioned by anybody and had been in practice. The effort for the amendment was in pursuance of recommendations to protect consumers and we are restoring the position in order to comply with the Chief Justice's ruling and that is all. If there are other laws that want to be questioned, well, let them be questioned. Sometimes the extent to which the law has been accepted over the years is part of its constitutionality, if you want to put it that way. All we are doing now on the assurance of the advice that the Government receives on this matter is that the original law was lawful and that by restoring it we are disposing of such matters as the Chief Justice found not to be acceptable within the context of the Constitution.

MR SPEAKER:

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

HON A J CANEPA:

Mr Speaker, first of all I would like to deal with the point raised by Mr Bossano and that is what do we propose to do in respect of the matters that really impelled the Government in the first place to bring the legislation which was later found to be unconstitutional. Immediately after declaration of the victory, if I may put it that way, by the Supreme Court, the President of the Chamber of Commerce approached me in a very conciliatory manner and offered the help and assistance of the Chamber of Commerce to the Consumer Protection Department in investigating either any complaints or any matters in which the department might feel that there might appear to be instances of - I won't say overcharging - but, perhaps, a greater margin of profits being made than, perhaps, might be justified. At the moment in any case the Consumer Protection Department has enough on its plate dealing with other matters but I did mention at the time two or three matters, I think I referred to car spares, I referred to shoes and if and when we do feel that an investigation should be carried out into these matters we shall ask the Chamber of Commerce for their cooperation and their support, they will be involved and the thing will therefore be manifestly seem to be done on a fair basis. I will not be coming to the House for that. There are certain powers which are already given to us by the Price Control Ordinance and the Executive doesn't have to come to the House in order to carry out an investigation with which the Chamber of Commerce has no qualms at all. We

do not need the bene placet of the Honourable Member opposite. The Honourable Leader of the Opposition said that I should have done my home-work before I brought the legislation. I think he knows that I do my home-work before I come to the House, in fact, with all due modesty I think that I do it far better than he does. It was not for me on this matter to judge, I am not a lawyer, it was for the Attorney-General who drafted the legislation to warn the Government at the time that perhaps the powers which I was asking him as a matter of policy to obtain, could be unconstitutional. My function is to get the government to agree on a matter of policy and having agreed to that, having got that decision, my function is to ask the Attorney-General to draft the necessary legislation and this was done. If in the powers which one is seeking there is a danger that they could be unconstitutional, it is for the Government's Legal Adviser and not for the Minister, to warn the Government. Likewise on the present Bill which seeks to re-introduce the sections in the principal Ordinance. I have the advice of the Attorney-General that he thinks that the clauses are perfectly acceptable. The Attorney-General would have warned me again if in attempting to restore what was formerly in the Ordinance there would be any danger that we might once again be putting ourselves in a situation that could be declared to be unconstitutional. I do not think that it is necessary for the Attorney-General to stand up in this House and formally reassure the House, I think that I can do that on his behalf because it has been cleared before bringing it to the House. But, of course, the Honourable Mr Isola was perfectly correct on that point, that it would be for a legal practitioner, for a legal adviser, but not for a Minister who is only a layman, to do that. The Honourable Mr Isola also asked how does in practice section 3(a) as it will become, of the principal Ordinance, work. It has never had to be formally invoked and, in fact, I did explain at the time that we thought that the procedure was somewhat cumbersome, this procedure of having to go specifically to the Governor and ask him for a warrant to investigate a complaint. What usually happens when there are complaints received by the Consumer Protection Department is that conciliation is used without unnecessarily having the authority in the sense that a Consumer Protection Inspector or the Assistant Consumer Protection Officer may not go to a trader with a letter authorising him to enquire, he uses the conciliatory approach, he will go along to see the proprietor with the complaint of the consumer and invariably the matter is always settled amicably. I am talking of specific complaints, for instance, overcharging in respect of relatively minor matters. What would happen, however, if there was a complaint of overcharging in respect of a refrigerator or in respect of a television set? Then if as a result of going through the proper procedure and coming to the conclusion that overcharging had taken place, the Governor would through a specific order in the Gazette lower the price to what was considered to be reasonable. If another shop has exactly the same article and that article is being offered for sale to the public at a higher price than that price which has been laid down by the Governor by Order, the Government would then have to invoke the wider powers that it has, generally, under price control and make all such articles

the subject of a price control Order that would have general applicability to all traders. It is unlikely, to my mind, that in the few examples that I have cited, television sets, refrigerators, that would necessarily be the case because most shops sell different brands but if that were to be the case, if we were dealing with something less important, perhaps, or less costly than a television set, if we were dealing with a commodity which a housewife purchases frequently, a commodity which is not at the moment price controlled, but which as a result of an investigation there could be deemed to be overcharging, then that commodity would have to be made the subject of a general price control Order to avoid the anomalies which the Honourable Mr Isola has mentioned. As I said, it has never been formally invoked, that is what we had in mind at the time, I remember that I explained it in the House and that is how we would proceed. I think I have covered all the points that were raised, Mr Speaker, should I commend the Bill to 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:

Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill should be taken later on in these proceedings and, if possible, today.

This was agreed to.

THE EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN (AMENDMENT) ORDINANCE, 1978.

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Employment of Women, Young Persons and Children Ordinance (Cap. 50) by affording further restriction on the employment of children in industrial employment and at 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.

SECOND READING

HON A J CANEPA:

Sir, I have the honour to move that this Bill be now read a second time. Mr Speaker, the Employment of Women, Young Persons and Children Ordinance (Cap. 50) was enacted in 1932, well before the time when the majority of people present in this House today were born and, indeed, before very many of us members of the House were born. It was intended to give effect to certain conventions which had been adopted by the International Labour Organisation in 1919 and 1920. Two of these conventions set the minimum age for admission to

industrial employment and to employment at sea at 14 years and there was no problem in declaring them applicable to Gibraltar without modification. In 1937 the ILO adopted a new convention, revising the previous one and governing the minimum age for admission to industrial employment, raising this age to 15 years. At that time the upper limit of the compulsory school age in Gibraltar was 14 and because of this a declaration was then entered in respect of this convention to the effect that it was applied to Gibraltar with modification, such modification of course being the question of age. Subsequently, with the raising of the school leaving age to 15 years, the Employment of Women, Young Persons and Children Ordinance was amended in 1952 prescribing this as a minimum age for admission to industrial employment so that in effect we have since then been complying with the main provisions of the revising convention of 1937. The Government of Gibraltar was recently asked to review its declaration if applied with modification in respect of this convention and it has been found that there is no reason why a declaration of full applicability should not be entered. But to do so it is necessary to carry out one or two small amendments to the Ordinance in order to bring it into full conformity with the ILO Convention. These are, firstly, to enable children to be employed as distant from members of the same families as stated in the Ordinance at present and, secondly, of course, to define who may be regarded as members of the employers family. Clauses 2 and 4 of the Bill cover these two points. The text of the convention itself is being substituted for that of the previous one at Part 1 of the Schedule to the Ordinance as will be seen from Clause 5 of the Bill. With regard to the revising convention fixing also at 15 the minimum age for admission to employment at sea, this has in fact been fully applied to Gibraltar since 1962 as a declaration of applied in full was in fact entered in 1962. The opportunity is therefore being taken to substitute also the text of this convention for that of the previous one and this is at Part 4 of the Schedule and again it is Clause 5 of the Bill that refers. Thereby, Sir, we are bringing not only our practice but also our law into full conformity with the convention. Sir, I would like to point out to the House that this Bill is very largely, I would even say entirely, an academic exercise which is necessary to comply with the letter as well as with the spirit of the relevant ILO convention. Both the existing and the new provisions relating to minimum age for employment apply to industrial employment as defined in paragraph 1 of Part 1 of the Schedule in Clause 5 of the Bill. It must be many, many years, Sir, since anyone in Gibraltar even attempted to employ anyone under 15 in any such employment and with the structure of our society as it is today I cannot envisage this happening in the future but of course it is wise to have a statutory safeguard both for ourselves and to comply with the letter of our international commitments. Mr Speaker, I commend the Bill to the House.

Mr Speaker then 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 A J CANEPA:

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

THE ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (AMENDMENT) ORDINANCE, 1978

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Elderly Persons (non-Contributory) Pensions Ordinance, 1973 (No. 27 of 1973), 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.

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that this Bill should now be read a second time. Mr Speaker, the purpose behind this very short Bill is to give legislative effect to the proposed increase in the level of elderly persons pension to which I referred in the statement that I made yesterday evening in the House involving an increase in the pension from the present level of £5 a week to £8 a week. In fact, Mr Speaker, these proposed increases constitute the biggest ever increase of 60% in the Elderly Persons Pensions. The previous increase, for instance, Mr Speaker, last year, from £3.80 a week to £5 a week was slightly under 30%. From the pension for a married couple having been less than 50% of the maximum social insurance pension, namely, £10 for a couple under the Elderly Persons Pension as against £22.50 for a couple in receipt of the old age pension, from less than 50%, as I say, we are increasing it to over 50% of the new level of pension that will come into effect in January 1979. It is now going to become £16 a week for a couple in receipt of elderly persons pension as against the maximum £30 a week for a couple in receipt of old age pension. In this respect I should mention that we are constrained in the extent to which the elderly persons pension can be increased by the reduced rate of social insurance pension. In fact, the reduced rates of old age pension provide a constraint to the extent that we can increase the elderly persons pension I say this because up to an average of 21 yearly contributions a couple will receive less under the social insurance pension £15.50 a week, than is the case under the Elderly Persons Pension. This is a limiting factor. The proposed increases, Mr Speaker, taken together with the abolition of the clawback which is the subject of another Bill later on in these proceedings, nevertheless do provide a very considerable and a very real improvement in the income of persons in this category. The costs involved, Mr Speaker, are for the current financial year in respect of the last quarter of the year, the increases come into effect in January so I will have to come to the House later on for supplementary provisions to cover that last quarter and I think the supplementary provisions will be of the order of another £20,000. Next year, Mr Speaker, the provision which will have to be made in the estimates for 1979/80 is of the order of £90,000 so in a full year the increases proposed are going to involve close on £100,000 of increased expenditure. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON M XIBERRAS:

Mr Speaker, when the Minister made his statement about these matters earlier on in the proceedings, I think in welcoming it I said that at least it was moving in the direction, if not precisely in the way, in which my colleagues and I would like to see Government move. There is no denying that there is a substantial and very welcome increase in Elderly Persons Pension and this taken together with the abolition of the clawback on the special rates of taxation for EPP do represent a substantial improvement for some of our very deserving senior citizens. However, Mr Speaker, I would like to offer one or two comments. The Minister often alludes in setting the levels of these benefits to cost of living increases. Today he has referred to what I refer to as the half pensioners, that is, the people on social insurance pensions who do not get the full benefit and gets, according to the Minister, something like £15.80 until the end of the year, when their benefits will be increased. I would remind the Minister that when he faces this constraining factor he is looking really through the other end of the telescope at the problem I am looking at and that is that if he thinks fit and I agree with him, I think it is laudable that he should do it, to gear social insurance pensions to some 50% of take home pay, talking in rough terms, then by the same criterion surely we should be pushing to up the limits on both the half pensioners and EPP because these people are subject to the same considerations as the full pensioners who by Government policy are on something like 50% of take home pay and considerably more, the Minister mentioned something in the region of £30 for a couple. Referring now to the question of taxation, the Minister was warned about this and pushed from this side several times to do away with the special rates of taxation which were really

MR SPEAKER:

No, that is a completely different matter.

HON M XIBERRAS:

I did not intend to speak on the other Bill, I just intended to put both things together.

MR SPEAKER:

I think it would perhaps be better if we kept them separate.

HON M XIBERRAS:

Very well, Mr Speaker, on this particular measure I am satisfied that within the constraints mentioned by the Minister which to a great extent he has refused to move himself because he will recall that in a letter which I wrote to him I am asking him to narrow the differential between the half pensioner and the

full pensioner in social insurance so that there would be a general raising of standards for all our senior citizens and I think that now that he seems to have broken through something of a sound barrier in this area, that he has put pensions at a much higher level than they were, a 60% increase, he might think of doing something similar with social insurance pensions on the basis of cost of living, on the basis of equity between different categories of senior citizens. I am not going to relent from this point, Mr Speaker, because I think that this present generation of senior citizens needs to be treated with a certain amount of equity and even largesse because they are facing the big increases in wages, big increases in the cost of living which affects all of them, all the way down the line. But, of course, I welcome the increases in EPP themselves and I hope that they will provide a stimulus for the Minister to consider or reconsider the statement on social insurance pensions that he made to the House earlier.

MR SPEAKER:

Are there any other contributors? Does the Minister wish to reply?

HON A J CANEPA:

Sir, does equity entail that a person who has the minimum average of 13 yearly contributions which means that he has only contributed a quarter of what he ought to have contributed, does equity mean that he should get the maximum pension, that he should get 3/4 of the maximum 2/3rds, what should he get? The fact is that all the reduced rates of pension provide for pensioners more than what they are entitled to on the basis of their average. In other words, if someone has an average of 26 which would entitle him to half the pension, he is getting more than half the pension. If someone has an average of 17 which would entitle him to a third he is in fact getting half the pension so what the Honourable Member has in mind is already being done. If their income is insufficient to make ends meet from that pension that is where supplementary benefits then come in to supplement because supplementary benefits are in excess of £20 a week for a couple. That is where the tax payer with the general commitment, and obligation that he has to this category of persons, that is where he discharges his responsibilities but I don't think that it is fair to do that under a Social Insurance Scheme. There is a limit to the extent that you can give people more than what they have earned through their contributions otherwise it makes nonsense of the scheme. Don't have yearly contributions then, don't have any form of assessment, don't have any contributions conditions, give everybody the same regardless of whether they pay or not. And likewise with the elderly persons pension which is the subject of this Bill. I know perfectly well that there is no great hardship being caused in Gibraltar today in spite of parity to people in receipt of elderly persons pension. I say this because the majority of them have a pension from their employer. I say this because the majority of them a very substantial number of couples, have incomes in excess of £2,000 a year. I have no doubt because I see letters to me signed by 40 or 50 of them and everybody knows everybody in Gibraltar and one has got a

pretty good idea of the means that they have. If they haven't, if they do not have the income that I am talking about then I am really sympathetic towards those people and again what is the avenue, supplementary benefits. The elderly persons pension did not exist before 1975 so what were all those people getting then, supplementary benefits, nothing else. Unless they had substantial income of their own either because they live on fixed incomes because they have savings and they live on the interest or because they have a pension from their former employer, a substantial pension in many cases. If they don't then they are entitled to supplementary benefits and that is over £20 in January 1979 for a couple, for a single person I would say it is about £14 a week plus full rent relief and free medicines and free medical attention. One would never pretend in this House that we are putting them at a level where they can afford colour television sets and motor cars. But certainly they live above what one would term a mere subsistence level. I would remind the House that supplementary benefits has been increased from about £6 in 1972 for a couple to over £20 and the cost of living hasn't gone up by that amount, parity or no parity. That is the way that I focus the problem that we are dealing with. The Honourable Member estimates the extent of hardship in the category of elderly persons pension, let me assure him that I know what I am talking about.

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 beg to give notice that the Committee Stage and Third Reading should be taken at a later stage in these proceedings.

This was agreed to.

THE GROUP PRACTICE MEDICAL SCHEME (AMENDMENT) ORDINANCE, 1978

HON A P MONTEGRIFFO:

I beg to move that a Bill for an Ordinance to amend the Group Practice Medical Scheme Ordinance (No. 14 of 1973) by increasing the contributions 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 now move that the Bill be read a second time. Sir, members will recall that in my budget speech I mentioned that although we had made provision for £260,000 to cover the cost of drugs under the GPMs, trends indicated at the time that it was likely that expenditure would reach £300,000 by the end of the year. I also mentioned that this did not include settlement of the chemists' claim for increased fees nor the increases in wages and salaries resulting from the July review. Since then the cost per week per prescription has increased by about 10% and the number of items dispensed by about 250 a week, as a result of more persons attending the Health Centre. This means that

the total bill for drugs this year will be more around the figure of £340,000 as against the £263,000 provided for in the Estimates. In other words, I shall be needing another £77,000 before the end of the year unless a miracle happens. This figure takes no account, and I stress this, of the pending settlement of the chemists' claim which I referred to above and which is still under negotiation. The total expenditure of the scheme taking into account the increased charges for public utility services, wages and salaries is £475,000 while the present contribution is approximately £270,000, leaving a deficit of about £205,000. It is also pertinent to recall what I said in my budget speech and that was that government was not prepared to allow the cost of the scheme to get out of hand though it is an accepted principle that there should be some contribution made from revenue in the form of a subsidy by taxpayers. Bearing in mind what I have said therefore, it is the Government's intention to meet in part this additional expenditure by increasing the contribution by 7p by the employer and 7p to the employee in the case of all insured persons, except the self employed, and by 7p only in the case of those persons who are not insured but who are voluntary contributors to the scheme. This, we hope will produce about £70,000 extra in revenue to the scheme thus reducing the deficit or the extent of the subsidy, to £130,000. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON M XIBERRAS:

Mr Speaker, this is of course quite a major measure for the Government to take. In England it would be hotly contested no doubt, but here in Gibraltar we are appreciative of the cost of our medical services, we are appreciative of the heavy demand made upon them, though I for one am not entirely convinced either about that particular department or about other departments of the Government that the service cannot be produced at slightly more slowly escalating rates, let me put it that way, and in the medical services I think it is certainly a point to bear in mind. Be that as it may and we will discuss it at budget time again no doubt, I think that no one can begrudge the Minister this because of the figures that he has given. However, I would bring to his attention something which I brought to the Minister for Labour and Social Security referring to senior citizens again who apparently, I am told and I am subject to correction, are asked to pay something like £5 every quarter. It may be that my information is inaccurate but if it is so that some of the senior citizens are, and they are good users I know of the Health Centre, if it is so then I would ask the Minister to consider waiving the charge for these people particularly if they have anything less than a normal income. I would then justify myself in voting for extra contributions if I could get an advantage for these senior citizens.

MR SPEAKER:

Are there any other contributors? Perhaps the Minister would like to reply.

HON A P MONTEGRIFFO:

Mr Speaker I thank the Honourable Member opposite for his support of the Bill and I can assure him that since we introduced the scheme no senior citizen or in fact any other person whose income is less than the social security pension pays any contribution at all. I make this public in order that it will permeate all along the line. Instructions have always been given that these people should not be made to pay but if the Hon Member knows any case of any senior citizen who is getting the equivalent and no more of the old age pension, he should bring it to my notice and he would not pay any contribution at all.

HON M XIBERRAS:

If the Honourable Member will give way. Perhaps I could discuss this with him because I have two particular cases in mind and perhaps I could bring them to him to explain their case.

HON A P MONTEGRIFFO:

With pleasure.

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

HON A P MONTEGRIFFO:

I beg to move that the Committee Stage and Third Reading of the Bill should be taken at a later stage of the proceedings and possibly later on during the day.

This was agreed to.

THE TRADE LICENSING (AMENDMENT)(NO.2) ORDINANCE, 1978

HON A W SERFATY:

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

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

SECOND READING

HON A W SERFATY:

Sir, I have the honour to move that the Bill be now read a second time. As Honourable Members all know, it is only a few months ago that we extended the life of this Ordinance until the 31st of October, and Honourable Members all know

that we shall be taking at a later stage of this meeting the Committee Stage and Third Reading of the substantive Ordinance that will replace the present Ordinance of 1972. As it is so late in the month of October and additionally it would be a good thing for people interested in this legislation that they should get acquainted with it, I think it is a safe step to extend the life of the present Ordinance until the end of December, 1978, when the other one will come into force. I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, I don't think that this Bill should be passed without a word of farewell from this side of the House. The House will not be the same without one of these Bills. I think this has been extending a 1972 Ordinance in periods of six months for six years now so I suppose it should not go by without some comment. We have no objection to extending the Bill to the 31st of December, 1978 when the new Bill that will be passed, presumably by Government majority later on in this session, will take effect.

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

HON A W SERFATY:

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

This was agreed to.

THE SUPREME COURT (AMENDMENT) ORDINANCE, 1978

HON ATTORNEY GENERAL

Sir, I have the honour to move that a Bill for an Ordinance to amend the Supreme Court Ordinance (Cap. 148) 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.

SECOND READING

HON ATTORNEY GENERAL

Sir, I have the honour to move that the Bill be now read a second time. The present section 52 of the Supreme Court Ordinance is now quite out of date and inadequate and the new sections provide for the better administration in the handling of funds in court and follows the pattern of the Supreme Court of judicature in England. Sir, I commend the Bill to the House.

MR SPEAKER:

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

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

HON ATTORNEY GENERAL:

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

MR SPEAKER:

Do all Members agree should this be later on today?

HON M XIBERRAS:

Mr Speaker, on a point of principle. We are not adverse to giving our support for the proposition you have just put but we would rather like some sort of explanation as to the hurry for doing so.

MR SPEAKER:

May I explain the rule so that it is clear as to whether Government feels that they should give an explanation, or not. The rule is simple. The Committee Stage and Third Reading of a Bill cannot be taken on the same day unless leave is granted by the House. Of course, the Committee Stage and Third Reading can be taken on a subsequent day of the same meeting without the leave of the House.

HON CHIEF MINISTER:

Mr Speaker, the point is that there is a desire to make new rules to supplement and it will be to the benefit of the finances of the territory too, in respect of payment of sums into court and so on, and the Chief Justice has done considerable work on the rules that are required and the sooner they are put into effect the better. I think that is as good a reason as any.

HON M XIBERRAS:

Mr Speaker, on this occasion I knew what the explanation was but I was just making a general point of principle.

THE JUDGEMENTS (RECIPROCAL ENFORCEMENT) (AMENDMENT) ORDINANCE, 1978

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Judgements (Reciprocal Enforcement) Ordinance (Cap.80) 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.

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Sir, the present Ordinance provides for the registration of judgements which are obtained elsewhere than in Gibraltar to be registered in Gibraltar sterling currency. It has recently been decided by the House of Lords the judgements are not necessarily to be entered in sterling currency and therefore the situation might arise that an English Judgment Reciprocal Enforcement. Incidentally, too, there is the addition that we have now entered the European Economic Community and that again is an extra reason why judgments can be entered in foreign currency. Sir, I commend the Bill to the House.

MR SPEAKER:

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

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

HON ATTORNEY GENERAL:

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.

This was agreed to.

THE COURT OF FIRST INSTANCE (AMENDMENT) ORDINANCE, 1978

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Court of First Instance Ordinance (Cap. 35) by increasing the monetary jurisdiction of the Court, by abolishing jury trial in such Court and for other incidental purposes, 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.

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill be now read a second time. Sir, the present jurisdiction of the Court of First Instance is £300 in cases of contract and tort and only £150 in cases affecting land. These are the figures which have remained constant since the Court of First Instance was first enacted in 1960 and it is felt that that jurisdiction is too low. The proposal is to increase the jurisdiction of the Court of First Instance to £750 in cases of contract and tort and £500 in the case of land. Certain incidental amendments are made and the other more important amendment is the abolition

of jury trial in the Court are a very rare occasion and even less in the Court of First Instance should they be allowed. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, I think we welcome the increase in monetary jurisdiction in the Court of First Instance and it is of course where it is cheaper to go to than the Supreme Court and consequently I think raising of monetary jurisdiction is a useful amendment. The only point as far as land is concerned, what one is increasing is jurisdiction of the annual value of land and I think there must be very very few, if any, properties in Gibraltar whose annual value is over £500 so that as long as the House knows what we are in effect doing is submitting to the jurisdiction of the Court of First Instance literally all claims in relation to possession of land. I think that is the practical effect. I don't really mind one way or another but there is a result in this, it does give protection to tenants in the higher class accommodation and in fact it will really cover all new development. The other point, Sir, I am not sure why it is thought necessary or advisable to abolish trial by jury. It is almost never used in the Court of First Instance, in fact, I cannot remember a trial by jury there in my 25 years of practice and I agree that it is being used less and less in the Supreme Court. But what is the harm in allowing people if they feel that they should have a trial by jury what is the harm in letting them have it. I would have thought that the jury system being so fundamental to the rights of citizens and liberty of the subject and so forth, I think it should be left there. I do not have strong feelings because as I say I don't remember a jury trial in the Court of First Instance but I would have thought there is no harm in leaving this provision in.

HON M XIBERRAS:

Mr Speaker, I would like to hear from the Attorney-General what are the pros and cons of the measure especially on the point raised by my Honourable and Learned Friend Mr Isola on trial by jury I would like to hear the advantages and disadvantages.

HON CHIEF MINISTER:

Before the Attorney-General has his say on this in reply, I would like to draw attention to the fact that substantial fees are paid nowadays for the attendance of jury members and in a claim of £750 the cost of the Jury could easily knock out the substance of the claim by the fee that would have to be paid to the Jury, which is something which was not the case in the past. Now the payment of the jurymen are made very realistic and either they would form part of the costs or they would form part of the fees.

MR SPEAKER:

Could I, being a practitioner myself, ask whether the fees payable on the issue of proceedings in the Court of First Instance are going to be affected by this Bill?

HON ATTORNEY GENERAL:

Sir, in reply to your question the fees payable would not be affected by the increase in the jurisdiction - there would still be a limit. Of course the fees would have to be revised but I understand, again, that the Court of First Instance fees are already high enough to cover present costs. As far as jury trials is concerned, I understand that the County Courts in England have done away with that so that we are trying to follow the English practice and procedures and getting into line with England by abolishing jury trials in the Court of First Instance. It must be appreciated by the House that the Court of First Instance is supposed to be a cheaper court and so a trial with a Jury which is a very expensive, and by definition once you have a jury it is a heavy case, should not go to the Court of First Instance but should go to the Supreme Court. The House will of course realise that a plaintiff has a choice of where to present his case, either in the Supreme Court or the Court of First Instance.

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

HON ATTORNEY GENERAL:

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

This was agreed to.

THE MISCELLANEOUS AMENDMENTS ORDINANCE, 1978

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to make 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.

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Sir, I am not myself particularly enamoured of the Bill which provides for various amendments of various Ordinances. Such is my lot that I have to deal with it in this manner. Clause 2 of the Bill corrects an erroneous cross reference in the Ordinance as printed. Clause 3 corrects an anomaly which has existed in the Ordinance ever since the Family Allowance was

first increased from 5 shillings. I have already given notice that I propose to amend this clause at the Committee Stage. Sir, Clause 4 provides for the repeal of section 55 of the Prison Ordinance. This is the result of abolishing six criminal sessions under the Criminal Justice Administration Ordinance. We now no longer have sessions four times a year but criminal matters are dealt with on an ad hoc basis as is provided for under the Crown Courts Act in England. Clause 5 corrects a printing omission in the original Ordinance. Clause 6 prescribes that a witness shall not be compelled to give evidence if that evidence would be prejudicial to the security of Gibraltar and this clause extends the lists of countries concerned. Clause 7 attempts to clear up a possible misunderstanding created by a previous amendment to the principal Ordinance. Sir, I commend the Bill to the House.

MR SPEAKER:

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

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

HON ATTORNEY GENERAL:

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

This was agreed to.

THE GIBRALTAR GARRISON LIBRARY PROPERTY (AMENDMENT) ORDINANCE, 1978

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Gibraltar Garrison Library Property Ordinance (Cap. 68) 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.

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. We have been requested by the President and Committee of the Gibraltar Garrison Library to bring this measure to this House for this reason. The Gibraltar Garrison Library holds property on freehold but the terms of their holding, even though it is freehold, is covered and governed by the Gibraltar Garrison Library Property Ordinance. Under that Ordinance the Library Committee is empowered to grant leases of only up to 21 years in respect of their property. In this day and age, they have felt it proper that it is more businesslike and better administration for them if they were to lease such of their property

as they felt like so doing on long leases of 99 years. Sir, this Ordinance purports to give them that power to give leases of up to 99 years. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Yes, Mr Speaker, we propose to vote against this Bill which in our view makes rather big sweeping changes to the situation as far as the Gibraltar Garrison Library Property and Committee is concerned. What this Bill in effect does and what it is doing is to allow the Gibraltar Garrison Library Committee to sell off all their land other than the Library, because they are not allowed to sell the library under the terms of the grant given to them. We think on this side of the House that the whole question of the Gibraltar Garrison Library and its future in so far as it affects the people of Gibraltar, is something which should be considered very carefully and that steps should not be taken that in effect will alienate from any possible purchase or takeover or whatever, part of its property and its land. Mr Speaker, if one looks at the Gibraltar Garrison Library property if one looks at the original Letters Patent granted to the Gibraltar Garrison Library in relation to that property, I think we will see that originally the property was erected at the expense of Government, this is said so in the Letters Patent to the Gibraltar Garrison Library. The grant was made by General Sir George Don to a number of officers of the Garrison for the use of the Garrison at a time when the majority of people resident in Gibraltar were in fact officers and soldiers for a particular purpose. I am not saying that it should not be kept for that purpose at this stage but that is what was done and there was a proviso in the original Letters Patent "that no part of the ground, buildings and other the premises hereby given, granted and confirmed or expressed or intended so to be shall be sold alienated conveyed or assigned to or be or become or be made the property of any person or persons whatsoever other than the President and Committee of the said Gibraltar Garrison Library for the time being without the special consent and approbation of His Majesty, His Heirs and Successors, such consent and approbation to be signified in writing under the hands or hand of the Lords Commissioners of His Majesty's Treasury, for the time being." But a proviso was made under which leases could be given up to 21 years in respect of parts of the land but not of the Library itself. If they tried to dispose of the Library then this grant finished. And then later on, Mr Speaker, in the Letters Patent, it says as well: "Provided also that if at any time hereafter the Society of the establishment now known as the Gibraltar Garrison Library shall be dissolved or cease to exist or if the ground and premises hereby given granted and confirmed or expressed and intended so to be shall cease to be used occupied or applied to and for the purposes uses and benefits of the said Society or Institution then and in such case and so soon as any of the others then shall happen these presents shall be and become absolutely null and void". Mr Speaker, I am looking at an old Letters Patent which was granted by General

Sir George Don or General George Don, on the 5th of July, 1820 - not so long ago, only 158 years ago - and granted for the purposes of the Library. It can be argued, I suppose, that their selling part of the land, because a 99 year lease, Mr Speaker, we all know is selling it is not a lease. If it is 21 years you get it back, but 99 the whole generation living in Gibraltar today including the young generation unless the medical services improve out of all proportions will not exist. In effect, Mr Speaker, this is alienation of land. Alienating land for what purpose? What is the need to sell off at 99 years? Is it going to be sold off at market value, or is it going to be sold off to old faithfuls of the library or is it going to be sold at market value; and why is that money required, what is wrong with the Library? Do they need this to maintain the Library? What is the rate of subscription in the Library? What is the method of admission in the Library? All these matters, Mr Speaker, have to be gone into in my respectful contribution to the House before we allow the Gibraltar Garrison Library Committee to dispose of valuable land. Mr Speaker, there is another consideration that I would like to bring to the attention of the House. The Government well knows the Ministry of Defence held a lot of land in Gibraltar in the right of Her Majesty's Government and for about 20 years, they say they no longer needed this land and the land was sold by tender or some other reason and gradually as the years went by the Gibraltar Government said: "One moment, if you are going to sell this land, sell it for the reasons or the purposes that we would like that land to be used." In other words give a lease and then at the end of that lease it should revert to the Gibraltar Government. That was done and the Ministry of Defence agreed. Later on the Government went a step further on behalf of the people of Gibraltar and said: "If you have got land which is no longer required and is surplus to your requirements, it should be handed over to the Gibraltar Government". I think the Chief Minister announced here 5 years ago that the British Government, the Ministry of Defence, had agreed to that and that land surplus to their requirements would be transferred to the Gibraltar Government. And this was done. Well, Mr Speaker, if one looks at the spirit of the Letters Patent of the Gibraltar Garrison Library Property you see that this land really was given in fee simple to a whole lot of gentlemen who were all in the Army. I didn't know that there could be so many Regiments of Foot as there were in those days. Really, Mr Speaker, I don't know where they put them. It is quite extraordinary, it is very interesting to read this particular Letters Patent and especially to be able to read it legibly as opposed to reading it in old documents. We have, Mr Speaker, among the owners to whom it was given we have a Colonel of the Royal Engineers, we have a Colonel of the Sixty Fourth Regiment of Foot, we have a Lt Colonel of the 26th Regiment of Foot, a Lt Colonel of the 11th Regiment of Foot, we have a Lt Colonel of the 27th Regiment of Foot, we have the Paymaster of the 27th Regiment, the Paymaster of the 26th Regiment, the Deputy Judge Advocate of the Garrison of Gibraltar, the Storekeeper, a General of His Majesty's Ordinance and so forth. We have a whole series of Regiments quite clearly given not to them personally so that they could sell it off but for the purposes of running a library. That was the original purpose and I think that purpose has been respected over the years but it was given in a particular situation for

a particular purpose. I think the time may have come, I am not saying it has come, Mr Speaker, but the time may be approaching for the Government to consider this whole question of the Library because, let me put it this way, the Gibraltar Garrison Library Committee used to print the Gibraltar Chronicle. Now we know there is a special company formed to do that. There was a question in the House as to whether the interest by the non-civilian element was waiving and the answer we got was 'No'. Now we have got a Library Committee that has got a Library, it has a building and now they apparently want to have 99 year leases which is in fact hiving off part of the whole property. I think the House should think very carefully before giving them that power, Mr Speaker. I think that if the Gibraltar Garrison Library Committee finds it difficult to make ends meet in running this Library then I think it should have discussions with the Government as to the use to which it is now put. For example, Mr Speaker, are there as many officers or are there as many regiments today as there were then? Is there a requirement, let me put it this way in inverted commas, is there a "Ministry of Defence" requirement for the whole of that Library and the Gardens and so forth? Is there a need to have a re-think or examine it? I think that if we agree to this Ordinance any thoughts any members may have on this side or on the other side of the House as to how the Gibraltar Garrison Library should be dealt with in the future - not dealt with, that is the wrong expression, how one should discuss its future, I think we would be finished, we wouldn't be able to do it, and anyway, Mr Speaker, I believe sincerely and I am sure Honourable Members will agree with me, that to allow this is in fact going against the purposes in the original grant which was to have a library and buildings presumably for servants of the library and so forth over the years. Now what is intended is to sell this library with no control by the House at all, 99-year leases and the money goes to the Library Committee for the purposes of the library but there is a need to sell 99-year leases in order to make ends meet in the library isn't it possible that the time may have come for the Government to have discussions with the Library Committee as to their problems if they have any and so forth. Is it not time for the Government to consider whether the main purpose of the original grant is in fact being fulfilled or whether the change of time requires the use of what is really basically a Ministry of Defence property to be looked at by the Government. Mr Speaker, these are all thoughts that we put out, we are not making any judgements at all; other members on this side of the House may have other views, members of the Government may have other views, but what we do say is, Mr Speaker, that we should not pass this law that allows in effect, the Gibraltar Garrison Library Committee to dispose of land given to them for a particular purpose in 1820 and is a deviation of that purpose.

HON CHIEF MINISTER:

Sir, the Honourable Mr Isola has raised interesting points which I have no doubt will be considered but there are, I think, one or two differences. In the first place, there are now powers for the leasing of property for 21 years and, in fact, powers to lease for longer could be obtained from the Lords, Commissioners of Her Majesty's Treasury without the consent of the House for that to happen. It was felt, and I am not speaking for the

Library, as the Attorney-General has rightly said at the very beginning this is a Bill which is brought up at the request of the Library. But it looks to me first of all that the properties that are there could be claimed to be the properties of the Garrison Library even though the grant of the land may have been given by General Don and I think that if it was privately built for the officers I think it is not the same position as Ministry of Defence property which is no longer required because in fact even the grant of property which is no longer required for defence purposes if it has useful buildings must be paid for.

HON P J ISOLA:

Mr Speaker, the principal building is recited here. "The principal Building and Enclosure were erected at the expense of Government and given over to the claimants without any restriction soever as to time or otherwise could not but consider the gift as a grant in fee"

HON CHIEF MINISTER:

Where are your reading from?

HON P J ISOLA:

Page 4 of the Gibraltar Garrison Library Property Ordinance.

HON CHIEF MINISTER:

Yes, I stand corrected on that one. But be that as it may the intention I think is that some of the properties which are at present, I understand, let at a very reasonable rent to officers should be put on the market for the benefit of those who can afford to buy a house in the town area, presumably, either by tender or by valuation and so on in a reasonable way or a fair way. In fact, if what they want is money to maintain the library which I know is not intended in any way to be touched, the more one gets for the property the more money there will be to maintain the library adequately. On the nature of the subscriptions which are paid, I think it is fair to say that more and more civilians use the library perhaps because there are no military but there are many civilians who use the library, not necessarily for reading or researching, but they use the library nevertheless. I could not understand, really, the question put earlier by the Honourable the Leader of the Opposition to which I replied as to whether the service element was waning. I think it is salutary in a way that the Garrison Library should be gradually civilianised and that it should be the people of Gibraltar who should enjoy the library and its benefits. I am not for one moment making any definite statement in support, I think what has been raised today requires to be considered and I am prepared to go through the first and second readings and not take the Committee Stage until the matter is further gone into and this aspect looked at. I am quite happy about that because I think these are matters which are too important to be decided in a moment but, on the other hand, is it not the other side of the coin the more favourable one too, that the properties should be occupied by local people, that the library should be more and more used by civilians.

There was a time when the number of civilians in the library was limited and if the number was full you could not become a member until there was a vacancy until somebody had left or had died or something else. That is not the case any more. I think at one stage there was even objection here about the fact that there was a member of the Government in the Library Committee, I think it should be the other way about, we should try and expand the civilian aspect of the library and the civilian aspect of the whole area. It is one of the prime areas of Gibraltar and I do not see why it should not be held by civilians. How the value of the property and the commitments that the Garrison Library have to be disposed of is another matter and in the light of the remarks made by the Honourable Mr Isola, I am sure that my colleagues and I would like to consider more before we can accede to the request of the Garrison Library. But there are two aspects of the matter, there is the other aspect I do not think that it is bad that the military influence should wane and that the civilian influence should increase and that that should be a library which is open to everybody in Gibraltar and not just a few privileged people who play Bridge or Canasta. For that reason I, certainly, am not prepared to proceed with the Committee Stage of this Bill at this stage without giving further thought to the points raised by the Honourable Mr Isola.

HON M XIBERRAS:

Mr Speaker, let me at the outset bring to the notice of the Chief Minister that my question earlier in the proceedings was, in fact, directed at the Gibraltar Chronicle rather than at the Library itself. When I asked whether the Government had any information that the non-civilian element interest in the Gibraltar Chronicle was waning I was not in any way suggesting that we should have a greater participation by the Military in the running of the Chronicle but rather that I was concerned that if that side of the Garrison Library Committee, the military side of the Garrison Library Committee, were to lose interest in the newspaper then a vacuum might be created into which a private interest might come and a newspaper as important as the Gibraltar Chronicle in the life of our community might find itself under the domination of a particular company or individual to the detriment and to the unbalancing of political life and social life in Gibraltar. There are two distinct things. My question was not aimed at the Gibraltar Garrison Library but rather at the Gibraltar Chronicle. Having said that, I entirely agree with the Chief Minister, I think it is the feeling of all members of the House that there should not be an increase of the influence of the military side in the Gibraltar Garrison Library but rather that there should be a civilianisation, that there should be greater participation by civilians in the activities of the library and, indeed, that the influence over the ownership itself, our influence, should be extended. That, I think, was the thought behind my Honourable and Learned Friend's very interesting contribution, if I may say so, on this matter. Of course, I think it is the correct position for the Chief Minister to take to say that we should defer consideration of this matter because the Garrison Library is an institution in Gibraltar. I don't think that there are more than, let us say, fifteen or so places in

Gibraltar which could be called an institution to the same extent. Because of the historical connection, because of the influence it has had at particular times in the development of Gibraltar, I think it would be a great shame that the totality of this institution should be carved up in the interest of solving a problem which we do not even know about. Neither the contribution of the Attorney-General or the contribution of the Chief Minister has really told us the purpose of this Bill deep down. I am sure it is to be able to realise the asset in much better terms than they would in a 21-year lease. But what is the economic position of the Garrison Library and what of the Chronicle? These are things which bear examination, and even though I take the point of the Chief Minister that the Library has powers already to alienate this property and to change by application to the Commissioners, nonetheless, since there is an Ordinance dealing with the Gibraltar Garrison Library, and since the Attorney-General and the Government have thought it fit to bring it to the notice of the House, they should submit to the judgement of the House in this matter. The judgement of the House it seems to me to be one of wait and see, let us examine the position and let us, in whichever way we act, ensure that the institution is not diminished in importance, in size, and at the same time that action is taken to remedy the problems of the Library. I don't think we would be acting fairly if we said: Let us defer this matter for consideration and leave the Garrison Library Committee with the baby of meeting its obligations and providing the facilities and, on the other hand, leave the Gibraltar Chronicle with the responsibility of carrying on regardless whilst we are thinking about things. So I think the Chief Minister should also, in the spirit of the answer that was given to my question earlier, commit himself to examining the position in depth, in talks with the Garrison Library as much as it was indicated that he might be prepared to do in respect of the Gibraltar Chronicle.

HON CHIEF MINISTER:

If the Honourable Member would give way. I think we have a limit in the way in which we can do this and I don't think that we can deal with this without having regard to the fact that there are inherent rights of property which can be maintained and in fact can carry on happily by giving 21-year leases and so on. We have got to be very careful and I would like to say that nothing except is so far as this may have an effect, I would not like to give the impression that we are in any way going to interfere or in any way going to appear to interfere or to have any say in the way in which the Gibraltar Chronicle should be run. This is an independent paper run by the Gibraltar Garrison Committee for which they are responsible, it has become a limited company because of obvious reasons particularly because of the contempt proceedings that were launched against a number of distinguished gentlemen because of something that the Chronicle published and they realised that they were all in it and they thought it was separate, that is a different matter and I would not like anything that I say here to be an indication for the simple reason that because of the establishment feeling that there is about the Chronicle it would give the impression that the Government has anything to do with the Chronicle and I can assure Honourable Members that I am often as annoyed as any other

member or perhaps more because I am in Government, about what the Chronicle publishes and therefore it is not because I am attempting to defend them in any way but because I think we should not interfere with anything that affects the Chronicle except to ensure its survival as a free paper and if that is in some way connected with the question of the property, then we have an interest but we have an interest in the maintenance of the free paper, free from sectional interest, free from interest which could use it for purposes for which you would require considerable sums of money and therefore it could be suspect if it were in other hands in order to run a paper of that nature. With regard to the other aspect of the matter, we must temper, if I may say so, our inquiry to the extent that we are dealing with a Committee which is empowered and possessed in law of certain properties for which they have right of disposal to a certain extent and even beyond by asking the Treasury which they have chosen, I think in fairness to them, they have chosen to do the right thing, to come for legislation rather than go in a round-about way to the Treasury to do that. Perhaps, the Treasury cannot be bothered to deal with this, they have other things to worry about, but in any case I think that that is the main reason why I would not like it to appear that the further looking into this aspect of the matter which has arisen out of the more detailed examination of the Letters Patent which have been quoted, should be deferred and that we should report back with Government policy on the matter before we proceed with the Committee Stage and the Third Reading.

HON M XIBERRAS:

Mr Speaker, the purpose, I insist, of my question was not in fact to see the Government interfere or even appear to interfere in the affairs of the Chronicle but to ensure that the Chronicle did not pass at any stage into the hands of sectional interest. To avoid that happening, the Government should certainly be informed about the situation and communicate what the situation is to Honourable Members of this House. If it does that it cannot be accused of ploughing its own furrow in this matter. So, Mr Speaker, I have asked the Chief Minister to come to the House or even before the next meeting with any information that he has so that the whole matter is not left hanging dangerously in the air. I don't know what the urgency of the proposal is, but if there isn't any great urgency then, of course, we can take it but if there is an urgency to pay bills and so forth then we should not leave things lying.

HON CHIEF MINISTER:

I certainly will not proceed with the Committee Stage and Third Reading.

HON J BOSSANO:

I think the opportunity that is being given to the House in the course of a Bill that seeks to carry out a very small change, is one that the House should not miss to look at the whole situation. I certainly find the situation an extremely confusing one. There appear to be three entities involved in the Chronicle complex, there is a Library and a Committee that manages that library, there is a printing works which is supposed

to be a separate entity but the House may be interested to know that certainly in the dealings that I have had professionally as a trade union negotiator I find myself dealing with the same person in the three entities. There appears to be what in a commercial enterprise would be described as overlapping directorships if there were three commercial companies. But, in fact, the library and its associated functions is not simply a commercial enterprise and yet it is not a publicly owned body it is something in between and it is something that is part of the history and tradition of Gibraltar and if it is going to undergo some changes because we are living now in a different sort of world from the one that produced it originally, then it is the responsibility of the House since there is some sort of public interest in it, to ensure that the changes are for the better and for me the only changes that would be for the better would be if there was greater public accountability and greater public knowledge about what the whole operation is about. In a situation where there are private shareholders owing in a private company, then there are private property rights, but this is not the case here. Presumably, it is the members of the library who are the users of the library theoretically are the owners in the final analysis but there doesn't seem to be a chain of command which is clearly defined nor does there seem to be any clear criteria as to how the policy makers are selected. One version of it is that the Governor selects the Chairman of the Committee on a roster basis from each of the three Services and then the Chairman in turn selects the people that make up the rest of the Committee. I think an opportunity to improve on the situation so that everybody has got a clearer picture of what exactly is the way in which the whole show is run is one that we should not miss and I would say that when we are talking about the valuable role that the Chronicle as a newspaper can make to the political life of Gibraltar, then I would go further than the Honourable Mr Xiberras has gone in saying that we do not want the Chronicle to fall into the hands of any groups that express sectional interests, I would go further than that and say that we want the Chronicle to be even less representative of sectional interest than it is today because in fact if we do not really know who today has got the final say in the policies that dictate what the Chronicle can and cannot do, then perhaps what we should try and produce or help to bring about is an ideal newspaper that can print the truth as the people charged with writing the paper see it without being in turn accountable to the owners and those owners having a particular vested interest. The difficulty in any democratic society is that in the last analysis the shareholders can sack the editor if they do not like his views. The situation in the Chronicle is that the Chronicle has always been seen really as the paper of the establishment in Gibraltar. Certainly, that is the version I have always heard, Mr Speaker. I think if we are looking at the situation to try and produce a situation where the Chronicle is in fact a paper in its own right

MR SPEAKER:

I have been very liberal, Mr Bossano, because I think the Bill had wider implications than it at first showed but I think we have got to be rather careful not to expand the debate to the working of a private limited company. I am not cutting you down in any manner or form but I thought I ought to make an

observation to make you realise what the position is.

HON J ROSSANO:

We are talking, Mr Speaker, about a Bill that seeks to change the terms on which property can be sold in order to produce a better return from the sale of that property. If that money is going to be used for paying the bills of the Chronicle then, presumably, the person who has got the control of that money might be in a position to tell the Chronicle on what terms they are able to get hold of the money. I think there is a very clear train of logic connecting the two things, but in fact I think that the future development of the Garrison Library and the Chronicle and the Printing Works the fact that the Chronicle Printing Works plays a vital role in printing, for example, virtually all the documents where there is a certain amount of Government confidentiality involved and therefore it is not just like any other printer because presumably if the printing works just went up for sale it might well be that whoever bought the printing works must then have access to Government documents that the Government might feel it could no longer feel free to make them available to that particular printer. I think also the property is a national asset. The actual property there is part of our historical tradition, it is an institution, as the Honourable and Learned Mr Peter Isola has said, and therefore if we are facing a situation where for economic reasons that property runs the risk of being dismembered, then it is something that the House, representing the whole of the people of Gibraltar, must take a very serious look at.

HON MAJOR R J PELIZA:

Mr Speaker, I think this is a typical example of what a part this House can play in really looking at issues that are of coming interest to Gibraltar. It is really through the timely intervention of my Honourable Friend Mr Isola that a matter which is of great public interest is being now debated here in depth which, perhaps, if my Honourable Friend had not noticed this, it would have escaped the eyes of the Government because they obviously overlooked this important matter, and certainly Gibraltar as a whole. I think we must be very grateful to my Honourable Friend and I think it proves the value of this House which sometimes, I think, is denigrated in certain quarters. Looking at the issue as I see it what was intended, I think, was to create a Trust and it is this Committee which is a Trust and empowered under the Letters Patent which I think obviously forms the basis of what we are discussing today. The power apparently, was given to the Governor according to an extract which I have here and which I don't think I need to read because I think everyone agrees but it is really the Governor who is the person who delegates this power to the Committee. I think the position of the Governor now is a very different one to what it used to be before and I think according to the Constitution it really means the Council of Ministers. Or is it the other way round?

HON CHIEF MINISTER:

But not in this particular case.

HON MAJOR R J PELIZA:

I know, not in this particular law but I think this is the spirit and I think in a matter which is really a case of "the right to our land" of which of course the AACR has always I think been so fervent about, in this particular matter I think they should have a particular interest. I think it is accepted that we all wish to see this Institution flourishing in Gibraltar and everything must be done to see that the financial requirements of maintaining this Institution alive are forthcoming. Clearly, the Committee at the moment believe that the best way is by disposing of land which at the moment is under their care. We, of course, have a much more overriding interest in the matter and therefore I think that since ultimately it is the Council of Ministers who are responsible for this, we should try and see if there is another way of solving the problem, of seeing that the institution flourishes and at the same time making sure that we do not lose our right to that land. In order to find a solution to this problem I think we need close co-operation between the Government and the Opposition in this matter and then I think the Committee of the Garrison Library should be invited to see if a way can be found in which all the interests are safeguarded. I am not for a moment saying that the rights that they have must not be respected, that above all has to be respected, if people are going to have any confidence in the management of Gibraltar but within the respect of those rights, with goodwill, I think all the interests can be satisfied. I am sure that a lot of praise must go to the people who through the century, and in this case it happens to be the Garrison of Gibraltar, have been able to maintain the Gibraltar Garrison Library in the state that it is today. I think it is an Institution that we want to preserve. It is also an institution that has a lot of potential for bringing about cooperation between the Forces stationed in Gibraltar and the civilian population. It is a place where we can meet and where I think the contribution from both sides can make that place a real cultural centre of which we can all be very proud. This I believe is an opportunity to try and see if we can build on the old, not just destroy the old and say that we do not want to have anything to do with the Garrison, we are going to ride ourselves. That, to my manner of thinking, might as we have seen in other Institutions in Gibraltar gradually deteriorate. We have got to accept that the Services in Gibraltar have made a contribution in the past and can carry on making a contribution in the future and to me it will be a sorry day if we were to completely discard the great contribution that they can make in the future. Therefore, I think we ought to try and maintain that side alive and at the same time we want to participate and make that a meeting place of the Garrison and the civilian population of Gibraltar. This, to me, is an excellent opportunity and although criticism has been raised in the past about civilians not being able to belong to the Garrison Library, those criticisms are not heard so much now. At one time it was extremely difficult and I am glad to say that this is disappearing. Certainly, we should in no way

interfere with the newspaper, that is the last thing that any Government or Opposition in a democratic society like Gibraltar would like to do nor is anybody, to my knowledge intimating anything like that but I agree to a certain extent with what my Honourable Friend Mr Bossano has said. The Chronicle may be independent today but it wasn't all that independent when I was the Leader of the Integration with Britain Party. At that time it refused to publish a letter sent by the Party and I have correspondence with the then Editor, Mr Ryan,

MR SPEAKER:

Order. I have been very liberal but you must not go into such details.

HON MAJOR R J PELIZA:

Mr Speaker, we are talking about the independence of the newspaper.

MR SPEAKER:

The Honourable Member will give me credit of knowing what we are talking about and I am ruling him out of order.

HON MAJOR R J PELIZA:

Mr Speaker, all I am saying is that whilst that may be the case today it has not been the case in the past and I am a witness to that and in fact I have the correspondence to prove it. What I am saying therefore is that nobody is suggesting that the independence of the paper should be interfered with but perhaps it might be possible to improve on it and make sure in fact that the paper is not only independent in practice but can never cease to be independent. Mr Speaker, I agree entirely with all the submissions made here today. I think this is a golden opportunity to try and strengthen that institution to make it more civilianised than it is today, to safeguard its financial position, to bring complete and total independence to the Chronicle for now and for the future and I think this is an opportunity that must not be missed and in a way I think we must all be very grateful to my Honourable Friend Mr Peter Isola for raising the matter here.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

The Honourable the Chief Minister, I think, adequately answered the point of principle raised by my Learned Friend Mr Isola and the Honourable Mr Xiberras, I don't think I can usefully add anything further except for two things; one is to make it clear that the Garrison Library has asked the movement of this

Ordinance principally because they need the money which is something that Mr Xiberras asked about and the second thing is to tell the House, which I don't think I did at the beginning, and that is that the Treasury Commissioners know about this Bill and agree that it should come to the House. I think, too, that the principle which the Hon Major Peliza has raised was also adequately answered by the Hon the Chief Minister. As far as the Hon Mr Bossano's points are concerned, he raises questions of which I do not know the answers at this stage and his intervention obviously makes it all the more necessary not to take the matter further than the Second Reading stage. We are all conscious that the Gibraltar Garrison Library is, in effect, part of the Gibraltar heritage and we must look to it in that light.

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

The Hon J Bossano
The Hon 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 Dr R G Valarino
The Hon H J Zammit
The Hon F E Pizzarello
The Hon A Collings

The following Hon Members voted against:

The Hon P J Isola
The Hon Major R J Peliza
The Hon G T Restano
The Hon M Xiberras

The following Hon Members were absent from Chamber:

The Hon I Abecasis
The Hon Major F J Dellipiani
The Hon J B Perez

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

THE ALEJANDRO DALMEDO PENSION ORDINANCE, 1978

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to provide that certain services of Alejandro Dalmedo shall count as public service for the purposes of the Pensions Ordinance (Cap 121) be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL

Sir, I have the honour to move that the Bill be now read a second time. Sir, Mr Dalmedo was seconded by the Property Services Agency/Department of the Environment to the construction industry training centre as a Crafts Instructor on the 1st June, 1970. The centre was administered at the time by the PSA/DOE and the Gibraltar Government contributed a share of the running costs. The Government took over responsibility for the administration of the centre on 1st April, 1974, and PSA/DOE then contributed towards its cost on a user basis. Mr Dalmedo continued working at the Centre but remained on the PSA/DOE payroll. As a result of representations made by him that he should be placed on an equal footing with other instructional officers at the centre who were in the permanent and pensionable employment of the Government, it was agreed on recommendation of the Public Service Commission that Mr Dalmedo be appointed as Instructional Officer in the Government service with effect from 1st April, 1977. The point of course is that he was working there from 1970-77 not on the payroll of the Gibraltar Government and hence was not entitled to pension under the Pensions Ordinance. This Ordinance seeks to entitle him in respect of his service at the Training Centre from 1970 to date. Sir, I commend the Bill to the House.

MR SPEAKER:

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

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

HON ATTORNEY-GENERAL

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

This was agreed to.

THE INCOME TAX (AMENDMENT)(NO. 2) ORDINANCE, 1978

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that a Bill for an Ordinance to amend the Income Tax Ordinance (Cap 76) 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.

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move that the Bill be now read a second time. This Bill seeks to give effect to the second of the two proposals announced by the Honourable Minister for Labour and Social Security, in relation to the old folk. He said that it was proposed that the Government would abolish the present arrangement for clawing back the Elderly Persons Pension and allow the EPP to be amalgamated with whatsoever income an individual or a family may have and that the whole income would be subject to tax in the normal way. Mr Speaker, that is done simply by repealing section 23(b) of the Income Tax Ordinance.

MR SPEAKER:

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

HON M XIBERRAS:

Mr Speaker, we welcome this Bill. All Honourable Members on this side of the House have been pressing the Government to do this and I am very glad that the Financial and Development Secretary has found the necessary elbow room as it appears that he has got so much money in as a result of the wage settlement to be able to afford this measure which I think is equitable since at one particular time it did give the impression of double taxation, and then there was the punitive taxation at another stage when most of the proceeds of the pension was taken away in some cases by a special tax arrangement. This Bill is a most welcome measure although I realise that it does not meet the aspirations of the Pensioners Association entirely because I think they would like to see the Elderly Persons Pension completely untaxed but I think it is reasonable that tax should be paid in the normal way and it was in this spirit that I represented it in a letter to the Minister for Labour not a very long time ago.

MR SPEAKER:

Are there any other contributors?

HON A J CANEPA:

I have been doing some research and looking back over Hansards following the letter which the Leader of the Opposition wrote to me in which he said that members of the Opposition had been pressing for the abolition of the clawback on EPP and I have not been able to find any reference in Hansards to that. I would be grateful if the Honourable Member would quote chapter and verse as to when, in fact, the members of his Party, on what occasion they have pressed the Government to abolish clawback. All that I have been able to find has been

that in the Hansard of the meeting that we had in April, at the time when the Income Tax clawback was amended, the Honourable Mr Restano was asking what the difference in income would be to the Government from the proposed amendment if in fact all elderly persons pensions were included in the Elderly Persons revenue and taxed under the normal principle. They may have had it in mind I grant the credit to the Honourable Mr Restano that when he was asking about what the difference in income would be he may well have had in mind the proposal that it should be abolished but the proposal has not been made. The letter that I received from the Leader of the Opposition was too late, the Government had already decided weeks beforehand as a result of representations which I had received from pensioners, to go ahead with that. The Honourable Leader of the Opposition wants to take credit for everything and we cannot have this, Mr Speaker, we have got to be very, very careful that we do pinpoint exactly what it is that they have proposed. I am prepared to give way. Would he please quote chapter and verse as to when and where and I would want to know what the evidence is fact proposed this.

MR SPEAKER:

Your intervention is completely and utterly in order but we must not get to the stage when you are asking the Leader of the Opposition to give chapter and verse of statements that he has made outside the House.

HON A J CANEPA:

I am asking him to substantiate that in a public forum.

HON M XIBERRAS:

I am grateful to the Honourable Member for giving way. I cannot produce chapter and verse on this occasion of course because this has been going on for a considerable period of time. But I will recap very briefly what happened. When this pension was introduced it was not taxed at all and the then IWPB Opposition in fact asked that it should be taxed because there were some very well off people who were getting this money and were not being taxed. Then the pendulum swung completely the other way and almost double taxation arrangements applied. Then I reminded the Government and the Minister that the pendulum had in fact swung completely the other way and that we were in favour of bringing it back to where it is going to rest now. That, Mr Speaker, in spite of this capacity for research, has eluded the Honourable Minister for Labour and Social Security.

HON A J CANEPA:

I quote from the same Hansard. The Honourable Mr Restano was followed by Mr Xiberras. He said precisely what he has just referred to. This was in April this year, not four years ago.

"Mr Speaker, there are certain principles involved which I do not think is the right place now to consider but I would remind the House that the Government originally went too far in one direction, in my view, and now appears to be going too far in another direction as regards taxation of elderly persons pension. I was going to ask the Minister, however, since he cannot give my Honourable Colleague the information required, whether this is in fact harkening back to January of this year or whether this is forward looking to any increases that might come as a result of wage movement and so forth in the foreseeable future. If it is looking back only, does he not feel that this would be an appropriate moment either not to deal with the matter or to deal with the matter in such a way as to take account of whatever increases he might have in mind for the coming year otherwise this would require another amendment also in the figures given, I would imagine, to preserve the present spirit of it in the near future." He was referring to the table of the clawback. What he was asking was, does the table to the proposed amendment cover what is going to happen over the next few years as incomes increase. Is it a forward looking amendment that will not require a further amendment for a few years and I was able to reassure him on that point. But that is all that we have here. There is no proposal there for the abolition of the clawback. Representations have been made by pensioners and I am very glad to see that the government is readily able to accede to the representations from pensioners.

MR SPEAKER:

I will now call on the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, had I been privy to the fact that my Honourable Colleague had recharged his ammunition locker I would not have attempted to reply so quickly. I have nothing to add to what has already been said, Mr Speaker, and I commend the Bill to the House.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I give notice that the Committee Stage and Third Reading of this Bill should be taken at a later stage in these proceedings and today if we should reach that point.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1978-79)(NO.2) ORDINANCE, 1978

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to move that a Bill for an Ordinance to apply further sums of money to the service of the year ended 31st March, 1979, be now read a first time.

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

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that the Bill be now read a second time. The purpose of the Bill is to appropriate, in accordance with section 65(3) of the Constitution, a further sum of £174,958, out of the Consolidated Fund and to appropriate in accordance with Section 27 of the Public Finance (Control and Audit) Ordinance, a further sum of £127,935 out of the Improvement and Development Fund. The purpose for which these sums are required are set forth in the schedules of supplementary expenditure which I tabled at the opening of this session and will, of course, be considered in detail at the Committee Stage of the Bill.

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.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken later in this meeting and should we reach that stage, today.

This was agreed to.

The House recessed at 1.10 pm.

The House resumed at 3.30 pm.

COMMITTEE STAGE

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that his House should resolve itself into Committee to consider the following Bills clause by clause: The Trade Licensing (Amendment)(No.2) Bill, 1978; The Entertainments (Amendment) Bill 1978; The Price Control (Amendment) (No2) Bill, 1978; The Elderly Persons (Non-Contributory) Pensions (Amendment) Bill 1978; The Group Practice Medical Scheme (Amendment) Bill 1978; The Supreme Court (Amendment) Bill 1978; The Judgments (Reciprocal Enforcement) (Amendment) Bill 1978; The Miscellaneous Amendments Bill 1978; The Alejandro Dalmedo Pension Bill, 1978; The Income Tax (Amendment) (No.2) Bill 1978; the Supplementary Appropriation 1978/79 (No. 2) Bill 1978, and the Trade Licensing Bill, 1978.

HON CHIEF MINISTER:

Mr Speaker, we have deleted from the list for consideration for Committee Stage and Third Reading the Court of First Instance (Amendment) Bill 1978. I have had a word with my Hon Friend Mr Peter Isola on the incidental effect of the increase in the value of land which the Attorney General and I think ought to have a little more consideration because of the implications in respect of jurisdiction which the Supreme Court has not got and there is no immediate hurry. We want to think a little more about it, we want to look at it in the light of what has now come out and that is that the increase in the net annual value as at present to £500 will cover almost every dwelling.

THE TRADE LICENSING (AMENDMENT) (NO. 2) BILL, 1978

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

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

THE ENTERTAINMENTS (AMENDMENT) BILL, 1978.

Clause 1

HON ATTORNEY GENERAL:

Clause 1 will need amendment, Mr Speaker. The date in the Bill provides that the Ordinance shall come into effect on the 1st day of June 1978. That has to be amended as follows:

"shall come into force on a date to be appointed by the Governor by notice in the Gazette."

HON CHIEF MINISTER:

The Entertainment Ordinance which was the subject of a debate which we find may well be necessary. I have had consultations with the Cinema operators and I have informed them that if, in fact, we return to the previous practice in which when it was indicated that an X-film should not be shown, and they had been cooperating, if in fact they agree with that, we will not bring the Ordinance into operation. If they do carry on with the business of cinema clubs, etc, then we shall do so. I have the undertaking of both operators that they will cooperate. Unfortunately, the person in charge of one of the Cinemas in the case of the Regal, is not in Gibraltar but I was able to have an undertaking from a responsible member of the family that this would be acceptable and since this Ordinance was brought as a result of a certain attitude which was being shown and have agreed to cooperate in the future, we shall have the Ordinance in reserve and will only bring it into effect if they do not cooperate.

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

HON M XIBERRAS:

I am very glad that the Government has in fact reconsidered the point. Having opposed the Bill on a free vote, I cannot but welcome the decision, which I imagine is a decision of the Government as a whole, to withhold the legislation and to rely more on consent and cooperation in a matter of censorship than on the kind of measure which is at present one foot in, one foot out, of the statute book. May I say that I do not like the idea of having a Bill which has already been passed by the House hanging over the heads of any section of the community. I would ask the Government that in the eventuality of it having to become law that the House, somehow, should have an opportunity to revise its own views of the matter.

HON CHIEF MINISTER:

I am quite happy to inform the House of any intended application of the law in advance but let it be quite clear that if we pass the law now it will be the law and this is the principle on which I have been able to get them to agree. It is not that the whole thing is going to be reviewed. I do not want any misunderstanding later that it would be subject to the concurrence of the House though anything that the House said at the time could well be taken into account but the law will be in the hands of the Government for its implementation should it become necessary. That is the intention because this is the only way in which there will be cooperation and have the parties not upset the situation as it was existing before it gave rise to this matter.

HON MAJOR R J PELIZA:

I think it is virtually in a form of blackmail. I think the answer is to scrap that particular regulation and, if necessary, when the time comes the whole matter can be ventilated again.

HON A J CANEPA:

The Bill was published on 6 April, six months' ago. It went through First and Second Reading last June. Throughout the summer the gentlemen in question have shown no evidence whatsoever that they intended to cooperate until the Chief Minister called them to a meeting. One of the worst and most horrific films it has ever been my misfortune to see and which I gave considerable detail about its scenes of violence, "The Texas Chain Saw Massacre", is currently being shown in one of the cinema clubs after it had been banned by the censors. Who is blackmailing who? If the Government has to have to resort to the law in order to be able to get people to come to their senses it has to, if you cannot persuade them in any other way. I have had two informal discussions with the persons concerned, quite informal, without any members of the Government knowing about it, because I happen to know the person quite well, I taught him for a number of years, and I have not been able to make much progress with him. I am glad to see that the Chief Minister was able to make some progress with another member of

the family. The Government does not blackmail anybody. To talk of blackmail six months after the legislation was published is absurd.

HON J BOSSANO:

I do not like the idea of this law being left in suspended animation any more than my Hon Friends on this side do, but in any case my objections to the Bill are more fundamental than that, they are the objections that I raised in the First or Second Reading of the Bill, and that is that if we require censorship then we should produce a good Bill to do it with rather than keep a bad Bill suspended in mid air because the fact that it may never be implemented is a consolation since I was against it, but if it should be implemented then I find that the thing that I was against is being implemented and I was not at all persuaded by the strong arguments put forward by the Hon and Learned Attorney-General's predecessor. I remember very distinctly how strongly the former Attorney-General felt about this issue. I remember him saying, in persuading the House to support this Bill, that we had to protect the moral standards of Gibraltar.

MR SPEAKER:

We are talking about the extension of the time for the Bill to come into operation. What I would hate to see happening now is the opening of the debate on the general principles of the Bill.

HON J BOSSANO:

I do not see how we can avoid it, Mr Speaker, because in fact what is being proposed by the Government is that instead of this Bill being implemented on a specific date, it should be left in the air as to whether it is implemented or not depending on how well-behaved the cinema owners are. Since I am saying that if they require to be controlled then we should produce a Bill and take a decision to control them and be done with it or else we should accept they do not require controlling, I am arguing against the amendment and in arguing against the amendment I must talk about the whole issue of censorship and about the validity of the arguments that have been put forward and, in fact, about whether the Bill is an effective means to produce the stated objective. The House will recall that I pointed out that what the Bill does, and if the Bill were implemented because the cinema owners misbehaved, what the Bill would do would be to require cinema owners to show the type of film that we do not want shown 365 days a year. That is what the Bill would do. I could not see the logic of being told in the House that it is bad for the community, it is bad for our society and for our social structure that a certain type of film should be shown for 26 weeks out of a year and therefore we were going to pass a law that compels the cinema owners to show that type of film 52 weeks a year. Surely then the damage is twice as great because then people will have no choice but to see that type of film. I said at the

time, Mr Speaker, and I would have thought that if what was said in the first reading had had any impact the Government would have perhaps considered doing some of those things before passing the Bill through the Committee Stage, I said that in my view one of the things that we needed to regulate was that we should not have all the cinemas showing X-films all at the same time, because that means that the people who are not interested in seeing X-films have got no choice, either they do not go to the cinema at all or they have to go and see one of those films. I think there is some public accountability involved here and that we need legislation, not just on the question of censorship, but to ensure that there is a choice of children's films and other types of entertainment available. But if we have got adults in Gibraltar who, for some reason best known to themselves, want to exercise their freedom as adults to see a type of film for which they are prepared to pay money, I do not see how Members of the House or members of the Government have really got a political right by virtue of the fact that they stood for election to this House of Assembly to lay down what is morally right and what is morally wrong.

MR SPEAKER:

You have explained your reasons but that has been said already once and we are now repeating ourselves. Those are the basic principles of the Bill.

HON J BOSSANO.

The point that I was going to make is that if we go ahead with the proposal to change the date it will mean that instead of the censorship being carried out by a Board of Film Censors consisting of no less than five members or no more than eleven as provided in the Bill, the censorship will continue to be carried out by whoever has been carrying it out in the past and nobody knows who has been carrying out in the past because it has been a mystery how or who has decided in the past whether a film should be allowed to go on or should not be allowed to go on and therefore I am tying the question of if it is members of the elected Government who take on this role for as long as the Bill is not implemented, then putting a date in there and leaving the Bill in the air means that elected members of the Government will be acting as film censors and it is my submission that that was not in their election manifesto and that therefore they have not got a mandate to act as film censors. I think the fact that the Bill may never become law does not resolve the problem because I think the problem came about because the working relationship that there used to be between the Government in this area and the cinema owners broke down, the Government felt they had to do something but now that the thing has come out into the open something does require to be done but I am not happy with what the Bill intends to do. I think we still need to do something about it and it is not just a question of leaving this in the air so that it may or may never take effect. I think we need to introduce some law that will be a just and fair one but that it will not be a restrictive one that limits the freedom of the individual.

HON CHIEF MINISTER:

I think, Sir, that the main concern of those who initiated this legislation was brought about by the indiscriminate and completely uncontrolled way in which by becoming a cinema club you can do exactly the same as if you were carrying on an ordinary cinema; a. that you are carrying one day a cinema club film and you pay nothing because the subscription is the equivalent of the entrance fee to go into a cinema and b. that you are going there for a cinema club thing and the next day for a perfectly decent film which you probably intend to see and then when you go and you find that where you have been seeing reasonable films you get the choice of either seeing a cinema club film of which you have to become a member or go away. That is the evil that came about and which this Bill proposes to regularise. The rest of the clauses regarding the censorship were purely incidental since the law is already there that X-films have to have the consent of the Governor and the Governor delegates the authority and it goes down to whoever exercises that authority but the law is there and you do not need a chain for that. If, perhaps, in the meantime we can find a way of silating the question of cinema clubs from the rest then we may have some progress but in the meantime as the Hon Minister of Labour has said one party who has broken the understanding that there was has shown no contrition about this matter and it may well be necessary even if it is pending the introduction of another Bill which will deal with Clubs only, it may be necessary to put some restraint on it because it has caused considerable concern. At the same place where all these horrible films were shown a certain ecclesiastical authority invited a number of people to go and see a religious film and there was, I understand, some objection to the fact that you may use something for a cabaret one day and the next for a church service. I undertake, as I said before, to inform the House and then perhaps we could have a general debate on it. I regret we cannot meet the point of the Hon Mr Bossano on this occasion. It is better to go on with this one on a suspended animation basis while we look at the matter more broadly.

HON M XIBERRAS:

Let me say that Mr Bossano and I were the only two members of the House to vote against the original Bill and I recognise Mr Bossano's dilemma which is the one that I put to the Chief Minister originally. That is that if there is sufficient ground amongst those members of the Government who are obviously in a majority and who were responsible for moving the Bill in the first place and there is considerable reconsideration for the date to be deferred then obviously for those of us who voted against the Bill the Bill cannot be a good one nor can it be a particularly good

MR SPEAKER:

You are being asked to vote for or against a particular amendment.

HON M XIBERRAS:

I am explaining why it is that I am going to abstain on this particular amendment. The reason is that there is a limited choice for the House and the choice is either to defeat this Bill and therefore have no form of possible compulsion on the exhibitors, to have nothing, or to go back to the existing law. In the circumstances I prefer to have a sort of consensus, or consent, uneasy though it may be, between the Government and the exhibitors, to having the law which would almost certainly pass if perhaps the more desirable course for Mr Bossano and myself of abolishing the question of censorship were to take its course and therefore I feel that the proper conduct in this case is, having shown my opposition in the second reading of the Bill, to support conditionally the consent that has been arrived and I have asked the Chief Minister to bring to the House for reconsideration of the main principles at any stage where the implementation of some form of censorship might be required, in their view. I say this because like Mr Bossano I do not like the present form of the law. I hope that makes my position clear at least.

HON CHIEF MINISTER:

I do not want any misunderstanding that if the amendment goes through as we hope it will go through, that if we find it necessary we shall fix a date in the Gazette for its implementation but I have undertaken that I will give notice in the House so that the House can express their views afresh if they want to and, of course, if the Ordinance comes into effect it will come into full effect, ie, the Board of Censorship would be created and then the whole Bill will work as one, it is not going to be just one thing to cover up the other. No Board of Censorship will be created in anticipation but if we feel it is necessary to put it into effect then, of course, it will be put fully into effect with a Board as provided in the Ordinance.

HON M XIBERRAS:

May I say that this is in fact the root of my doubts and I believe the root of Mr Bossano's doubts, ie, that a Bill that does not have our full approval and obviously does not have the full approval of all members of the House might in different circumstances need to be amended. One might get cooperation from the clubs but not on the exhibitors and an entirely new situation might arise. I am hesitant to give support to a Bill which has arisen to meet a particular set of circumstances and I think, however, that it is sufficient safeguard for me that the matter should be brought to the House with fresh information and a fresh determination taken then.

HON MAJOR R J PELIZA:

I am not very clear because originally I think the Chief Minister said he would reserve the right not to bring this to the House. Is that right?

HON CHIEF MINISTER:

No, I did not say that. What I said was that the fact that I brought it to the House did not necessarily mean that the House has then got the right to make a different decision, that is what I said, because in fact this is going to be implemented, I do not want any misunderstanding, but I did say that if we were going to put it into effect I would give the House due notice and it could be debated and it may well be that we might be convinced.

HON MAJOR R J PELIZA:

That is not the way I understood it originally.

HON CHIEF MINISTER:

I said it from the very beginning that I would give notice to the House that it was intended to bring the Bill but it should be made clear that that was not a decision-making time then but there would be an opportunity of discussing.

HON J BOSSANO:

I am going to support the amendment although I have agreed with everything the Hon Mr Xiberras has said, for one reason, that I prefer that there should not be a date and therefore as far as the amendment is concerned I would rather that there should not be a date there because that introduces the possibility that the law may never take effect but I am against the law as it stands and I would hope that we will use the opportunity being given for this law never coming into effect to produce a better law so that we can replace it by a better one before it does come into effect.

Mr Speaker then put the question in the terms of the Hon Attorney-General's amendment ie: that Clause 1 be amended by the deletion of the words and figures "the 1st day of June, 1978" appearing after the word "on" in the third line and the substitution therefor of the words "a date to be appointed by the Governor by Notice in the Gazette".

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

The Hon I Abecasis
The Hon J Bossano
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A P Montegriffo
The Hon Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon F E Pizzarello
The Hon A Collings

The following Hon Members voted against:

The Hon A W Serfaty

The following Hon Member abstained:

The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon P J Isola
The Hon G T Restano

The amendment was accordingly carried and Clause 1, as amended, stood part of the Bill.

Clause 2

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

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 Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon F E Pizzarello
The Hon A Collings

The following Hon Member voted against:

The Hon A W Serfaty

The following Hon Members abstained:

The Hon J Bossano
The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon P J Isola
The Hon G T Restano

Clause 2 stood part of the Bill.

Clause 3

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

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 Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon F E Pizzarello
The Hon A Collings

The following Hon Member voted against:

The Hon A W Serfaty

The following Hon Members abstained:

The Hon J Bossano
The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon P J Isola
The Hon G T Restano

Clause 3 stood part of the Bill.

Clause 4

HON J BOSSANO:

Could I ask the Government in the event of ever this becoming law, in the selection of the people who are going to form the Board of Film Censors there is no indication here as to how those 5 or 11 people who, after all, are going to be the ones who decide what the rest of us can see how they are going to be selected. Has the Government got any idea as to how this is going to be done?

HON CHIEF MINISTER:

Yes, they will be independent persons, preferably, not politicians but of a cross-section of the community and not from one section of the community alone. One would hope to have people liberally minded as much as people orthodox minded.

HON A J CANEPA:

Mr Chairman, the House should not be under any illusions about how difficult it is to find people to be able to undertake the task of censor precisely because of the very difficult times of showing films. It is not easy for the film exhibitors to put on a film for pre-view at hours that may necessarily fit in with people. It can be very awkward for independent persons who are employed, as they might not be able to get time off.

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

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 Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon F E Pizzarello
The Hon A Collings

The following Hon Member voted against:

The Hon A W Serfaty

The following Hon Members abstained:

The Hon J Bossano
The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon P J Isola
The Hon G T Restano

Clause 4 stood part of the Bill

The Long Title

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

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 Major R J Peliza
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon F E Pizzarello
The Hon A Collings

The following Hon Member voted against:

The Hon A W Serfaty

The following Hon Members abstained:

The Hon J Bossano
The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon P J Isola
The Hon G T Restano

The Long Title stood part of the Bill.

THE PRICE CONTROL (AMENDMENT) (NO 2) BILL, 1978

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

Clause 2

HON J BOSSANO:

I am aware that this is just the restoration of the position that there was before but I would like to ask why is it that in the new section 3A it mentions the fact that the Governor can cause an investigation to be made in respect of an article of thing being offered on sale notwithstanding the fact that he has the power to fix maximum charges for services which is referred to in clause 3. I we look at clause 3(5) Mr Speaker, it says; "The Governor may by notice in writing, require any person carrying on a business which includes the sale of supplies or the performance of any service" He has got the power in respect of any service and in the principal Ordinance it says under section 3; "The Governor may, by notice published in the Gazette, (a) fix the maximum price at which any supplies may be sold whether by wholesale or retail, and (b) fix the maximum charges to be made or demanded for any service," and the service includes work or labour done, etc. It would seem, if one puts the two things together, that the law provides that a complaint can be made about the price charged for an article but a complaint cannot be made about the price charged for a service because it is specifically excluded.

HON A J CANEPA:

We dealt with this matter this morning, Mr Speaker, and I think the Hon Member was not in the House. Section 3A was envisaged to deal with goods, articles, that would not normally be price controlled. The whole range of foodstuffs, etc, which are controlled are controlled under section 3. 3A enables the Governor definitely to fix a price for specific goods like a refrigerator, a television set which normally you would not want to control. In fact, what happens is that because you have the power to do that, an approach would be made to a trader who was deemed to be overcharging in a specific good of this kind and again you would hold the powers which you have as a sword of Damocles over him and you might not necessarily get the Governor to make a specific Order to have a specific notice put in the Gazette. If there is profiteering in respect, say, of a television set, then he would be advised to lower the price. If he does not do so he can be made to lower the price through a notice in the Gazette and then if similar television sets are being sold by other traders then the whole thing would have to be the subject of a general notice in the Gazette.

HON J BOSSANO:

I am afraid the Hon Member has misunderstood completely what I have said. I am aware of the point that he is making. What I am saying is that in the original Ordinance there was provision for the Governor to carry out an investigation and receive a report as a result of receiving a representation

or receiving a complaint in respect of an article or thing being sold at an excessive price. When we amended that in the law that was declared unconstitutional and which I supported, Mr Speaker, we introduced the right for the Consumer Protection Officer to carry out an investigation both in respect of goods and articles and services, ie, in the old section 3, what is now the original section 3. We are now restoring the position as it was before the last Bill was passed which means that we are now going back to the situation where representations can be made in respect of goods and articles but not in respect of services. I want to know why.

HON CHIEF MINISTER:

It would seem that it has been thought that that may well have been part of the part which was held unconstitutional.

HON M XIBERRAS:

I remember in discussing this matter with the other Bill, the one that was declared unconstitutional, I made some play on the question of services and of people being able to enter the offices of lawyers, teachers and so forth. In trying to persuade the Chief Minister about this I said that somebody could burst into his office and see how much he was charging for a particular professional activity. It does seem to me that the point has been taken in this particular section but it has been taken to a point where services of all kinds and all manner have been excluded and I wonder whether this was the intention, the very laudable intention, of the Minister for Labour and Social Security when he was talking about the control not only of goods but also of services and I wonder whether it is fair on those who sell goods and articles that they should be subject to the provisions of the section but other people giving a service not necessarily in the legal field or in the teaching field but in any other, in medicine, in many other respects, that they should be excluded without apparently any word of explanation. I do not know whether this is in fact the intention of the section and, if so, why has the Minister for Labour left it out?

HON A J CANEPA:

In the principal Ordinance, before the amendment, section 3(1) it says: "the Governor may by notice published in the Gazette, (a) fix the maximum price at which any supplies may be sold whether by wholesale or retail, (b) fix the maximum charges to be made or demanded for any services ..." We have the power to do that.

HON CHIEF MINISTER:

What the Hon Member is saying is he has the general powers he had before in respect of the other one. We tried to put specific powers in respect of both, we have been told that it was not proper and we have only restored the one

that was only for maximum prices and not for services. The Attorney-General tells me that he would have to look very carefully at the Judgment before he could say whether he could put it back again now for specific services. We will bear that in mind.

HON J BOSSANO:

Mr Speaker, the point that has to be made and I think it is perhaps a point that has been overlooked in all this, is that the Governor may fix the maximum charges for any service without carrying out any investigation. He has got the power to do that. I would have thought that carrying out an investigation gives a measure of protection to the person who is being investigated because if the person being investigated can show to the satisfaction of the authorities that he is not profiteering, then his prices would not be controlled but if he is not allowed to be investigated then, presumably, when a complaint is made about prices being too high, either the complaint will have to be ignored or section 3B will have to be introduced in which case the Governor will have to, by notice in the Gazette, control the prices and then after the prices have been controlled then, presumably, the person whose fees are being controlled for the services they are rendering will have to complain that they have not been given a sufficient margin and produce the books in justification of having the price control removed. That might be a more effective way of controlling prices, to control everybody first and let the onus of responsibility be on the person who does not want to be controlled. That might be a more effective way of doing things but I have always seen what was being proposed as giving those who had a valid case not to be controlled an opportunity to put their valid case forward and I thought that in fact the situation was being objected to on constitutional grounds was the right to go in and ask for books on the spot whereas at the moment, with the restoration of the original position, there is a demand made for the books to be produced and of course if the demand is made in writing and the books are going to be produced, in the case of an unscrupulous person wanting to profiteer, no doubt the books that are going to be produced will show the position that wants to be shown because the person will not be caught on the hop. That is really the essence of the difference between the two positions but I think if we are going to be doing something about it, I appreciate that the most probable reason why this is just being restored as it was is because in fact that is what the Government has found itself having to do, to restore the original position, but if we are going to be doing something to change the law, surely if there was an omission in the original law it is an opportunity to put it right now.

HON A J CANEPA:

It is not entirely an interim measure because in any case it may prove to be a final measure, as it were, but it

could be an interim measure if the study and the thought which the Consumer Protection Officer is currently giving to the matter and the further consideration of the judgment were to lead to further legislation being brought to the House. We are obviously not entirely happy with the effect of the Judgment, we are prepared to feel our way, as it were, to give the matter further thought but the Consumer Protection Officer did tell me immediately after the result of the judgment was known and when I consulted him about whether we should merely restore the legislation such as it was or bring some other version, he told me that he would be giving the matter further thought. This may not be the final product. I would want either the present Acting Attorney-General or a new Attorney-General when we get one, to look at the Judgment in depth and to be able at leisure to advise the Government and at the same time the executive side so that they should decide what are the kind of powers they would like to have provided they are not unconstitutional.

HON J BOSSANO:

Mr Speaker, the constitutional point that has been made as to whether introducing this question of services might be contrary to the ruling is completely false. It is not a valid argument at all for one simple reason: that the power to investigate the provision of services is included here. We are saying, in section 5(1) "the Governor may, by notice in writing require any person carrying on a business which includes the sale of any supplies or the performance of any service to produce to and allow to be examined by any person appointed by the Governor". So the point made by the Hon Mr Xiberras is not a valid one at all. We are saying here that the Governor can investigate lawyers and can investigate teachers. What we are saying is that you cannot complain about lawyers and you cannot complain about teachers, that is what we are saying, because where it has been left out is in section 3A where it says: "if it is represented to the Governor that any article or thing is being offered for sale at a price which may be unreasonable he may issue a notice to the seller under the provision of section 5". What the law says and what the law used to say was that the Governor could conduct an investigation into the sale of things if somebody complained. He could also conduct an investigation on his own initiative in respect of sales and in respect of services. The distinction between what he could do on his own initiative and what he could do as a result of a complaint existed in respect of services, which by implication, means that you cannot make a complaint about the services, that is the implication of that distinction. That is the only point that I am making that why should I be able to go to the Consumer Protection Officer and complain about being overcharged for a service which could be, according to the original Ordinance, letting or hiring or being provided by labour, having my house repaired or a number of things. All those things are services under the definition in the main Ordinance. I cannot make representations about that, I could before, I could as a result of the

amendment that was passed and the position now being restored that I will not be able to again and I do not think that the constitutional ruling was really intended to deprive people of making that, it was intended to deprive the administration of investigating people without prior warning.

HON CHIEF MINISTER:

I think we shall have to wait and see the study of the Consumer Protection Officer and bring a much more comprehensive amendment.

HON P J ISOLA:

Is that point that the Hon Mr Bossano is making actually met by the new section 5 which gives the power.

HON J BOSSANO:

No, Mr Speaker, I am not making the point that the Governor cannot investigate a question of excessive charges for services. The point that I am making is that in 3A it says that the Governor will do that if it is represented to him that too much is being charged for an article, but it does not say that he would do it if it is represented to him that too much is being charged for a service. What I am suggesting is that what we require is the amendment that would make section 3A(1) read: "if it is represented to the Governor that any article or thing is being offered for sale or a service provided at a price which may be unreasonable, he may issue a notice to the seller under the provisions of section 5". He can do that anyway, under section 5, on his own initiative but he cannot have it represented to him that he should do it.

MR SPEAKER:

I think the point has been made and I think the Government have said that after they have consulted the Consumer Protection Officer they may be coming with amendments to cater for this particular point. I do not think we can pursue it any further.

HON M XIBERRAS:

I accept entirely what the Hon Mr Bossano has said of my earlier contribution but I think that his is an interpretation of 3A(1) based on "if it is represented to the Governor" that part in the linguistic sense and only that. I do not know whether the whole force of 3A(1) would uphold Mr Bossano's interpretation.

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

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

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

THE ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (AMENDMENT) BILL, 1978

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

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

THE GROUP PRACTICE MEDICAL SCHEME (AMENDMENT) BILL, 1978

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

Clause 3

I beg to move that Clause 3 be amended by the addition in the Schedule after the words "Self-employed persons and voluntary contributors under the Social Insurance Ordinance" of the words "and other voluntary contributors."

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

HON A P MONTEGRIFFO:

The reason why we are adding these three words is that in the drafting of the legislation we had inadvertently excluded the voluntary contributors. There are two types of voluntary contributors, the ones who become entitled because they are voluntary contributors to the Social Insurance Scheme and those who are not covered by the Social Insurance Scheme and become voluntary contributors.

Mr Speaker then put the question which was resolved in the affirmative and Clause 3, as amended, was agreed to and stood part of the Bill.

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

THE SUPREME COURT (AMENDMENT) BILL, 1978

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

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

THE JUDGMENTS (RECIPROCAL ENFORCEMENT) (AMENDMENT) BILL, 1978

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

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

THE MISCELLANEOUS AMENDMENTS BILL, 1978

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

Clause 3

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that Clause 3 be replaced

by a new clause as follows:

"3. Section 5(2) of the Family Allowance Ordinance is amended by a deletion of the words "the rate of five shillings a week or more", in the seventh and eighth lines and by the substitution therefore of the words "a weekly rate of not less than the rate of allowance prescribed in Section 3".

Paragraph 1(1) of the Schedule of the Family Allowance Ordinance is amended by the deletion of the words "a rate less than five shillings a week" appearing in the provision thereto and by the substitution thereof of the words "a weekly rate of less than the rate of allowance prescribed in Section 3.

It tidies things up, Mr Chairman, by making reference to section 3 when the allowances in section 3 are amended there is then no need to amend section 2 consequentially and the same thing happens with paragraph 1, subsection(1) of the Schedule.

Mr Speaker then put the question which was resolved in the affirmative and new Clause 3 was agreed to and stood part of the Bill.

Clauses 4 to 7 were agreed to and stood part of the Bill.

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

THE ALEJANDRO DALMEDO PENSION BILL, 1978

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

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

THE INCOME TAX (AMENDMENT)(NO 2) BILL, 1978

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 SUPPLEMENTARY APPROPRIATION (1978-79)(NO 2) BILL, 1978

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

Schedule

Consolidated Fund, Schedule of Supplementary Estimates
(No 2 of 1978/79)

Item 1 Head 3 Customs

HON P J ISOLA:

What exactly is the radio system for the Customs service going to do?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps the Hon and Learned Member could be more explicit and ask to what extent he would like me to amplify the note which is given in the column.

HON P J ISOLA:

In the note it says that "provision is being sought to purchase a radio system at a cost of £1,000 as it is considered that radio communications for the Customs Service is essential for the tighter control of smuggling and other illegal activities". Could we have some information on the order of smuggling there is and illegal activity, and in what way will in fact the radio system help prevention of smuggling. Is there evidence that goods are being landed in Gibraltar and introduced other than through the normal points of entry and if there is, what are the steps that are taken in this regard, are the patrols out?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the Customs is responsible for patrolling the entire waterfront. The difficulties that have been encountered is twofold. First of all, yachts do from time to time tie up and make an entry where they are not supposed to and, secondly, particularly after hours when there is only a duty watch on, it is undoubtedly difficult for them if they encounter, for example, a vessel of any description entering and not coming alongside at Waterport or going to the Yacht Marina, they go to investigate and they may need to communicate with the watchkeeper on duty in the Customs House. The purchase of this equipment has been a request which has been strongly advocated by the staff of the Customs for some years and has been resisted. As far as I am concerned, they have made their case that where you have Customs Officers, two of them, one on the end of the telephone in Headquarters, the other out, it is certainly extremely valuable to be able to communicate by radio and in view of the fact that the Department itself has been able to find from its own resources one-third of the amount required, ie, £300 out of a £1,000 approximately, the Government decided that it should seek the necessary appropriation to finance the balance.

HON P J ISOLA:

This is for communication between the Customs Service. It is not communication, for example, to a yacht telling them to move away from there into another area, it is actual communication between the Customs Service, is it not?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is perfectly correct, Mr Chairman, although presumably if a yacht knew the frequency there could be communications from the Customs to the vessel but that is not its prime purpose. Its prime purpose is to enable touch to be kept with various officers working at various points around the

commercial harbour and, indeed, when they come up into the naval area in the vicinity of the Camber, for example.

HON M XIBERRAS:

I take it that this is on land, Mr Chairman, there is no question of customs officers going out to sea.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As I understand it, Mr Chairman, this could certainly be used between one Customs Officer out on a vessel or anchored and the base. I understand the range is quite sufficient.

HON M XIBERRAS:

I know that Customs Officers generally complain of having to walk or drive, say, 500 yards and then coming back to base and going out to see another little yacht somewhere else, they complain about that, but if it were a question of communicating from a vessel out to sea, to land, then I would imagine since the Customs do not have a lunch of their own, I would imagine the radio equipment would be necessary, so it must be on land.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Basically, as I understand it, it is for the patrols on land between one part of the area that they cover and another part.

HON M XIBERRAS:

So that they do not have to walk around?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes.

Item 1 Head 3 Customs, was agreed to.

Item 2 Head 4 - Education.

HON M XIBERRAS:

Is the Minister for Education making a statement on this?

HON DR R G VALARINO:

No, Sir.

HON M XIBERRAS:

I think we should hear something from the Hon Member. Regarding the additional cost of new scholarships, Mr Speaker, could we hear what number of new scholarships?

HON MAJOR F J DELLIPIANI:

Thirty-five.

HON M XIBERRAS:

The Minister is brief and to the point. Are these in the normal run of things or are there any additional scholarships given for any additional reason?

HON MAJOR F J DELLIPIANI:

No, the mandatory scholarships and the technical scholarships.

HON M XIBERRAS:

Could I ask the Minister whether any of this money is being used in provision for some discretionary scholarships?

HON MAJOR F J DELLIPIANI:

No, Sir.

HON M XIBERRAS:

The Minister does not exercise the powers that he does not have, in fact, of discretion?

HON MAJOR F J DELLIPIANI:

No, Sir.

Item 2 Head 4 Education was agreed to.

Item 3 Head 5 Electricity Undertaking.

HON G T RESTANO:

May I have an explanation on the note. This money apparently was voted on 30 November, why was the work not completed before now?

HON MAJOR F J DELLIPIANI:

We have just been able to finish the work at a higher cost.

HON G T RESTANO:

Can we have details of that because it is, after all, twelve months after that we asked to vote the money.

HON CHIEF MINISTER:

If you look at the next page there is a full explanation. "In the event no expenditure was incurred in 1977/78 but the Bill which has been presented this year on completion of the work is for £6,605."

Item 3 Head 5 Electricity Undertaking was agreed to.

Item 4 Head 15 Medical and Public Health.

HON M XIBERRAS:

How do we stand on this agreement?

HON A P MONTEGRIFFO:

What has happened is that we have gone over the quota which was fixed at 40, mainly on referral cases. If the referral case is referred within a calendar year, it is accepted as the same case, but if it goes into the next financial year it is taken as a new one and for this reason we have got to vote this particular sum of money. I have got a feeling that we may not have to use the whole of it, but this is a guesstimate, but I do not want to be accused of overspending without authority and these are cases which cannot wait if the need should arise that we should send 12 instead of the 10 we have estimated.

HON M XIBERRAS:

Is this agreement kept under review? There is a lot of talk about Common Market Agreements, bilateral agreements and so on and I am just asking, without discussing the principle, whether the Department keeps this matter under review.

HON A P MONTEGRIFFO:

Every two years. The second year of the last renewal ends in 1979. It is due again for renewal but in the meantime Government is taking some action and we hope that we can settle what I consider to be a rather vexing question. The Government has taken steps to try and start negotiations before 1979 to see whether we can settle this problem.

HON M XIBERRAS:

This is in fact the point I was driving at, Mr Speaker, I know that in the EEC context there are certain agreements and other EEC countries and even countries outside EEC seem to have quite favourable agreements considering their status outside EEC. Is the Minister taking advice on this EEC connection?

HON A P MONTEGRIFFO:

Yes, we have and the advice that was given to me at the time by Ministry of Health Officials who were very helpful was that it is a question of how much is spent in your own country in looking after the nationals of other countries. The formula that has been given to us and accepted is a very generous formula.

HON P J ISOLA:

How many patients are we going above the 40, is there any idea?

HON A P MONTEGRIFFO:

We have sent up to the end of September 44, and if the trend continues there may be another 10. The cost of a patient per week is £400.

Item 4 Head 15 Medical and Public Health was agreed to.

Item 5 Head 19 Prison.

HON G T RESTANO:

Why was there a delay in carrying out the necessary works at the Prison?

HON A J CANEPA:

Industrial action during 1977.

Item 5 Head 19 Prison was agreed to.

Item 6 Head 12 Labour and Social Security.

HON P J ISOLA:

It is quite clear that there will have to be continuing subvention to the John Mackintosh Home. Is the Government considering the possibility of buying, for example, the Anglican Home which is now empty? Is there any plan to do that because that would help them, I presume, if the Government bought the property over, they could use the income for that.

HON CHIEF MINISTER:

This was raised in some stage in these proceedings for another purpose. First of all, it is important that the whole complex should be available as one unit, the Jewish Home should also be moved from there and steps are being taken. There are, obviously reasons why they cannot go up to Mount Alvernia but there are one or two places which have been suggested within the city which is likely to require some capital expenditure and have the whole unit free for selling to an interested buyer. At one stage the Ministry of Defence showed an interest in this for a long lease or, perhaps, instead of having to build at St. Jago's the offices that were intended to be built there for the Secretariat to give elbow room to the Secretariat which is very heavily committed, it may be that we might be interested in that respect. From the point of view of the Governors the point is to make the most profitable use of those two buildings when they are empty in order that they can enhance their income for the running of the rest of the Homes and will therefore be less dependent on the Government for subsidies.

HON M XIBERRAS:

This is a subsidy to help meet retrospective increases in

wages. Could I ask the Chief Minister, a point I made about television as well, according to what rates they were paid?

HON CHIEF MINISTER:

The agreement that was reached and on which the figure that we were asked was based on the current rate. The people employed have not got to be analogued to any specialised grade or have any staff inspection. They are cleaners, mainly, and they have been paid at the rate at which Government cleaners are paid.

HON M XIBERRAS:

It is by comparison to the Government and therefore they enjoy, roughly, parity rates?

HON A L CANEPA:

Not necessarily strict comparison. I do not think they are, for instance, analogued to cleaners in the hospital. Over the years the people employed by the John Mackintosh Homes, their conditions of services and wages, etc, were lagging well behind the public sector, and steps were taken to bring them much more in line with the public sector, such as comparable industrials, say, employed at the hospital, I would not like to commit myself that what has been done has been to bring them completely into line with the public sector. I think you may find that they are very nearly in line but also some regard is had to general wages levels in the private sector.

HON M XIBERRAS:

It is of course a comparable situation to GBC. I do not know how many people GBC have on their books but here we have 48 employees, quite a sizeable amount, the Government making a subsidy directly for the payment of retrospection and we discussed earlier in the meeting the question of the Massey Report and so forth, and therefore it is a comparable situation. I was wondering what policy the Government was in fact supporting with this contribution, whether it was a policy of parity or a policy of comparison with its own employees and what it considers proper in respect of this area of Government interest and Government subsidy.

HON A J CANEPA:

Sir, the John Mackintosh Home is not subject to staff inspection which is what would be required to arrive at the proper manning levels but when the Government committed itself two years' ago to provide a subvention through the Recurrent Estimates of Expenditure of my Department, as a result of that the Director of Labour and Social Security became a member, co-opted on to the Board of Governors that run the Homes, so he is now involved in the running of the Homes. The Chairman of the Board of Governors is also the Deputy Governor and I think that an investigation was carried

out a couple of years ago and the Auditor was also involved and I think that the Government officers concerned were satisfied that compared to the Hospital the Homes were not being run on an extravagantly lavish basis either by way of general expenses in maintenance, in keeping the place clean or by way of staff either.

HON CHIEF MINISTER:

It is on the cheap to some extent in so far as the work of the nuns is not quantifiable to money.

HON M XIBERRAS:

My point is, (a) to the staff being underpaid. If the Government has an interest in this then they should be paid at the going rate. (b) Are they being overpaid, because we cannot afford to subsidise them, and (c) what is the point of comparison with other comparable situations? The whole point of it is that in the case of GBC, for instance, Government gives a subsidy of £246,000 a year, it helps out in that respect. In this case Government is giving a subsidy of £42,000. In the case of GBC there is a great interest and so forth for how many employees? In the case of Mount Alvernia there is an interest for 48 employees and I think that the same criteria should be used in both cases.

HON CHIEF MINISTER:

In this case, as I understand it, the negotiations between Union and the representative of the Board of Management who hold responsibility, it is not the Government, it is done by a former Director of Labour who is Secretary of this Board of Governors, Mr Bill Cumming. He has done the negotiations with the Union over the women concerned and it is based on the standards that have been kept all along.

Item 6 Head 12 Labour and Social Security was agreed to.

PART B

Item 1 Head 10 Income Tax Office was agreed to.

Item 2 Head 15 Medical and Public Health was agreed to.

Schedule for Supplementary Estimates Consolidated Fund No 2 of 1978-79 was agreed to.

Improvement and Development Fund, Schedule of Supplementary Estimates No 2 of 1978-79

Item 1 Head 105 Miscellaneous Projects.

HON P J ISOLA:

Could I ask the Minister of Public Works. I notice here we are being asked to vote £190,000 for winning of sand from the upper catchment area. Should there not be an item here for preparation for the winning of sand from the upper catchment area?

HON M K FEATHERSTONE:

Yes, Sir, I would say that this is somewhat incorrectly named. It should be preparation for the winning of sand.

HON M XIBERRAS:

At the very end of the Minister's last reply on the question asked by my Hon Friend Mr Isola, I heard a figure of £160,000. Was that figure which was mentioned what the Minister calls preparation and we call part of the contract and does it have anything to do with this £123,121?

HON M K FEATHERSTONE:

Mr Speaker, the total estimate of the whole project is £362,000. Of this about £123,000 is for plant and a railway that is required, £197,000 is for the installation. Contingencies are £16,000 and the consultancy fee is approximately £25,000. Part of the installation which is being done by Mackleys is the figure of the £160,000 so it is all in the total of £360,000 which covers plant, installation, consultants fees, everything.

HON M XIBERRAS:

The matter that was the subject of discussion earlier in the question of my Hon Friend, that is, the operation at present being undertaken, is a contract for £160,000. Am I right in saying that?

HON M K FEATHERSTONE:

Yes, it is approximately £160,000.

HON M XIBERRAS:

I say this bearing in mind that it is coming up on the adjournment, Mr Speaker. The other thing is the part for the machinery. Are we voting for that now and, if so, what amount of money are we voting for now?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The original cost of this project has already been voted. It reflects the grant of Development Aid Funds made available to the Government of Gibraltar by the Ministry of Overseas Development. The amount which was estimated at the time that the Estimates were prepared for expenditure during the current financial year out of the total cost was £190,000. The total cost of the project, however, has now increased and supplementary grant has been made available by ODM and it is therefore necessary to marry up what the House has appropriated for expenditure in the current year with the total amount of the grant which is available for expenditure and that is all, in fact, that this supplementary is doing, it is marrying two sets of figures together.

HON M XIBERRAS:

I am sorry to have to bore the Financial and Development Secretary with these matters, but as a matter of fact they involve important points of principle with which he is not unconcerned, questions of tender and so forth and whether things should go out to tender and so forth and therefore, perhaps, he will bear with me if I ask some questions on this. I would like to know what we on this side of the House are letting ourselves in for in voting for this money. For instance, quite out of the blue, the Minister mentioned earlier in these proceedings that it was a Government owned company that was going to carry out the operation of the winning of sand. The Minister said this without any prior information to the House, even though I had heard certain rumours. I had also heard certain rumours that Mackley had, in fact, asked for a certain amount of money from the Government for machinery of a particular kind for their project and the figure of £100,000 was mentioned. What I want to get clear is what policy are we on this side giving our assent to in voting these monies? That is why I am trying to identify it and if the Hon Financial and Development Secretary can help me then I would be grateful to him.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think it must have been possibly two year's ago, the Government came to the House and sought funds for a project which was described as winning sand in the Upper Catchment. The total estimated cost of the project at that stage was something in the order of £360,000. That entire project was financed by grant funds as a result of the approval of a specific project by the ODM. During the course of the financial year ending 31st March, 1977, against that project some £2,934 was spent. I have no idea on what particular aspect of the project it was spent on. The revised estimate of expenditure during the financial year which ended on 31st March, 1978, was £176,066. The estimated expenditure therefore for the year which is what we voted at budget time, was £190,000. That is the amount of money which this House has authorised to be spent on the project during this financial year. We now know that the total estimated cost of the project is not going to be £360,000, it is going to be £362,181. We also know the amount of money which was in fact spent during the previous financial year, ie, 1977/78 was less than the figure shown in this book so therefore there is going to be greater expenditure during the current financial year than was estimated here^{for} as a result we have got to go for a supplementary to make that possible.

HON M XIBERRAS:

I am grateful for that, Mr Speaker. Perhaps I could ask the Minister then on what was the money spent in the previous financial year? Was it in fact in actual work done and what is the money going to be spent on now? At the same time I will ask him to note that it appears that it is one vote which the money is coming from.

HON M K FEATHERSTONE:

I do not have the figure, Sir, for what was actually spent last year or what is being spent this year. I have the global figure of what is being spent altogether on the whole of the preparation for the winning of sand and as I have already stated this devolves into £123,000 on plant and railway. Some has been spent, the balance will be spent this year. The total that will be spent on the whole preparation on plant and railway will be £123,000.

HON M XIBERRAS:

This plant and railway is in fact for the Company which the Government is going to form or the Government employees who are going to work there?

HON M K FEATHERSTONE:

That is for the Government employees who are going to work there.

HON M XIBERRAS:

So the decision has already been taken and money spent in that direction without coming to the House?

HON M K FEATHERSTONE:

If this had been a Public Works Project it would automatically have been spent just the same. It has already been through the House in so far as it is put in the estimates as a provision.

HON M XIBERRAS:

I cannot recall what the Minister said in answer to a question at Budget time but I will check on it.

HON M K FEATHERSTONE:

£197,553 will be spent altogether on the installation of this plant and equipment and getting the ground ready at the foot of the area where we are going to work and also in another area where there will be a weigh-bridge and where the contracts will be actually done. There is £16,000 put for contingencies which is 5% which is the normal thing to do and the consultancy fee of the consultants is put at approximately £25,000. That totals altogether the £362,188 which we assume the preparation for the winning of sand will actually cost. Once all that is done and the machinery is there, then this Government-owned Company will actually start working it as though it were a PWD operation but instead it will be a separate Government-owned Company, they will start producing the sand, dropping it down from the upper catchment to the ground level, putting it into hoppers etc., where they can be loaded into lorries as it is sold, weighed and the normal administration day-to-day work be done.

Item 1 Head 105 Miscellaneous Projects was agreed to.

Item 2 Head 107 Government Offices and Buildings.

HON P J ISOLA:

Mr Speaker, may I say that the Post Office looks very nice indeed. There is only one problem and one complaint and that is that most of the windows are shut. Can the Minister explain?

HON I ABECASIS:

I don't know whether I should explain that under this heading, Sir.

HON P J ISOLA:

Mr Speaker, we are voting for all those nice windows. It all looks very nice but can the Minister tell me why he has so many windows if they are closed.

HON I ABECASIS:

That is what I am saying, Sir. The improvements of the Post Office to which the Hon Mr Isola is referring has not been painted nor is it intended to be painted in the near future but of course if he wants an answer I will give him an answer but not under the pretext that it comes under this heading.

HON P J ISOLA:

I thought that the Post Office, which is now looking very nice, I thought that was part of the money we are voting for.

Item 2 Head 107 Government Offices and Buildings were agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No 2 of 1978-79 was agreed to.

HON CHIEF MINISTER:

Mr Speaker, before we conclude the Supplementary Estimates. A lot of questions have been asked about the payment of the cleaners at the John Mackintosh Homes and also about the analogues of GBC. I think, perhaps, this is the time to say that the Union representing the members of this House have also had to make representations regarding their own remuneration having regard to the changes that have taken place and what has been decided is that the remuneration of Members should go up on the same basis as they were fixed at the time that Mr Morgan went into the matter in 1976 and have been adjusted, having regard to the analogue that they did to one of the officers in the grade and it is proposed that these payments should come under Head 29 of the Estimates which is the general pay review and the expenditure for which there is money provided should come under that. I

should also inform the House that with the knowledge of my Hon Friend the Leader of the Opposition and also of the Governor we have written to London requesting the help for a more in-depth study for the question of allowances of Members so that they do not have to continue the same pattern as before if a review is required, but for the present the increased allowances will be paid under Head 29.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

For the record, Mr Chairman, they will not be paid from Head 29, they will be paid from the appropriate House of Assembly vote. I shall vire it from Head 29 to the vote. Dare I say that the transfer is at my discretion.

HON M XIBERRAS:

I think it is an adequate increase for Hon Members but I am particularly glad at what the Chief Minister said bearing in mind the importance of representation of the people and making it possible for all types and all classes of people to be able to stand for this House. It is important that the in-depth study should continue. I am very glad that the Chief Minister has thought it fit to mention this at the same time as announcing an increase in Members' allowances. Mr belief is that along with increases in salaries should come increased commitments in a sense and perhaps we should look at other things, declaration of Members' interests, eligibility, etc., to this House. I have always regarded these as a package affecting representation of the people in this House.

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

Clauses 2 and 4 were agreed to and stood part of the Bill.

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

The Committee recessed at 5.10 p.m.

The Committee resumed at 5.30 p.m.

THE TRADE LICENSING BILL, 1978

Clause 1

HON A W SERFATY:

May I move that the day be altered from 1st day of July 1978 to 1st day of January 1979.

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

Clauses 2 to 21 were agreed to and stood part of the Bill.

Clause 22

HON G T RESTANO:

I beg to move that Clause 22(1) be amended by the addition of a new sub-paragraph(e) immediately after sub-paragraph(d) as follows:- "(e) the grant of a licence following an objection by that person." I think the reasons for wanting this amendment included, Mr Speaker, were made very clear at the first reading of the Bill. We believe that there should be a right of appeal by an objector whose objection is rejected by the Committee and that that person should have the same right of appeal as a person who is aggrieved at having a refusal of a licence to also have the right of appeal. I think, too, it is especially indicative that most of the people who will be objecting are in fact Gibraltarian traders we are talking about whereas the right of appeal against the granting of a licence of course may be an outsider and we are giving the right of appeal to anybody wanting to set up a business but yet those who are already established in Gibraltar and who may object to the granting of a new licence are not being granted the right of an appeal and therefore I feel that this new sub-paragraph should be included after (d).

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

HON A W SERFATY:

Sir, the Hon Member knows that this has been discussed quite a lot by him and the Hon Mr Isola and myself and was not accepted by the Government because, as I said when the Bill was discussed in the First and Second stages, it would leave a successful applicant who got his licence on tenderhooks for weeks, or perhaps months, paying rent and not knowing what the result of the appeal would be which might take weeks or months. It could be an appeal on a point of law. Is it fair that a man who is successful in obtaining a trade licence should not know until months after that day whether he can start his business or not? The Government feels that this cannot be accepted.

HON G T RESTANO:

The point is that whether it takes time or not is of course a

factor but it is better to take a bit of time and ensure that the right decision is taken eventually rather than allowing a situation to occur where an objection may not be followed and perhaps wrongly a licence is issued.

HON P J ISOLA:

I would like to support my Hon Friend on this because when the Minister speaks about the time factor I would suggest to him that the Trade Licensing Committee is the Committee that takes years to give a licence or not to give it. In my own experience, I have applications pending before that Committee for over a year. It is the Committee that takes years. Once an appeal is made, my experience of that is that it is heard within a month. I think the main point here is that if there was a civil case the chap who loses has the right of appeal. This is a sort of a civil thing. This is a business transaction. Somebody wants to set up in trade in Gibraltar and the grant of a licence to that person will enable him for ever more to trade in Gibraltar. That person just has to take the rough and the smooth, surely. He wants to trade, he may have waited three months for his licence so I do not think there is any injustice done to that person in making him wait another month. I do not particularly agree with the principles of the Ordinance but given the Ordinance as it is, I see no reason why a person who feels strongly about the grant of a licence to somebody, because consider one thing, Mr Speaker, apart from the certiorari or mandamus or whatever, the person concerned who has objected may have doubts as to the reasons why the licence has been granted because there may be people in that committee who that objector feels may be partial towards the particular applicant. I would not support my friends so much if it wasn't for the fact that we are going to keep, apparently, with the new replacement clause 26, the law as it was before; two traders and two Union people and two whoever it may be are going to decide and the objector may say: "No, I want an impartial tribunal to decide this. "Why cannot we have the Magistrate see at least whether there is something wrong with the grant of this application in the same way as somebody who has refused the application can go to the Stipendiary Magistrate and say that there is something obviously wrong and ask that it be put right and the Magistrate may agree or may not agree. It seems to me that the Minister, and he has always fought for trade licensing and control and so forth, I think that he should agree that a person who objects on any grounds should have the right to go up. Provision could be made that they are heard within a month. I see no reason why an appeal from the Trade Licensing Committee should not take a month at all. I certainly think that it would be fair, given the contents of the Ordinance, if the right of appeal was also with the objector.

HON CHIEF MINISTER:

This idea is taken from the general principles developed in the Brewster Sessions of applications for liquor licences where people are entitled to object and they are heard and if a licence is granted they have no right to appeal. If a licence is not granted the applicant may have a right to appeal on legal grounds

if he has, if not, that is the end of it. If objectors all gang up together in a district because they do not want another pub, they think there are too many of them and they all gang up and they all come, you can see that here you can see that in England, and after hearing the matter then the objectors come before the Brewster Sessions and their objection is over-ruled and that is the end of the matter. There could be tactical reasons for an appeal and not just reasons of principles. There could be tactical reasons of keeping a man out of a particular business for a time and putting in an appeal on a point of law whilst the successful applicant could be carrying out a particular transaction of interest to him and perhaps to the community. We cannot accept it.

HON P J ISOLA:

I would like to say that the big difference between the Brewster Sessions and this particular Licensing Committee that we are to have is of course that the licensing committee has an interest in the matter being discussed, whereas the Brewster Session is composed of Justices who have no interest in the matter being discussed, or a Stipendiary Magistrate. Here we have got people actually deciding whether "A" gets a licence who has a vested interest in the grant or refusal of that licence. You have your two traders and you have your two Union men and you have the other two people. This is the reason why I think there must be protection so that anybody who is aggrieved can go to an impartial person, the Stipendiary Magistrate, and decide.

HON M XIBERRAS:

Mr Chairman, there is no objection on the Government side except the question of time and the effect the time it would take to hear the appeal would have on the successful applicant. That is the only one because I do not think there is anything at all unusual about the procedure suggested by my Hon Friend and if somebody wants to bring up something as a delaying tactic surely, this is common practice in the legal profession in any case and in the courts. One has a right to fight things on that basis. If the licensing authority can be committed to hearing appeals expeditiously then what possible objection can the Government have. It is a matter of very great import. It is a law that has exercised the mind of members on both sides of the House for a very long time and this extra safeguard is not against legal practice or against fair judgement in any way and where the pressures on the licensing authority are nowhere near as big as the pressures on the courts, say, I can see no objection on the grounds of time it would take an appeal and I fail to see why the Government is so entrenched on this matter. Surely, what my Hon and Learned Friend Mr Isola says that he has had applications pending for a year or so, and the Government views this with relative unconcern, it takes a member of the Opposition to bring the point up, surely, to have the right of appeal within a specified time and have the appeal heard expeditiously is not an unreasonable request and I can see no real objection from the party that has been arguing as strongly as anybody in the House for protection. I find it a difficult change of attitude by my Hon and Learned Friend who is generally considered on this matter to be somewhat liberal as compared to the Hon Members

opposite and what is the objection then of the Government other than time and if it is time is it an objection which is well founded and which can not be overcome merely by good practice by the licensing authority.

HON A W SERFATY:

The main objections which have been levelled at this kind of legislation is that it is an inhibiting factor to people including Gibraltarians who want to trade by people with liberal minds, I accept that. The biggest critics have not come up with anything better than that and we have discussed this for months in Select Committee and in meetings between Government and Opposition etc. My point is that if a man in the face of this inhibiting legislation, goes to the Trade Licensing Committee and gets a licence that should be the end of the matter and not carry on messing up the thing and complicating matters unduly. He gets the licence and that is the end of it.

HON M XIBERRAS:

The complication is in the interest of fairness and to support the original purpose of the law. It is not an unnecessary complication and I would say that the Trade Licensing Ordinance itself is the inhibiting factor. It is designed to be inhibiting and protective and I do not think that this particular clause which offers a safeguard in a sense of fairness to the objector adds any more to the inhibiting factor. It is a drop in the ocean compared with the knowledge that people from abroad and even people inside will have that they have to get a licence by law to trade in Gibraltar so I do not think that this particular addition in any way changes the general tenor of the law. At the same time it does provide a safeguard and it is consonant with the right of appeal by either of the two parties which is a pretty important principle.

HON CHIEF MINISTER:

This question of time, of course, works both ways. It may be true that applications take time before they are to be heard but anybody who wants to start a business and does get through the difficulties of the Trade Licensing Committee and gets a licence and then knows that that is not the end of it because he can be the subject of appeal by an objector, and let us say that there are twenty objectors, each objector can separately appeal and there can be a conspiracy of people to object and to appeal at different times within this period which may be required but there may be a number of objectors and each appeal must be heard on its own merit and the Magistrate is going to sit and listen to ten or fifteen, it could easily do away with the chance of anybody establishing himself in business if people get together to say: "we are going to make sure that we are going to take so long before all the appeals are heard, that there can never be a proper date in which a man can know whether he is able to make his arrangements, to take his premises, if he has rented then tentatively he would have to carry on paying rent for empty premises, if he has to order goods he does not

know whether he will be able to order goods because he does not know what the result will be, in other words, a period of uncertainty after having got over the hurdle of the first difficulty. I think it is an attempt at de-liberalising instead of liberalising trade.

HON MAJOR R J PELJZA:

I am all for doing away with any form of trade restriction, I have said this in the House before, but given that the will of this House is that we should have some kind of restriction in trade, I would have said that the logical conclusion is that it is those people that the law is supposed to protect who should have a right to appeal. I know that the Chief Minister has brought out the Brewster Sessions as an example as to why this is not done but as I understand it the Brewster Sessions deals with tavern owners who apply for a licence for that particular purpose and the objection, if it comes, is either because his behaviour is not of the kind it is supposed to serve adequately the rules and regulations that are applied or because the people in the area have any objection but as far as I know it is not a question of competition and I do not believe that some other tavern owner in the neighbourhood can come along and object to the licence because it is going to affect his sales as far as I know so therefore this is a complete and different thing altogether and not because I think the right of appeal does not apply in that particular instance, the same rule should apply in this one because I think the purpose is a completely different one altogether as far as I know. Perhaps the Chief Minister can clear that point but as far as I know that is the difference. In this case, here we have perhaps very powerful competition the one we fear most is coming from outside Gibraltar and not inside Gibraltar, this very powerful competition, perhaps getting through the net of the licensing committee and then comes the right of the individuals who have objected for one reason or other. As my Hon Friend quite rightly said, the members of that committee might have been biased and I think this satisfaction of being able to go to Court and have the matter decided absolutely impartially, I think gives good sanction to the law and I believe that this is something that the Government should give second thought to. I know that there is a period of delay but surely a time limit can be put to the time in which appeals can be lodged and that can be restricted. If it takes three months to get this through the Committee, there is a period of uncertainty of three months and then probably add another period of one month so instead of being three it is going to be four and in fact if the committee does its work a little more rapidly than up to now, the amount of time may be exactly the same as it is now. I think my Hon Friend says that in his experience the time it takes is very long. What is the difference of an extra four months or even a fortnight. I do not know how this could be worked out, but to me it seems logical that if the applicant has a right of appeal, I think the objector should equally have one.

HON M XIBERRAS:

The hearings are not public hearings and if the hearings are not public hearings the full implication of an application

may not be immediately obvious. It does sometimes happen that they might ask for a licence to trade in anything and going back to the point my Hon Friend made about competition from outside, it might very well be that in the course of the hearing by the licensing authority factors may come to light to the members of the committee which were not known publicly. Once the licence is given then people might react, people might say this is not what it looks like, or that they did not even hear about this and that it has bigger implications than they thought was the case. If there were a proper build-up period for this and if there were a public hearing by the Licensing Authority then fair enough, then people can get together and present a case there but this is really leaving it not so much to the objector because he only sees it in the newspapers but there is no public hearing of it and that is really where interest is centred and therefore these people, the objectors, should have a right of appeal.

MR SPEAKER:

The amendment says the only person who can appeal is the objector. According to the way the amendment is worded it is only the objector who can appeal.

HON M XIBERRAS:

I think that the question that the hearings are not public does influence the consideration of this matter.

HON P J ISOLA:

As my friend the Leader of the Opposition has said, there is provision under section 28 of the proposed Bill for the Governor to make regulations to be followed in the making of objections under section 12 and in relation to appeals under section 22(1). One of those regulations would obviously be that anybody who wants to appeal has to appeal within a definite time, seven days, and the other one can be that all objections in respect of one licence are heard at the same time. There is no problem there, no procedural problem. The basic problem, Mr Speaker, is that the Select Committee of this House that sat on this made a recommendation unanimously which was accepted by this House during the last life of the House that, for example, the hearing should be made in public. There is no provision in the new Bill on that. The second one was that the composition of the Committee on which we spent a tremendous amount of time should be changed and what has happened is that we are now with the amendment that is coming today, we are back to the old committee, Mr Speaker, absolutely back to the old committee to which great objection has been taken. We may be right, we may be wrong, people may be right, they may be wrong about what they say about the committee but in those circumstances I think there is a need to allow an objector who feels that a committee which is going to be composed of a majority of people with vested interests in the matter, that an objector who feels that they have been partial or otherwise should have a right of appeal. That is all we are saying.

HON G T RESTANO:

The main thing that has got to be considered here is that justice has not only got to be done it has to be seen to be done. In the case of an objector objecting you have two protagonists in the case, you have the applicant for the licence who may be an outsider or who may be a local, it could be both, but certainly the objector is a man who is already established in Gibraltar and whether, as the Chief Minister says, it may be a group of people who may be ganging up, it may well be but that group of people are traders in Gibraltar, they are Gibraltar traders and they are surely the ones who need most protection. There are these two protagonists, on the one hand one has the right to apply for the licence and if he does not get it he has the right to appeal but the other one only has the right to object and he does not have the right to appeal. So, therefore, the Bill as it stands now is loaded in favour of the applicant and not of the Gibraltar trader and therefore I really do feel that this sub-paragraph should be accepted especially in view of the fact that under the provision 28 of the Schedule the Government does have powers to avoid the process taking such a long period of time.

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

The Hon P J Isola
The Hon Major R J Peliza
The Hon G T Restano
The Hon M Xiberras

The following Hon Members voted against:

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 J B Perez
The Hon A W Serfaty
The Hon Dr R G Valarino
The Hon F E Pizzarello
The Hon A Collings

The following Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon H J Zammit

The amendment was accordingly defeated and Clause 22 stood part of the Bill.

Clauses 23 to 25 were agreed to and stood part of the Bill.

Clause 26

HON A W SERFATY:

I have the honour to move that Clause 26 to be deleted and replaced by a new Clause as follows:

Trade Licensing Authority.

26.(1) There is hereby established a Trade Licensing Authority (hereinafter referred to as "the authority") which shall consist of the Chairman, and six other members appointed by the Governor, two of whom shall be appointed after consultation with the Gibraltar Chamber of Commerce and two after consultation with the Gibraltar Trades Council.

(2) Four members shall constitute a quorum at any meeting of the Committee.

(3) At all meetings of the Committee the Chairman, or, in his absence such other member as the members present shall appoint, shall preside.

(4) All decisions of the Committee shall be decided by the majority vote of the persons present at any meeting, and in the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.

(5) No decision of the committee shall be invalid by reason only of there being a vacancy among the members of the committee.

(6) The committee may make rules regulating its own procedure.

Mr Speaker, the point is this, we have discussed, the Opposition and the Government different proposals. The Opposition wanted a different kind of trade licensing authority, two Chamber, one Gibraltar Trades Council, one independent, one housewife. Government, as a sort of compromise with the Opposition, have got the kind of committee that one can read now in the present Bill composed of nine members. I have since discussed this matter with the Chamber of Commerce, with the Unions and with Hon Members and I have informed them of the different possible options such as leaving it as it is with a Chairman, who is an official and two Chamber, two Gibraltar Trades Council and two independents or, perhaps, we might have been able to compromise on three, three and three instead of two, two and two. The Opposition has not really reacted very strongly either for one or the other and after very careful consideration I have come to the conclusion that a committee formed of seven persons works much more easily than one of ten persons so we are back to square one, with an official as the Chairman, two Chamber of Commerce representatives, two Gibraltar Trades Council representatives and two independents. Sir, I move the amendment.

Mr Speaker proposed the question in the terms of the Hon A W Serfaty's amendment.

HON P J ISOLA:

This clause is more objectionable than the one in the Bill but because of this particular clause or the one in the existing Bill and because of the failure of the Government to provide in the Bill for objectors to appeal against the grant of a licence, my Hon Friend did in fact give notice to the Minister for Trade that we would vote against the Second Reading of the Bill on 15 May, 1978, and we voted against the Second Reading of the Bill on that day and of course we will vote against this amendment and the existing clause. Mr Speaker, this clause goes right against the recommendations of the Select Committee which were accepted by the House, the Government included, and it seeks to revert to the position that the Select Committee sat for three years to decide that it was the wrong position, it was the wrong committee, and the Minister for Trade has just gone back to that. In fact, the Select Committee was just a waste of time, Mr Speaker, and then the subsequent consultations that were held in the new House of Assembly since 1976 between my Hon Friend Mr Restano and the Minister and myself again have been an absolute waste of time and we are back to the old committee of which there has been so much complaint. What we suggested and I think, for the record, it should be mentioned, we suggested that it should be chaired by the Finance Officer because there was need for a senior Government man to be there to give information, to guide the committee on this matter. We considered the Consumer Protection Officer should be on the committee looking after the consumer. It is all very well for the trade and the Trades Council, the Union side and the traders to get together, but what about the consumer, what about the housewife who has to decide whether it is in her interest to have five grocers instead of one only, which may be what somebody favours or what somebody does not favour. We wanted the thing to appear to be fair, so we wanted the Consumer Protection Officer to be there. We also wanted the trade which has an interest and in the same way as when the Union has an interest it is represented properly, we thought the trade should properly be represented because fundamentally it is their business, it is their competition, it is their livelihood that is being affected so we suggested two members selected by the trade and then the two of the Traders Council we suggested and recommended and we feel it is right and this may be unpopular, but we think it is right, it should be a member of the Trades Council so that the employee side is represented and then the other angle, the consumer, there should be a housewife there or a representative of the housewives or somebody representing the consumer and then we said, to make up the committee of seven, no more than seven, we agree with this figure, it is the composition that we do not agree, and we said there should be one independent person but that independent person should be appointed after consultation with the Leader of the Opposition. In other words we should somehow try and get an independent person and not a person who is a nominee of any particular interest or any particular

person because we all know that an independent is a very difficult animal to find today in Gibraltar and we said that if the Leader of the Opposition and the Chief Minister can agree on somebody as an independent we think that it is about as near as you will ever get to an independent on a committee. It may be they would never come to an agreement, that would be unfortunate, I am sure they would. In that sort of Trade Licensing Committee we feel that this would give confidence to the trade, to the consumer and, indeed, to the employee, to the Unions. What we do not want is little empires being built up because we feel that the last Trade Licensing Committee was not doing its job properly and the Select Committee came to the conclusion that there was a need to have a rethink about it. The Government is going right back to the old Committee. We should not have had a Select Committee, Mr Speaker, we should not have had this delightful short Trade Licensing Bill that has been coming before the House every six months for the last six years, we should not have that one, we should have left the old one as it is because the fundamental points on which we thought there should be change have not been changed, so we vote against the whole Trade Licensing Bill as a mark of protest against the manifest unfairness of this amendment.

HON G T RESTANO:

The one thing that I would like to know is who, in fact, is going to be the Chairman of this Committee? In the original Trade Licensing Ordinance it was stated that the Chairman of the Committee would be the Financial and Development Secretary and then after that there was an amendment that the Finance Officer could represent the Financial and Development Secretary but in this new amendment we just have the fact that there will be a Chairman but we do not know who it is. I think we should know who it is. Then there are two independent members, we do not know who they are, how they are going to be appointed, what qualifications are going to be taken into account for appointing these people and I think it is only fair to this House for the Minister to give answers to those questions; who the Chairman is going to be, who the independent members are going to be and what qualifications they will require to be appointed.

HON MAJOR R J PELIZA:

I always sided with the view expressed by my Hon Friend Mr Isola earlier and now, of course, that the suggestion of my Hon Friend Mr Restano about the objector having the right of appeal having been defeated I think the composition of this authority is all the more important that at least John Citizen should have a say in it. He is not having it now. The Chairman is an appointed person who is there to Chair and to more or less act impartially and bring out the decision which the two sides, the two big institutions the Union and the Chamber of Commerce they are going to split the cake. In fact, this is something that is creeping in. We have seen it already in the Port Labour Board where again this same division was made, that is, the Union and the employer. Here again we have an opportunity of having the voice of the ordinary man in the

street expressed there, the consumer, who is obviously very interested as to whether how many shops he wants in his street. He may be in fact one of the most interested persons in this. If the Chief Minister feels that he should be there then why not be more specific and put it down, as we are suggesting, but now to come along and say he may be there, in other words, I intend to put him there. If he intends to put him there then make sure that not only his Government is going to put him there but subsequent administrations will see that he is there and that if the administration does not want him to be there, he will have come here to the Chamber and go through the whole process of amending the law. If the Chief Minister really feels strongly that John Citizen should be there, then I think it should be put in the law now and not start making suggestions that he may or may not be there.

HON CHIEF MINISTER:

Anybody who has not got an interest in any particular trade is a consumer, in fact, anybody is a consumer nowadays, anybody can represent the interest of consumers so long as he has not got any conflicting interest of any other kind.

HON MAJOR R J PELIZA:

You might say that everybody is a businessman even if he does not belong to the Chamber, everybody is a worker even if he does not belong to the Union but one thing is to have organised labour, organised trade and organised consumers, this is what we are saying, and I think this argument is very poor indeed, Mr Speaker.

HON M XIBERRAS:

It is not only a question of having an ex-official representation of consumers as suggested by my Hon Friend, it is also a question of a Consumer Protection Officer and the necessary expertise, the angle of the consumer as constituted in our society. People might be under the misapprehension that the Union protects consumers. The Union protects the Union as we have often heard in this House and there might be many circumstances in which it is not in the interests of the Union to allow a certain business to have a licence but it may very well be in the interests of the consumer. It may be a question of job protection, it may be many questions that arise and therefore what is wanted is not an ex-gratia kind of concession to this side by saying that John Citizen may be appointed, maybe even the Chairman of the Committee as an independent, it is a question of consumer interests being represented there as of right and if there are two immediate considerations at play in this Ordinance and will be in the licensing authority, it is the interest of established trade and the interest of the consumer and not directly the interest of the Union. That is more secondary than the interest of the consumer. Hon Members cannot say that the interest of Unions in this particular matter, as Unions, is more important than the interest of consumers. After all, whom are we protecting and who are the two pans of the balance in this matter. On the one

hard established business, on the other hand the consumer interest. Surely, these are the considerations and it would not be fair to exclude Union interests completely and we suggest one Union member, but it is not fair to exclude the housewife or the consumer as completely as the amendment would make out. The other thing which I want to start on, Mr Chairman, is the question of agreement and so forth raised by my Hon and Learned Friend Mr Isola about which I had a few angry words to say because it has really been a waste of time of my colleagues in the Select Committee to have everything worked out, approved by the House, agreed by Hon Members opposite and then after many hours of deliberation and coming and going, to find the Minister saying: "Yes, I consulted them," and then he corrected himself and said: "I informed them about this latest change." What a way to run a business, Mr Speaker. If the Hon Member was not in a position in the first place to make the suggestions that were eventually incorporated in the Select Committee Report, all subsequent accommodations by this side to which he gave his consent, if he could not carry his colleagues with them because of the trade union interest or whatever it was, he should not have given his agreement to it. As Chairman of the Committee he put his name to one thing, then had consultations on the telephone and so forth and meetings with my Hon Friend and then as a mover of the Bill proposes something which is quite different. Mr Speaker, honestly, I think it is a disgraceful way to proceed. The Government has obviously signed away its freedom of action, that is quite clear. It is quite clear that the Government is in no position to reconsider the arguments of members of this side of the House because they have done a deal already and I think they are going to keep to this particular deal and I think that the consumer is the loser in this.

HON A W SERFATY:

First of all, I would like to say that I can see a certain contradiction between the line of argument used in this discussion on Clause 26 by the Opposition and that used under Clause 22. The problem, and the Hon Leader of the Opposition has been saying so quite clearly, is how to protect the consumer. One of the big worries of the Opposition is that the consumer must be protected. Surely, it is natural to suppose, generalising, that it is in the interest of the consumer that there should be as many businesses as possible. Whether they can cover their overheads or not because there are too many is another matter. This is where I find the contradiction with their arguments on Clause 22 when they are not as liberal as they should be on the question of a licence which has already been granted by the Trade Licensing Committee and they want to encourage the interested parties, not the consumers, the competitors, to go and put their foot in it in an appeal. One thing that the Opposition have not mentioned is that this Select Committee which I had the honour to chair, which proposed resolutions of the House and a Trade Licensing Committee composed of officials and we agreed on that suggestion, we would have agreed on that suggestion. The Foreign and Commonwealth Office saw difficulty with the European

Common Market on that and that is why we changed our tune and the Hon Mr Isola knows this only too well. The other point I want to mention is the question of the Chairmanship. This is a flexible matter and the Government will have to advise the Governor on who chairs the committee. Eventually, it is quite clear to me that the Finance Officer, who has many duties on his plate, will have to be replaced sooner rather than later by the Consumer Protection Officer who, after all, will be there to protect the consumer.

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

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 J B Perez
The Hon A W Serfaty
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon F E Pizzarello
The Hon A Collings

The following Hon Members voted against:

The Hon P J Isola
The Hon Major R J Peliza
The Hon G T Restano
The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano

The amendment was accordingly carried and new Clause 26 stood part of the Bill.

Clauses 27 to 29 were agreed to and stood part of the Bill.

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

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

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

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

The House resumed.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to report that the Trade Licensing (Amendment) (No 2) Bill, 1978; the Entertainments (Amendment) Bill, 1978, as amended; the Price Control

(Amendment)(No 2) Bill, 1978; the Elderly Persons (Non-Contributory) Pensions (Amendment) Bill, 1978; the Group Practice Medical Scheme (Amendment) Bill, 1978, as amended; the Supreme Court (Amendment) Bill, 1978; the Judgments (Reciprocal Enforcement)(Amendment) Bill, 1978; the Miscellaneous Amendments Bill, 1978, as amended; the Alejandro Dalmedo Pension Bill, 1978; the Income Tax (Amendment)(No 2) Bill, 1978; the Supplementary Appropriation (1978/79)(No 2) Bill, 1978, and the Trade Licensing Bill, 1978, as amended, have been considered in Committee and agreed to and I now move that they be read a Third time and passed.

MR SPEAKER:

I will now put the question and I would point out to the Members of the Opposition that we are taking a vote en bloc. If there is any particular Bill which they wish to vote on separately will you please tell me now.

HON M XIBERRAS:

We would like a separate vote on the Entertainments Bill and the Trade Licensing Bill.

Mr Speaker then put the question and on a vote being taken the Trade Licensing (Amendment)(No 2) Bill, 1978; the Price Control (Amendment)(No 2) Bill, 1978; The Elderly Persons (Non-Contributory) Pensions (Amendment) Bill, 1978; the Group Practice Medical Scheme (Amendment) Bill, 1978, with amendments; the Supreme Court (Amendment) Bill, 1978; the Judgments (Reciprocal Enforcement) (Amendment) Bill, 1978; the Miscellaneous Amendments Bill, 1978, with amendments; the Alejandro Dalmedo Pension Bill, 1978; the Income Tax (Amendment)(No 2) Bill, 1978, and the Supplementary Appropriation (1978/79) (No 2) Bill, 1978, were read a third time and passed.

On a vote being taken on the Entertainments (Amendment) Bill, 1978, the following Hon Members voted in favour:

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 J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon F E Pizzarello
The Hon A Collings

The following Hon Member voted against:

The Hon A W Serfaty

The following Hon Members abstained:

The Hon P J Isola
The Hon Major R J Peliza
The Hon G T Restano
The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano

The Bill was read a third time and passed.

On a vote being taken on the Trade Licensing Bill, 1978, with amendments, the following Hon Members voted in favour:

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 J B Perez
The Hon A W Serfaty
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon F E Pizzarello
The Hon A Collings

The following Hon Members voted against:

The Hon P J Isola
The Hon Major R J Peliza
The Hon G T Restano
The Hon M Xiberras

The following Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano

The Bill was read a third time and passed.

The House recessed at 6.30 p.m.

THURSDAY THE 26th OCTOBER, 1978

The House resumed at 10.30 a.m.

PRIVATE MEMBERS' MOTIONS

HON P J ISOLA:

Mr Speaker, Sir, I beg to move in the terms of the motion standing in my name which reads: "This House is gravely concerned at the continuing failure of the Gibraltar Government since August to provide a continuous electricity supply to the public, at the manner in which the Government has failed to give a full explanation to the public of what is happening and at their apparent inability to put the situation right and censures the Minister therefore." Mr Speaker, as recently as yesterday the public of Gibraltar or a section of it, if I may say so, living round the northern area of

the town and Irish Town and I believe also Red Sands Road were subjected to power cuts. I do not know whether if there had been no motion and the Minister had made his statement and that statement had said that it is unlikely it is going to happen again, I do not know whether he would have been as surprised as members of this House to have heard that there had been a further power cut in Gibraltar. Mr Speaker, there are three parts to the motion. One is the continuing failure of the Gibraltar Government to ensure a continued supply of electricity to the consumer with all its attendant inconveniences, danger to health and annoyance. Secondly, for the absolute contempt, really, with which the Government has treated the public in this matter, the people who pay the bills, by not giving them full explanations of what is happening as they are entitled to have. Then, of course, thirdly, the apparent inability of the Government to put the situation right. This, I am sure all members must agree, is a matter of grave concern to the House and indeed to the public. Mr Speaker, if one looks at the civilised world as we know it, without any disrespect to the term used loosely as the third world, but the civilised world as we know it, can the Government point to any modern country that suffers power cuts apparently for no reason whatever. I am not talking of countries that suffer power cuts as a result of industrial action. The Hon Members will see that the motion is directed at what has happened since August 1978. I do not know if there has been industrial action, for example, no one has been told about it. The Government that is getting on, if we are to believe what the Minister for Labour said in an aside yesterday, it is getting on with the Unions like a house on fire, so it cannot be industrial action, Mr Speaker. Can the Government point to any country which, in the absence of industrial action, has had power cuts and where supplies are cut to the consumer without warning, with any explanation whatsoever. In which the consumer is treated without the utmost contempt for reason best known to the Government. I think there is not a single one in the civilised world. Mr Speaker, we are not a democratic community, are we not a civilised community? Are not the public entitled to know what is happening? Are not the people who are being asked to pay 40% increases in their electricity bills, are they not entitled to have electricity or must the public start a campaign not to pay for their electricity until the Government gives them a supply because that, apparently, is the only sort of action that the Government seems to appreciate and take notice of.

HON CHIEF MINISTER:

Is that what the Hon Member is suggesting to the people of Gibraltar that they do?

HON P J ISOLA:

No, of course I am not suggesting to the people of Gibraltar that they do that but I would certainly understand it if members of the public, whose food goes bad or whose refrigerators in business premises, where lots of money is lost with no compensation from the Government it would certainly be understandable if they started asking people not to pay. The Govern-

ment would then come out with an explanation and tell them what is happening. Why doesn't the Government tell the public? This is one of the big points in the motion. It is the responsibility of the Government to supply electricity to Gibraltar. It is their responsibility to supply it under the law and if they fail to supply electricity it is their obligation to tell the public what is happening, to tell the public what has happened in the past, to tell the public what they are doing to put it right, to tell the public if half the engines are broken down what they are doing to get them repaired, what urgent action they are taking. The public are entitled to know, Mr Speaker, and in fact the Democratic Party of British Gibraltar issued a release on 28th September, 1978, and today it is the 26th of October, a month later, and do the public still know? No, Mr Speaker. The Government was asked on behalf of a Party in Gibraltar that is represented by four members in this House, was asked to give an explanation to the public, and silence. If members of the House want a public statement that seems to be the cue for the Government not to give it. If we ask outside the House there is no answer. If we ask in the House they have to answer, so then we get an answer, Mr Speaker. But is that the way to treat the public? We represent quite a number of ordinary citizens in Gibraltar, if we are to accept what happened at the elections. My Hon Friend Mr Xiberras had the confidence of quite a large number of people in Gibraltar. We ask for a statement, we are treated with contempt. No, the public must pay, you pay and shut up, that has been the attitude of the Government. Hon Members opposite laugh and smile but how else do you interpret the Government's stand, how else do they interpret it? They are asked for an explanation, nothing, your power cuts carry on, if your baby does not have hot foods, to hell with it, we are not going to make any explanation. We are not going to give you electricity, you just pay. That is the attitude of the Government. That is the attitude of the Government, for what reason one can only guess - that they have no explanation to give. We may get the Chief Minister going on television one night and telling the public of Gibraltar; "I am sorry, the last three engines that we have got have also broken down and there is no more electricity, from now on it is candles and matches for you all." Mr Speaker, the situation is a bit odd because we had the answers earlier in these proceedings about the borrowing of electricity by the Government from the Ministry of Defence. We find from the answer given by the Minister that there is something a bit serious, that the Government is borrowing rather more from the Ministry of Defence than the Ministry of Defence feel they are going to need back because they have now suggested to the Government for the first time, it appears, in all the history of inter-borrowing and paying back, that the Ministry of Defence have suggested to the Government that they should be reimbursed in cash. For me, that indicates, Mr Speaker, that it is no longer a two-way traffic, that the Government is borrowing rather more than the Ministry of Defence reckon they will ever be able to pay back. So the Ministry of Defence, before the bill gets too big and the Chief Minister goes to England and asks for Development Aid to pay back what they owe the Ministry of Defence, or asks the British Government to suggest to the

Ministry of Defence that they waive the few hundred thousand, or whatever it may be by the time it is owed, before that happens, the Ministry of Defence have probably said, "We better get a bit of cash then the blow is not so great." But Mr Speaker, are not the public entitled to know what is happening especially when a responsible Party with four members in the House makes a public statement and asks for an explanation? Why cannot we have an explanation? Why cannot the Minister go on television and tell the public? Not immediately afterwards, when he got back from Germany. We could wait, after all we waited for a month, we could have waited two weeks for him to come back from his hockey tournament. Or another Minister could have slipped into the breach. It has been known for Ministers to step in and reply for other Ministers. I went on television, Mr Speaker, to talk about Varyl Begg Estate and three days' later we had the Minister for Housing rushing on television and in his haste he made promises that the houses would be allocated in four weeks and the poor people are still waiting and they are told now it is going to be six months. They went quickly then, didn't they, Mr Speaker? But on electricity, complete silence. Perhaps the Minister will explain the silence now. Perhaps we will now know everything that has gone wrong. But, Mr Speaker, what has gone wrong and what is going to be done to put it right requires explaining but the Government must never forget that they are responsible for the supply of electricity to Gibraltar. It is on them that the responsibility lies to ensure a continuous supply. It is not for them to play with the people's right to receive supply because it may suit a particular attitude or a particular movement, for example, to get particular good feeling or have good relations with whoever it is they have to have them. It is the duty of the Government to ensure supply. It is the duty of the management to ensure that the public have what they are paying for and this motion has been brought for a number of reasons, one is to highlight to the public the Government's responsibility under the law to supply people with electricity. The other one is to condemn the Government for not giving a full explanation to the public at the time these cuts come and warning the public of the sort of times that this will happen. The third one, of course, is the censure of the Government for not giving a supply and of course, Mr Speaker, overshadowing all that is the real concern on this side of the House that some serious errors have been made by the Government in the question of the engines in the Generating Station. That there has not been good planning, that proper arrangements have not been made so that we do not find ourselves with this situation of breakdown of supply continuously throughout the winter and that the Government can reassure the public of Gibraltar that they regard it as their overriding and principal job as far as electricity is concerned to supply to the public and to get over obstacles and that management will do their job to produce for the public a continuous supply of electricity. They have apparently failed in this, Mr Speaker, during the hottest months of the year, August and September. They have, apparently, been over-borrowing from the Ministry of Defence and the situation in the absence of a very good explanation from the Minister must give rise to grave concern and must be grounds for censure of the Government. I commend the motion to the House.

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

HON MAJOR R J PELIZA:

Mr Speaker, as I see it either we have insufficient capacity, which I doubt, because I do not think that is the case, or there are engines which have to be stopped because of extra maintenance that may have to be carried out or because there is a shortage of spares to put right certain engines. I think I would like to hear the Minister clarifying those points. I do not believe as my Hon Friend said here that it was due to strike action. I think one can eliminate that particular one. I do not suppose it is because there is a shortage of staff. To my knowledge we have not heard that they have not got the full complement. One would have thought perhaps that it is the failure of engines. The important thing now is, is it due to fair wear and tear due to the age of the engines? Or is it due to lack of maintenance or improper maintenance? If it is due to fair wear and tear why didn't the Government think of replacing them in time? If it is due to lack of maintenance who is responsible for that lack of maintenance? These are very pertinent questions which I would like to hear the Minister develop but this is really talking about the present and the past. What about the future? Can the Minister give us an idea of what we can expect in the future? The cold weather is about to set. The demand will be increased considerably. Will the engines that are available be able to supply Gibraltar? Or will it mean that people will not be able to use their heaters and perhaps sometimes not even their cookers. These are pertinent questions about which we want to hear now because I imagine that the Government must have made contingency plans for the future where the demand increases and increases considerably. Without being technical about it I think there is tremendous danger of engines being completely damaged if there is serious overload and I suppose that great care has got to be taken that this does not happen. If that is the case a warning would have to be given to people as to the time they can expect blackouts. It is a terrible situation, Mr Speaker. I have never heard of this sort of thing happening in the way that it is happening today. I always felt very proud when I was abroad and I heard about power cuts because there have been power cuts in different places, not just due to strikes but for other reasons, and I could always boast that in my lifetime very, very seldom had Gibraltar gone without lights and without the total supply of electricity. I always felt very proud of saying that to people that spoke to me about Gibraltar. I used to say it is a very small community but we are very well organised. It is very sad now that I cannot say that any more about the electricity and what is even more dangerous is, what about the future? If we are short of engines how long will it take to acquire them, how much notice have we got to give the manufacturers before they produce them? How long do they take to have them installed? I hope the Minister gives us a comprehensive account of why this is happening and what the plans are for the future. I entirely agree with my Hon Friend Mr Isola. It is lack of responsibility, that is the word, of not informing the people of Gibraltar immediately why the

power cuts were necessary. Undoubtedly, the person responsible must necessarily be the Minister. He cannot pass the baby on to anybody else, this is what he was elected for. This is obviously why he was appointed as a Minister by the Chief Minister, and the responsibility falls squarely on his shoulders. If he ever thought that he could not manage that Department, first of all he should never have taken it over, secondly, if he has taken it over and he finds that he cannot give the supply that he is supposed to supply he should pass that job on to somebody else. This is his responsibility and it is his personal responsibility. I hope that the Minister will also say why he was so quiet about the whole matter. Why? What is the reason for not coming out and telling the consumers of Gibraltar why they had power cuts. It is a very sorry state for Gibraltar that this thing is going on in this day and age when we have all the news media available. All you have to do is to type out a little communique which five minutes later is on radio, television, the press. The people are then informed and know what is happening. There is no need then for rumours to go round, all sort of rumours. Rumours, perhaps, which are completely exaggerated. Perhaps there is not all that much wrong, but, surely, then the answer is to come out immediately and tell the people, not to give rise to my Hon Friend here having to bring a motion to this House over such a small matter, in the sense of informing the people, of having to bring it here and then even to have to give the impression of passing a censure motion on the Minister. Surely, this is not what is required. I think that the motion could have been worded in much stronger terms. It has obviously created the impression which is obviously what the mover wanted to do. There is no doubt, apparently, in the Government's mind that this is the case. Perhaps, I was just trying to be kind to the Minister. I think, Mr Speaker, that this is a sorry state of affairs. It is, perhaps, another indication of the bad management of this Government and perhaps in some respects it is a good thing that this matter should be ventilated in the House to prevent the same thing occurring in other Departments of the Government.

HON J BOSSANO:

Mr Speaker, I think the motion is correct in some respects. I think the House is bound to be concerned if there are power cuts because Gibraltar is concerned if there are power cuts and the Ministers are bound to be concerned if there are power cuts because nobody likes to have power cuts either as consumers or as members of the House and therefore the thing to which we ought to devote our attention to if we are concerned about the problem, is to try and establish the roots of the problem and the measures that can be taken to put it right. There are three elements really in the motion. One is the expression of concern for the situation that exists, the second is dissatisfaction with the amount of information available as to the causes of the situation and the third is a condemnation of the Minister for the way he is handling the situation. My information certainly as regards the situation in the Generating Station, is that the Generating Station has been under-capitalised for a very long time and that people have

had to make tremendous efforts really to make do with inadequate equipment, or insufficiency of spare parts and I do not think this is unique to the Generating Station, I think in spite of the many criticisms that one often hears about the productivity and so on of workers in the Government, people sometimes do not realise that in the Generating Station, in the Distillers, in the Public Works Garage, there are a lot of highly skilled craftsmen who are constantly touching up very antiquated equipment to keep the thing going. One of the things that is wrong with the Generating Station, and it is a question of money more than anything else, is that for a very long time there has been an inadequate supply of available spares and a stock in the Generating Station so that things can be put right at the right time and instead things sometimes are allowed to go on and because a minor fault is allowed to go on, by the time something is done to put it right it is no longer a minor fault, it then becomes a major overhaul job. Certainly, that is the information that I have from people who are working there and who should know the sort of problems they are encountering. That is something that the Government has got an obligation to put right and it is not something that the Government can do in time to do anything about any power cuts that there may be this year. I think that it is also true to say that in the Generating Station, as in other areas, there is a backlog of work resulting from the industrial action that took place last year. But it is also true to say, Mr Speaker, that all the people who work in the Generating Station, both the industrials and the management, have been making tremendous efforts to catch up with that backlog. There have been people, Mr Speaker, who have been working on a stretch sixteen hours a day, or sixteen hours a night, right from the end of the working day, right through the night and right to the next morning in order to try and get machines back on line before peak loading. Because obviously the power cuts arise because a machine goes out of action and the remaining equipment is insufficient to meet the load at particular times in a day and in order to avoid power cuts people have worked day after day, throughout the night to try and get those machines back into operation by the next morning when the consumers make the biggest demand on the system. I think that is one side of the coin that if we are going to ask for a full explanation to be given to the public of the situation, we should also inform the public of the efforts that are being made by the people in the Generating Station to avoid the situation being worse than it might be. Otherwise what is being asked for may be asked in the spirit of saying people should know precisely what the situation is so that they know what to expect and might be misunderstood as an invitation to indulge in bashing the workers or putting the blame on the workers and saying it is their fault and in order to avoid that misunderstanding taking place, Mr Speaker, an explanation is required and I think it is a good thing to keep people informed of the situation so that there are no misunderstandings as to how things come about and if there is not a situation where there is industrial action then it is better that people should know that that is not happening. An explanation should include, in fact, a reference to the effort that is being made to keep any disruption of essential services to the minimum and the extra

effort that is being put in by the people involved. The inability to put the situation right which is the last part of the motion, and I am not quite sure, perhaps the Hon Member will explain whether he is censuring the Minister for the whole thing or just for his inability to put the situation right, because quite frankly I think that the Minister himself as far as the situation that exists now and as far as increasing the available equipment on stream, the Minister can do nothing other than make unlimited overtime available and since people already are working as many hours as is physically possible to work to avoid the power cuts, I do not see in the short term, or for this winter, what anybody can do. Certainly the Minister and the Government have got an obligation to take a very hard look at the position inside the Generating Station as regards the stock that we have in Gibraltar and the essential spares that we have in Gibraltar because the advice that they will get from their own management is that it is far from a satisfactory situation but, of course, this costs money, having spares on stock instead of ordering them when you need them means having money tied up and it means a capital investment which has got to be funded. We cannot have things suddenly breaking down unexpectedly and any piece of equipment is liable to do that and have people rushing around Gibraltar trying to find a necessary piece of equipment, not when we are dealing with electricity, we might have to put up with broken lorries or broken tractors but certainly we cannot have a situation where because of this lack of stocks unnecessary and avoidable disruptions take place. The money will have to be found.

HON DR R G VALARINO:

Mr Speaker, in replying to the motion I would again like to crave your indulgence in allowing me to read most of my speech as it is extremely technical. I would like to refer to the statement made by my predecessor to this House last November on the situation prevailing at the Generating Station at the time and up-date the information which was given. Unfortunately, as he pointed out, due to the industrial action in the summer of 1977 the maintenance programme was severely affected. However, I am happy to state that since matters got back to normal considerable progress has been made. It should therefore not be necessary to repeat all the facts given by my predecessor but members will recall that in his conclusion he sounded the warning about the real possibility of power cuts during the then approaching winter though he added that the need for power cuts might not arise under given circumstances. As it then turned out restrictions were only necessary on five occasions between November and January, despite the fact that engine No 9 which was in any case due for a major overhaul in January, had to be brought out of service on an unscheduled outage on 6th January when a small fire developed in its alternator. However, the situation would not have been as rosy had not the Inter-Services Power Station been able to assist with varying amounts of power on thirteen occasions in November, nine in December and sixteen in January, particularly after engine No 9 was decommissioned. During the overhaul of this engine serious cracks were found to have developed in an important load-

bearing section of the engine column supporting the intermediate gear-wheel bracket. These cracks had propagated from earlier ones which had been repaired by the well-known process of Metalok. They originated after a series of intermediate gear-wheel bracket failures brought about by lubricating oil starvation, a fault which was corrected by design modification in 1968, the extent of these cracks implied that the column and therefore the engine was unserviceable. Forewarned about this the column on engine No 10, which had had a similar record of lubricating oil failures was inspected. The inspection revealed that the pattern of crack propagation was not in such an advanced stage but that nevertheless the same hopeless situation would be reached in time. The engine manufacturers confirmed the findings of the local staff and indicated that as this particular design was no longer in production the replacement of the columns would be very costly and of the order of about £25,000 to £30,000 each and in addition delivery would be lengthy as the columns would have to be specially cast for these engines. The only alternative was, therefore, to rehabilitate the columns by fitting specially-designed brackets and in turn using purpose-designed tooling since all the necessary machining and drilling operations would have to be carried out in situ. The work of design was commissioned and the manufacturers rendered every possible assistance to the extent that one of their senior engineers visited the site on two separate occasions entirely at their own expense. Their support and cooperation is praiseworthy. This set-back with engine No 9 meant that it could not be got back into line and consequently engine No 13 could not be released from its overhaul in March but had to be kept in service until No 9 could be restored. Consequently, No 13 engine ran 2,700 hours beyond its recommended service time. Its service did not in fact begin until 7 August. Advantage has been taken to incorporate certain improvements as a result of which it has still not been completed though the overhaul is at an advanced stage and, barring any commissioning problems, the engine is expected to be back in service later this week. In fact, the engine is currently going full recommissioning tests and it is very likely to be available within the next couple of days. As if all this was not enough, engine No 12 was also due for a major overhaul but after random checks on essential components which are normally replaced on such occasions it was decided that a top overhaul would suffice to meet the immediate needs since permissible outage time and other resources precluded a long shut-down. This course of action was further justified as this engine foundation is giving cause for concern through regular mis-alignment and an exercise in foundation rehabilitation similar to the one that was undertaken on engine No 10 in 1977 may have to be considered for the coming year. In the meantime engine No. 11 itself required a top overhaul and this was also carried out but during the intervening period failures developed in some of the twenty by-pass tubes on its boiler. New tubes were immediately acquired locally but outage time could only be limited to the essential repair work and a number of tubes have still got to be replaced. Such short term decisions are typical in a situation where a tremendous backlog of work has accumulated and must be dealt with on a strict priority basis as resources allow. The fact that all the work needed could not be carried out at the same time once and for all has meant

that there has been repetition and further unscheduled outages due to the recurrence of the same faults in the remaining old tubes. Engine No 10 has still not been commissioned and has in fact been out of service since January 1977. The engine is an advanced stage of re-assembly and at this point in time the repairs to the column to which I referred earlier are being carried out. Additionally the stator of the alternator for this engine needs a complete re-wind. The materials are already on order and a winder from the manufacturer's works is expected to come out to carry out this with the assistance of local staff. What happened was that the fire which occurred in No 9 alternator was caused by an inter-turn insulation breakdown and a short circuit between turns leading to the damage of the slot insulation. The fire additionally damaged the insulation on the end windings and a number of other adjacent coils. The net result was that all these coils have to be replaced. An exercise of this nature requires the physical displacement out of the slots of a great number of coils to such an extent that the manufacturer has recommended the complete rewind. This brings me to an interesting point. A number of spare coils for this machine are held in stores. However, the coils, like the machine itself, were manufactured in 1960 and the manufacturers have now advised against their use as they suspect that the ageing in the insulation will not offer any guarantee in the future operation of the machine. Allegations have been made publicly by the Opposition that one of the contributory causes for the recent difficulties and power cuts can be blamed on the lack of readily available spares. This is by no means the case. The policy which the Department follows is to attempt to ensure that all spares which are likely to be needed are available for ready use. However, it is uneconomical for the Department to hold every possible item of spares which could possibly be required as given the very high cost of spares this would tie down a large capital sum of money. A further reason for not holding too great a stock of spares is in fact exemplified by the instance of the coils to which I have already referred, namely that manufacturers are constantly carrying out modifications to engine parts and components and the case can often arise when components have to be scrapped as they are superseded by design modification.

HON P J ISOLA:

If the Hon Member will give way, can I ask the Minister on this question which he has just mentioned of coils. Is it not the practice in the Department - he referred to coils that were there since 1960 - to look at their spares and check on them? I would have thought eighteen years is a long time to hold spares, I would have thought they would have been thrown away years ago.

HON DR R G VALARINO:

Not the coils, those spares were perfectly alright in 1960. The fact that dampness and other reasons have made them unserviceable is another reason why we should not hold spares.

There are too many spares because we are tying down a large amount of money which could be used for many other things. The foregoing underlines the position as regards the plant in the newer north station. Talking again about the spares to which the Hon Mr Isola referred, I must remind him that with air communication facilities and manufacturers' backing components not available in the stores can usually be obtained in a matter of days, or at most a week. There are seven engines in all in the south engine room with a total of fifty piston lines to produce 4,500 KW. In the main, with the exception of engine No 8 the remaining ones are old in years and running hours and can therefore only be relied upon in a peak lopping role as opposed to a base load one. Because of their age and design they are expensive to run and maintain. In the particular case of engine No 1, it is subject to investigation following emergency shut-down due to lub oil starvation. At present engines Nos 1,2,3 and 4 are due for maintenance. So far I have given a lengthy if precise appraisal of the existing difficulties and as in the case of my predecessor's statement, though every effort is being made to ensure that sufficient plant is available at all times to forestall the need for power cuts the situation could nevertheless develop when such a course of action may be unavoidable during the coming winter months. Much will depend on whether assistance can be forthcoming from the Inter-Services Generating Station if and when it is required. However, diesel plant maintenance is a labour intensive task and all undertakings have their problems to cater with the operational maintenance needs and breakdown repairs to their plant. Occasions can arise when the capacity exists but cannot be operated through maintenance needs. The question of major capital expenditure now arises in that obviously new and additional plant is required as an expansion to the Electricity Undertaking. However, there are several options open for consideration and quite logically Government have the situation under review. Of course, the solution is not clear-cut and straightforward since there is no further space for expansion in the present site at the King's Bastion. The approach here would involve refurbishing the South Station by replacing the old plant, but this has its own attendant problems which will need to be solved if this is to be the direction taken. The alternative is to consider the construction of another station on an alternative site and this is also under consideration, but the problem here is more economic than practical and any major development with high capital costs will have a considerable effect on the tariff levels which consumers will be required to pay. For these reasons the problem is being given very thorough consideration. Mr Speaker, I think that deals with two of the points raised by the Hon Mr Isola. First the apparent inability of Government to put the situation right, because he must realise that we are doing as much as we can, and his second point. His last point was the full explanation to the public. I must remind him that the public knew about the power cuts as my predecessor had warned them of such power cuts. My duty, therefore, as a follow-up, is to come to this House and thereby inform the public about the facts, figures and state of the Generating Station and not to become involved in a television battle with members of the Opposition. If

this is what the Hon Member wanted then he is barking up the wrong tree. I think I have covered the situation adequately for all the members of the Opposition. I am glad to say that the situation at the Generating Station is much better now. The relationship between management and workers has reached a very high level and I am hopeful that everything in the future can be done to maintain this very high level.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I will try and not repeat what my colleague Dr Valarino has said in his technical statement on the situation at the Generating Station but I must repeat one thing and that is the warning that I gave last year. That warning was not for that winter only, it was a continual thing because the longer you run those engines which had gone over the usual servicing, obviously the more trouble they were going to cause, the more work they would require, the more replacements or spares they would require. It was a continuous process. It was a vicious circle. On the question of the spares there was a giggle and a laugh when we talked about the coils. The technical staff of the Department are very much aware of all modifications and all technical advancements in similar engines in stations throughout the United Kingdom and in the Channel Islands. The City Electrical Engineer is in constant touch with all of them to see if they are having similar problems as we are having in Gibraltar. Throughout this communication that the City Electrical Engineer has with counterparts in the United Kingdom it was discovered that an item called a connecting rod, of which I believe No 13 engine has sixteen of them, were suspect. Each connecting rod costs £5,000 so we are talking of £80,000. Can you imagine the reaction of the public if we had £80,000 worth of spares in the stores and then it was discovered that there was a technical fault in those connecting rods and we would not be able to use them. Because of this constant information which flows from friends in the United Kingdom, the City Electrical Engineer was forewarned of this and therefore when the time came for the major overhaul on No 13 we were prepared for this and the connecting rods were changed at a fantastically low price by the manufacturers. Again this added to the process of No 13 engine being out of commission, so we are not talking of everything that has happened this year, we are talking of an accumulation. I did not want to bring this in because we must forget about the past, about industrial relations, we must look to the future, but it was an accumulation of bad industrial relations which have existed with management and trade unions. I am not going to say whose fault it is. I have spoken very harshly about the Unions in the past. I have been called a reactionary but we must not look back we have got to look forward. The situation has now reached the stage where both management and trade unions have realised that a lot of suffering has been caused in the past, a lot of work has to be done for the future and this spirit, I am sure will continue and what we must not do in this House is to provoke a situation where we start hitting at the unions and the unions start hitting at management. We must create a situation where this reality, because the work is being put in now, the work is there, there is no doubt about it, the spares

are there, the cooperation from the manufacturers is there and what we must do is to protect the consumer by continuing this process of good industrial relations.

HON P J ISOLA:

Mr Speaker, I do not get on well with the Hon Mr Bossano like a house on fire as the Government does, but I think we have got to be very grateful to the Hon Mr Bossano for giving us, I feel, a much clearer picture of the situation than the Minister has done and what he has said has been confirmed by the Hon Major Dellipiani, the ex-Minister, who has said that he is rated as a radical rightist or a reactionary, like I am, and I think it was good that somebody got up in the Government side and confirmed in some measure what the Hon Mr Bossano has said as to how the people at the Generating Station are working an excess number of hours, not just overtime, but an excessive number of hours to keep the supply going for the people of Gibraltar. I think it is a matter of great regret that the Government did not see fit to make a statement to this effect while these power cuts were going on because a great number of people in Gibraltar must have thought that the Union was at it again and in fact workers in the Generating Station have been working excessively since industrial peace came to Gibraltar and the Government agreed to give parity then the public should have been told the problem. They should have been told: "It is not the Union this time, the problem is us who have failed in planning, failed in having proper spares failed in projecting and doing what is necessary." Mr Speaker, the statement of the Minister is confirmation of this. The Minister expects the public to remember what his predecessor said in November, 1977, when he told them that there were going to be more power cuts and it is going on this winter and next winter and having said that the Government feels it is no longer obligated to give any further explanation even if there is complete darkness.

HON CHIEF MINISTER:

If the Hon Member will give way. He appears to have forgotten that the Minister had given notice to make a statement at the proper time in the House to follow up the statement made by the previous Minister. It so happens that it has been the summer recess.

HON P J ISOLA:

Mr Speaker, I do not know when he gave notice. He was asked for a public explanation by the Members on this side.

MR SPEAKER:

The Minister gave notice that he proposed to make a statement on the 14th October, 1978.

HON P J ISOLA:

14th October, Mr Speaker, sixteen days after the Government had been asked to tell the public what was happening and he still thought it unimportant enough to wait another twelve days before telling the public what was happening, that the Government equally saw fair to tell the Minister for Housing to go on television, last Monday, to tell the public about his new house purchase scheme and make no statement in the House about it.

HON H J ZAMMITT:

The Government did not tell the Minister for Housing to go on television, Gibraltar television asked the Minister for Housing to appear on television.

HON P J ISOLA:

If the Government did not tell, I know that the Minister for Housing is well known as being a very independent Minister so the Minister for Housing went on television on Monday with or without the agreement of Government to tell the public

HON MAJOR F J DELLIPIANI:

If the Hon Member will give way. Not only did I make a statement in November but after the winter was over I precisely explained that things had not been as bad as we thought thanks to the Dockyard.

HON P J ISOLA:

I am glad for that clarification, Mr Speaker, that there was another statement some time in 1978 but what I am saying is that the Minister for Housing, with or without the consent of the Government saw fit to go on television and inform the public about the new house ownership scheme without having the courtesy to inform the House in a statement during this session. He went very quickly, Mr Speaker.

HON H J ZAMMITT:

If the Hon Member will give way. I think the Hon Member is making a big hoo-ha about a number of factors. This was in our manifesto in 1972 and 1976. I do not think I am compelled to have to come to this House and inform the Hon Mr Isola or members opposite of when Government is going to introduce its electoral promises.

HON P J ISOLA:

Anyway, the Minister for Housing thought it was not necessary to extend the courtesy to this House to inform them about the fulfilment by the Government of the election manifesto of his Party, he did not think that was necessary, but the Minister for Municipal Service thought that the public could

wait another fourteen days before they found out why in the name of heaven, Mr Speaker, they were having power cuts. That was not urgent, that was not their problem but the Minister for Housing had to rush to television to tell everybody about his wonderful house ownership scheme.

HON A J CANEPA:

Mr Speaker, on a point of order. In exercising the right to reply does the Hon Mover of the Motion have the right to introduce new material into his speech such as he is doing now with the home ownership scheme?

MR SPEAKER:

What the Hon Minister for Labour and Social Security is querying, quite rightly, is whether you are entitled, in your reply, to bring matters which are completely new to the debate and the answer to that is, no.

HON P J ISOLA:

Mr Speaker, I have given the Hon Mr Zammit adequate opportunity to reply on that point. Part of the motion is lack of information to the public and that is why I was alluding to what the Hon Minister for Housing had done. Frankly, I do not see why he bothers to come to this House if he feels he is under no obligation to inform members of the House because the members on his own side he can inform in Council of Ministers. I do not know why he bothers to make an appearance in this House if he feels he is under no obligation to inform elected members of the people of Gibraltar what is happening and through them, the public of Gibraltar, but that is a matter for him to decide. Mr Speaker, going back to the lack of information, I can only confirm that part of the motion in which we complain about lack of information. If the Minister, having had public requests for an explanation as to what happened thought that that public request was met by giving notice twelve days before the House that he was going to make a statement, if he thinks that was sufficient perhaps he can consult with his colleagues and suggest to them they make no public statements on anything, not even meetings between the Chief Minister and the Gibraltar Trades Council on things like income tax until we have a meeting of the House and they can give a statement fourteen days before and inform the House, perhaps that is the way they want to do it. I think there are occasions, Mr Speaker, when people are having their electricity cut and do not know why, that is the sort of occasion when people want to be told why. Nobody expected a house to be sold to them by the Government and it was nice to hear it. They were not asking to hear about it. The Government gave it fortuitously. Could not the Minister, when he is being asked by four Members of the House of Assembly through a statement in public, when people are wondering why the lights are out, why didn't he come out and tell the people what was happening, why did he have to wait till the 24th October? Mr Speaker, I think he must

be censured for this, Mr Speaker, now we come to the situation in the Generating Station. There has been a certain amount of conflict between what the Hon Mr Bossano said, and he seems to know a little more, if I may say so with respect, about what is happening in the Generating Station than the Hon Members opposite, but what Mr Bossano said, is that they are working very, very hard, they are working long hours, from which he got a good response from the ex-Minister for Municipal Services, but as it wasn't in the script of the Minister for Municipal Services he did not mention it. The Hon Mr Bossano said they are all working hard, there is no question of industrial action, everybody is working hard to get the thing right but there seems to be a lack of spares. There seems to be a lack of planning. He has said it. He said that what is a minor fault becomes a major fault if you do not deal with it at the time. That is what he says. That is what his information is. The Minister, really, is telling us at the end of October, 1978, after warning signals had been given by the previous Minister in November, 1977, that the Government is considering what it is going to do for the question of, possibly, building a new Generating Station or what it is going to do in the future, Mr Speaker, if the situation, as far as the supply of electricity is concerned, was desperate in November and the Government held discussions with the Minister for Overseas Development about the matters that were required for the future economic development of Gibraltar, is it unreasonable for members of this side of the House to ask why weren't plans for the future development of the Generating Station ready and aid asked from Her Majesty's Government to put it into effect? Why are we still in November with power cuts in August, September, October and, possibly, more? We have been given no assurances that there will not be any more. Why do we still not know what is going to happen?

HON CHIEF MINISTER:

On a point of order. The Hon Member is now asking all sorts of questions which could have been answered before had they been asked. Questions about the Minister of Overseas Development, because all this has been done actually.

MR SPEAKER:

The Minister has most certainly referred to the fact that one of the solutions is the construction of a new Generating Station. That is, I think, what the Mover is referring to.

HON P J ISOLA:

Mr Speaker, of course I am complaining. The whole tenor of the motion is lack of planning and I am usually careful with what I say in my motions. The failure to provide a continuous supply and their apparent inability and what I say is that the Minister has confirmed that inability because the Government still does not know today despite his woeful tales of what is happening to each engine as they conk out,

we have had no assurances given to the public not to worry that the situation is now right or that the situation will be right as from a particular day. All that we have been told is that engine No 13 will be ready in three days' time. I hope that is right, I do not know if that means that we are alright for ever now. I think he has also said something about having to rely on Service supplies as well. But no plans have been announced to this House by which the public can be reassured that there will be a continuous supply of electricity either on 1 November or 1 January or 1 January, 1980. All we have had from the Minister is: "We are considering whether we build a new station or not, we are considering about these coils that are out of order...."

HON MAJOR F J DELLIPIANI:

If the Hon Member will give way. On the question of planning, I must clarify this because this was during my time. The extra plant is not required for the immediate future, it is required for the long-term planning of the whole of the development scheme, such as the Marina Bay where a lot of electricity will be required and the Rosia Dale flats. We are talking about 1982. This is when the actual demand will exceed our present capacity. The plant which is available can give us the peak load that the consumer demands from us.

HON P J ISOLA:

With respect to the Hon Minister, he misses the whole point of what I am saying. What I am saying is that we have had no assurance from the Minister given in this House of the continuity of electricity supply now, next month or January. All that we have been told is that one engine is going to be alright and that they are thinking about the future. All we have been told is about all the problems he has had about the coils that were no longer any good but had been in the stores since 1960, all the problems they had about spares. The Hon Minister has contributed by telling us about these connecting rods worth £5,000 each, there seems to be a tremendous concern in the Government as far as the Electricity Undertaking is concerned, about expenditure, or even that they charge the public a jolly good fee for the electricity supply they give and yet there is not equal concern when they go and build a stable for £17,500 for one gharry and a horse, that did not matter. They cannot even persuade the horse to go in and inhabit it. Mr Speaker, what I am saying is that the concern of the Minister for Municipal Services and the concern of his predecessor for public expenditure in spares and equipment is apparently not shared by the Minister for Trade and Economic Development. I do not have much more to say but I would ask the House this question: Are we gravely concerned at the continuing, failure of the Gibraltar Government to provide a continuous electricity supply? If not we may tell the public not to worry because the Government is not worried if they do not get electricity supply because it does not matter to them. The Minister for Municipal Services has said he is not concerned. No wonder they do not get it. Are we concerned at the manner in which the Government has failed to give a full explanation? We

apparently are not. Apparently, the Minister can tell the public, even though they have no electricity, that it does not matter. The public, as far as the Minister for Municipal Services is concerned, can wait for the next meeting of the House of Assembly. Not housing, or any other Department, they tell the public first but as far as electricity supply is concerned, they can wait. Mr Speaker, I think that is a matter of concern to the public. It is one service they are actually paying for and they do not get it. The last, and I think the most important, is the apparent inability to put the situation right. The Minister has not assured the House that we will have a continuous electricity supply, notwithstanding the hard work apparently being put in by every member in the Generating Station. It is not a question, as it has been said, of overtime, it is a question of excess hours, of working sixteen hours a day and the Government might consider in those circumstances paying a little bonus for that.

HON CHIEF MINISTER:

The Union looks after that.

HON P J ISOLA:

I know the Union looks after that and having regard to the fact that the Government and the Union get on like a house on fire, I am sure that will be given effect. But, Mr Speaker, their apparent inability despite the complete cooperation of the staff, the Minister has not given the House and through the House the people of Gibraltar an assurance as to the continuity of electricity supply. For that, Mr Speaker, the Minister must be censured and I commend the motion to the House.

MR SPEAKER:

In accordance with the provisions of Section 44(1) of the Constitution, I rule that this being a vote of confidence, the Hon-official Members do not have a vote.

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 G Peliza
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 Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A P Montegriffo
The Hon J B Perez

The Hon A W Serfaty
The Hon H J Zammit

The following Hon Member abstained:

The Hon Dr R G Valarino

The motion was accordingly defeated.

HON J LOSSANO:

Mr Speaker, I beg to move that: "This House is concerned at the manner in which residents of the Caravan Parking Site have been treated and calls on Government to reconsider the whole question of the fees payable and conditions applicable in consultation with representatives of those involved." Let me say, Mr Speaker, that this is not a censure motion. The object of the motion in fact is to bring to the House and to the Government the concern that has been expressed directly to me as an elected member by the people who are living in the Caravan Parking Site and, of course, which members will know about because there has been a certain amount of publicity given to it in the media. The situation in the Caravan Parking Site, Mr Speaker, has been an unsatisfactory one for a considerable time because since the closure of the frontier the Government has not really quite known what to do with the Caravan Parking Site. Originally it was quite obvious that they thought that with a closed frontier there was no role touristically for a Caravan Parking Site and efforts were being made quite clearly to dissuade people from being there but the Caravan Parking Site in the period has become not really a part of the tourist scene, but might have been the role originally envisaged for it, but it certainly has not become that since the closure of the frontier, what it has become effectively is a place with permanent residents. We have got in Gibraltar, as another motion before the House will indicate, Mr Speaker, as one of our citizens downstairs in the lobby is clearly demonstrating, we have got a very, very serious housing problem and it is not a question simply of encouraging people to park their belongings and leave the Caravan Parking Site by making it prohibitively expensive to be there because they have to go somewhere else unless we want them to leave Gibraltar altogether. Certainly, whether that was the intention or not, that is the impression that is created when one considers the sharpness of the increases. The Government may have a problem of effectively policing the Caravan Parking Site and meeting the expenses of doing so by charges on the residents. The Government in this respect does not have a problem that it has not got in any other area, it has the problem of making ends meet in almost every function from the Generating Station to the Distillers, to housing in general, so that the problem of the Caravan Parking Site as far as the financial side of it is concerned is the problem is administering a particular service but what the Government needs to do really is effectively to accept that the reality of the situation is that the Caravan Parking Site cannot be treated theoretically as a place where we have transient tourists coming with their caravans

and staying there for a couple of months and then going which is what the original regulations provided for when that is patently not what is happening there. When we have got people who have been residing there for fourteen years, it is absurd to say that the regulations say you cannot stay there for more than three months. It is no good having regulations that say you cannot stay for more than three months and allowing people to stay for fourteen years. Once you have allowed them to stay for fourteen years they have acquired a de facto right to be there which you have to recognise. If you have to recognise it then it is not good trying to change history by making it prohibitively expensive for them to be there. I would say that the Government, perhaps, should look at the situation in the Caravan Parking Site not in the sense of saying that they have got a problem there and they simply have to find a way of getting rid of that problem, perhaps they should take a positive look at the Caravan Parking Site and look at the potential that there is for decanting purposes or temporary accommodation and providing that sort of accommodation. After all, the Ministry of Defence has been housing hundreds of Ministry of Defence families in caravan in Gibraltar and doing it very effectively and possibly much cheaper than other types of housing might be. So, I think, what the Government should do, apart from reconsidering the position in respect of the people who are there now, is to take a look at the possibilities that that type of accommodation has got in a situation where there is as great a shortage of housing as there is in Gibraltar because there are permanent caravan sites in other countries. They do provide a form of accommodation which some people find acceptable and some people prefer to other types. Some people prefer living in caravans just like some prefer living in boats. If that is one particular area that can be explored in the context of Gibraltar's housing problem, why shouldn't the Government look at it. I am putting that forward, Mr Speaker, as an adjunct, really, to the motion as a thought that instead of the Government simply taking the situation as an unsatisfactory one which it obviously is from their point of view and it is one that the Minister for Tourism, the predecessor of the Hon Mr Abecasis, has on many occasions at budget time and on other occasions pointed to the unsatisfactory state of affairs that existed in the Caravan Parking Site to the question of whether people were paying enough or whether they were paying at all. It is a problem that has been there a long time, it is a problem that needs to have a solution found and therefore what I am trying to do with my motion, Mr Speaker, is to persuade the Government to take another look at the whole thing and, in finding a solution, to try and find a solution that is equitable both to the people who are on the site and to Government's own right and interest in this matter.

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

HON CHIEF MINISTER:

Mr Speaker, I think it is obvious that the Government can never be right. We have had a considerable number of

questions on the Principal Auditor's remarks about the excess expenditure here and there and when the Principal Auditor makes a remark which the Government has to take heed to of course it comes under fire from another quarter. Let me say that the rents which have been increased to the residents of the Caravan Parking Site has not been for the purpose of engrossing the revenue of the territory. They are very few and even though the increases are steep they arise exactly out of a remark by the Principal Auditor in connection with the vote from which the Caravan Parking Site is maintained. This is what he wrote: "With the increases in the level of wages and costs, generally, in recent years, the cost of maintaining the Site far exceeds the revenue derived from it by way of rent. A scrutiny of the departmental vote book revealed that £2,546 approximately has been spent in the running and maintenance of the Caravan Parking Site during the financial year 1977/78 and the revenue derived by way of rent for the same period was £1,187. Rents were last increased on 1 April, 1975, and it appears therefore that an increase in rent is now necessary if the present unsatisfactory financial position is not to deteriorate any further." That was really the motive for looking at the rents of the Caravan Parking Site. We agreed to accept rent from those whose rent had not been accepted for a long time in order not to give them any rights but we felt that it was unfair, if the rents were going to be raised to the others, that there would be people there who in the end were going to be more or less in the same position as before that they should all pay rent and then the share would be much less inequitable. But before the Hon Member moved the motion, as I have already explained, the caravaners through them one of them, approached me on the matter and I held a meeting with him and the Minister for Tourism and Postal Services who is responsible for it and he has suggested to bring back a formula whereby the expenses in running the caravan site could be considerably reviewed and therefore the extent of the increases in rent which they are prepared to pay, it being reasonable, could be adjusted. He made certain suggestions but he has undertaken to give me certain suggestions and I have given him an undertaking that we would wait and we would not impose the rents as at the end of October until we discussed the whole matter. I will deal with the second part of the motion in a moment. Since the call of the motion is that there should be talks about it and there are already talks about it, I would ask the Honourable Member if he would care to withdraw it on the assurance that this is happening. The potential about the user of the caravan site is one which I am not going to deal with because I am not really competent to deal with that as this is much more a matter for the Minister of Tourism who, being new to the Department, may have bright ideas about it and I will entrust him to study what can be done there. There is certainly one thing that cannot be done and that is to oust the people who are there because that would create a bigger problem. I would like to add that the people there are very reluctant to have any new people move in, they think they own the place themselves. Whether as a matter of emergency a few caravans could be put there for emergency cases in connection with housing is one

which will be looked at, but the danger of this matter is that it could remain as a permanent feature and this is a prime site for which at some stage we hope that there will be a better use than as a site for caravans. That is a matter which I am sure the Honourable Minister for Tourism will take into account in his thinking on this matter. I am only dealing with the substance of the motion and the reasons for the increase which steep though it was, it was just an attempt to balance the budget.

HON I ABECASIS:

Sir, first of all I would like to say to the Hon Mr Bossano that the intention of raising the rent was not meant to make the life of these people impossible so that they would have to leave. It is, as the Chief Minister has stated, because of a query of the Auditor. I must add that I would love to see them all go the sooner the better. If the reason for the caravan site had been because of lack of housing, as the Honourable Member opposite just mentioned, I would have different thoughts about it but the present tenants of the caravan parking site are an American, a Frenchman and an English lady. Of the two Gibraltarians who I know have caravans, one is a lady who alleges that she uses the caravan a couple of hours a day, perhaps for a siesta in summer, and the other one a Gibraltarian family who only uses the caravan during the summer. So the problem is not one of housing, it is one that has developed and we have been able to do very little about it. My predecessor in office tried to get rid of the problem but to no avail. I shall certainly try to come to terms with the occupiers, the occupiers who really need to be there but certainly we must be very strong about it because we should never allow a piece of valuable land in Gibraltar to be taken up by people who could afford other type of accommodation. As I said there are three - I wouldn't like to call them foreigners, certainly not the English lady, but, surely, if people come to Gibraltar to settle down here they should find accommodation. The Frenchman is a business man and if he has a business surely he can find himself alternative accommodation. The English lady also has a business and likewise she also should find accommodation. The American could live in a hostel, after all he is a worker and workers are provided with hostel accommodation. I don't see any reason at all why that caravan parking site is occupied as it is. But of course our legislation to prohibit the importation of caravans came a bit too late. It came when the problem was already there. To finish off, Sir, I will just repeat what I said at the beginning, my department will look at the problem once again and will try to find the best solution possible but let me say that the rent includes electricity and water and not just the rent of the caravans. We shall do our best to try and come to the best possible solution with some of them but I will insist that those who do not make use of their caravan for sleeping purposes should remove their caravans, sell it or do whatever they like with them. The people of Gibraltar should not pay taxes in order to keep the caravan parking site for someone to go for a siesta on a hot evening in

summer or for another family to spend the summer holidays. They can go to the Costa del Sol for that matter.

HON M XIBERRAS:

Mr Speaker, I would like to make a small contribution. I dealt with this problem as far back as 1971 when there were quite a number of people there, not the three that the Minister for Tourism has mentioned. I had the unpleasant task of dissuading people from staying there. Eventually, partly through my efforts and partly through the efforts of my successors in dealing with the problem, it has come down to about three. It is a difficult problem insofar as it arose with the withdrawal of labour and the people who originally came there and lived there were people who were helping Gibraltar out. At that time there were also Moroccans as well as people from Britain and I think the American was there. It was very difficult at that time to be strong, to use the Minister's word about the matter but nonetheless we did manage at that time to find accommodation in Casemates in Hostels and so forth for the various people. We went to great trouble and we were severely criticised, I remember, by the Opposition at the time, or was it in a particular newspaper, I remember that, there was a lot of bad press about it. Nonetheless, I think that the general feeling of the Minister for Tourism is justified in view of the long time that these three people have been there. I have had the unpleasant duty of telling Gibraltarians who had caravans to use in Morocco or elsewhere that they could not park their caravans there because we did not want to make the caravan site a kind of decanting centre for housing because I think it would be very difficult to stop a proliferation of caravans there and it would create a really intractable problem and I also was able to get for the two Gibraltarians involved, one of whom is related to me, the use of a shed in Rosia next to the construction that is taking place, at the cost of something like £2,500 to refurbish. Therefore having been quite hard on our own people, Mr Mauro was one of them, Mr Morello another, on these two persons having caravans, the value of whose caravans depreciated quite rapidly, I think one should be equally firm in the case of the people at the caravan site. I think that one should certainly not treat them with discourtesy, one should consult and talk to them, and certainly one should try to persuade rather than take measures such as increases in rent which would be punitive and which would force them to move out but nonetheless I think that the attitude of the Minister for Tourism is quite the appropriate one. I say this from Opposition as I said it from the Government. Nevertheless since the motion asks quite specifically to reconsider the whole question of fees payable and conditions applicable in consultation with representatives of those involved, I do not think this is an unfair request, I think this is absolutely fair. I will have no trouble supporting the motion according to the wording of the motion. But I would not like my support of the motion to be interpreted as meaning that I think that the long term future of the caravan site is that it should be occupied by three persons and that they should make no effort when other people in Gibraltar are

in very cramped conditions, to find other places for their own accommodation. I don't know what the mover intends to do with the motion, whether he intends to withdraw it or not on the undertaking of the Chief Minister, but I certainly think that this is the best solution in the circumstances and perhaps the mover in reply would indicate what his attitude to the question of the caravan site in the knowledge of some more facts, might be.

HON A W SERFATY:

Mr Speaker, having been responsible for the caravan site for a number of years as the previous Minister for Tourism, I would like to say to make a small contribution to complete the picture. A few years ago when, as Minister for Tourism, I had a look at this problem, we had a situation in which we had two caravan sites. The present one and one on the opposite side of the road which had been opened by the previous Government. One of the first things we did was to close that site and at the same time we legislated to prohibit the importation of caravans into Gibraltar except by special permission of the Governor.

HON M XIBERRAS:

If the Honourable Member will give way. The amendment to the Imports and Exports Ordinance was made in our time and the second caravan site was built, in fact, temporarily to accommodate the overflow, people moving out, so that they could leave their caravans and, secondly, as a car park.

HON A W SERFATY:

I am sorry I must insist that the legislation was passed in our time. These are the two things that we did and in fact we were successful in diminishing the size of the problem. If I remember rightly we had about 19 caravans between the two sites, we only have a few. But the irony of it all is that when I couldn't get much further with the few remaining caravanners and even with the cooperation of the Police, we couldn't really get very far. I tried to pass the buck to the then Minister for Housing whose problem I thought it was and he utterly refused so I carried on with the problem and the irony of life is that he now has the problem in his hands as the present Minister for Tourism. Be that as it may, we have looked at the possible future use of that site. At one time the developers of the Both Worlds Holiday Complex had an option on that site but this has now been ceased. We have looked at the possible use of that site for hotel development and for Government housing so I think this is as much as I can say to complete the picture.

MR SPEAKER:

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

MR BOSSANO:

Mr Speaker, I am prepared to ask the leave of the House to

withdraw the motion on the basis of the statement made by the Honourable the Chief Minister that in fact what the motion asks the Government to do is already being done because, effectively, the motion limits itself to asking the Government to halt the process that had been initiated, reconsider the position and in doing so to take into account the views of the people who are on the side. I am not as unsympathetic to the people living there as either the Minister for Tourism appears to be or the Honourable the Leader of the Opposition appears to be because I think that it is one thing to say to people: "Look, if you want to have a caravan you cannot have it in Gibraltar because we have only got 2½ square miles and we cannot afford the luxury of parking caravans all over and taking up space." That is one sort of situation where people do not really need to live in a place and the other thing is when you have got a situation that somebody has been there living in a caravan as his home for 14 or 15 years. You have got to accept that as a fact of life that has been happening. If somebody had told the person who came on that site when they came on that site: "The regulations say you are not allowed to stay more than 3 months and your 3 months are up," then I would say that it would be a different sort of situation but if they have been allowed to be there for 14 years for whatever reason either because they couldn't be thrown out or they couldn't be persuaded, then they have been there for 14 years. Mr Speaker, the point that I am making is that I think the situation is that their position at the moment has got to be taken into account as it is at the moment and also I think in terms of the economics of the operation it is inevitable that the less people there are on the site the less economic the site becomes. If one is saying we want to reduce the number of people staying at the site and eventually see that there is nobody living on the site at all, the last person left cannot really be asked to pay all the expenses because he is the last one left. There are two ways of tackling that sort of problem, either you accept that the running down operation involves a cost that you cannot entirely put on the shoulders of the people remaining last or else you take the opposite line which is, for example, a point that I made when we were considering the increases in the Government hostel when I said to the Minister that instead of saying I have got 30% of the hostels occupied and that means I require so much money, one should take steps, change the rules, take a different tack and try and get 100% occupancy and then you might not need to raise so much money because there would be more people to spread it over. I think that if we have a situation where we had an important project to develop on that site which the Government was ready to vote, then it is a question of priorities and sometimes an individual's interest or welfare has got to take second place to the general interest of the community as a whole, but, in fact, we have had a series of questions in this House, Mr Speaker, about all the sites that are under-developed in Gibraltar and it is better to make some use of an empty site than no use at all. I do not see what is gained by having the site empty as opposed to having the site with three caravans for the next ten years.

HON M XIBERRAS:

If the Hon Member will give way. I believe and, perhaps, the Hon Members on the other side might confirm because it was done in their time, that there is an option to a certain party in respect of that site?

HON A W SERFATY:

That option has now lapsed.

HON J BOSSANO:

Mr Speaker, I feel differently about this from other members and it would be a different kettle of fish as far as I am concerned if we had a situation, if we had this crash development programme and we had things actually going full force and the thing that was standing in the path of the crash development programme were the three caravans, then my views might be changed but at the moment all I can see is as opposed to an empty site with three caravans, an empty site with no caravans and I do not see what is gained by that, except hardship for three people unnecessarily. However, I would ask leave of the House to withdraw the motion because the point of the motion has been met, as far as I am concerned, by the statement of the Hon and Learned the Chief Minister.

MR SPEAKER:

Does the Hon Member have the leave of the House to withdraw the motion?

This was agreed to.

HON J BOSSANO:

Mr Speaker, I beg to move: "That this House considers that full statutory powers should be given to the Housing Allocation Committee to allocate all post-war and modernised houses and that there should be no further Ministerial allocations." Mr Speaker, the motion arises out of a public commitment given by my Party that this would be proposed at this House of Assembly because the situation as we see it is a completely unsatisfactory one and it is a situation that has existed for some time but seems to be getting worse. As far back as 1974 there were questions being asked in the House. In October, 1974, Question 123 raised precisely the point about ministerial allocations as opposed to Housing Allocation Committee allocations and at that time when the Hon Mr Abecasis was Minister for Housing he was courageous or foolhardy enough to join me in a joint interview on television precisely on the question of whether he was taking the decision as to who should get a house or it was the Housing Allocation Committee. It is vitally important that there should be as little political interference in the decision as to who gets a house and who does not get a house because it is important that people should believe that political loyalties have got absolutely nothing to do with housing allocations. It is impossible to persuade people that this

is the case as long as an elected member of the House of Assembly who sits in the position of Minister for Housing is taking the overall decisions in the majority of cases. There is no question about it, the Hon Member has defended his position here quite categorically. The Hansard will show in the June meeting that he said that the allocations were being made by him and the Housing Manager and nobody is going to believe that it is the Housing Manager who is telling him who should get a house and not the other way round. Even if he were to tell the House quite categorically that that is what he is doing nobody will believe him in Gibraltar. It is bad for the standing of members of the House, it is bad for political life, generally, if people get the impression, and they have got the impression, I have no doubt at all, because I get hundreds of people coming to me and telling me that it is a question of whether one is well in with the Hon Member or not which is the deciding factor. Mr Speaker, I am not saying that this is the truth, I am saying that this is what is believed to be the truth and if the Hon Member does not believe this to be so it is perhaps because the people who are prepared to tell me so behind his back may not be prepared to tell him so to his face. But they are certainly saying it behind his back and I can assure him of that. It is essential to restore the situation that we used to have where the Housing Allocation Committee is seen to be allocating houses and exercising their judgement as to the need and the priorities of the housing applicants. No matter who allocates the houses there is no question of being able to satisfy everybody, that is impossible. We would only be able to satisfy everybody in Gibraltar if we had a surplus of houses instead of a shortage. The moment a decision has got to be taken as between two entirely valid and contending applications for the one house, the one who does not get it will never be able to see the thing as impartially and as objectively as the one who gets it. The one who gets it will agree with the decision, the one who does not get it will disagree with the decision but at least the element of the fact that the Minister took the decision will not be in it. That is the element that I think is in all our interests, including the Minister's own interest, to remove. The situation as I see it, Mr Speaker, by the actual figures given by the Minister in this very House, as to the number of houses given by the Housing Allocation Committee and the number of houses given by him shows quite clearly that the Housing Allocation Committee has, to all intents and purposes, ceased to function. All that they do is that they give people more points. What is the use of accumulating points when it does not really make any difference how many points you have got because the houses are not being allocated on pointage. The houses in Rosia are not going to be allocated on pointage. The Minister has said that all the houses that are coming on stream are going to be used for the modernisation programme. He has made a dramatic and fundamental change of policy which only came to light in the last House of Assembly, which it was wrong of him to do without at least telling the House that he was intending to do it. Nobody can stop him from doing it, not with ten members on the Government side, as long as

he can persuade his colleagues to support him. That is a fact of life and it has to be accepted. I think he was wrong in actually changing the policy without telling the House that he was going to do it. He told the House that he had done it after it had been done and it had been going on for a very long time and he certainly caught me completely by surprise when I found out that when the Minister said that he was using houses for the modernisation programme he meant in fact that he was allocating a house to somebody in order to allocate the house left vacant to somebody else and in turn allocate that to somebody else and then eventually at the end of the long chain there would be somebody whose house was being modernised. Let us face it, that system can be abused. With that system you can give a house to whoever you like provided at the end the twentieth person comes out of a house that has to be modernised. It is very difficult to explain. The Minister himself said he cannot produce a list of all the changes of all the houses of people who have moved from one place to the other. The situation is that if I apply for a house, Mr Speaker, and I have got a bigger family or more points and my next door neighbour applies for a house and the Minister decides to give it to my next door neighbour, not on pointage but on the basis that my next door neighbour's house is acceptable to somebody else whose house in turn is acceptable to somebody else whose house in turn is going to be modernised. The Minister will never be able to explain or persuade anybody that that is a fair system of allocating houses or that it is being done other than on the basis of the person who is being given the house. He has no chance at all of persuading people that that is being done on a fair basis because people can understand that if I have got 700 points and somebody else has got 600 points, I have got more points than them, but they certainly cannot understand the whole list of preferences that play a role in deciding the way the chain reaction takes place to produce the ultimate allocation of a house to somebody whose house is being modernised. As the policy was originally explained in this House when the Minister said that the Housing Allocation Committee was not going to be involved in the modernisation programme and as I understood it at the time and as I thought it was operating until June this year when I was told otherwise by the Hon Member, the system was that if the houses were being modernised in Flat Bastion Road people were told: "You come out of Flat Bastion Road and before you tell us when you go to this new house whether it is your intention to go back there after it is modernised or to stay there," but it was a one-move situation, out and then back or out and you stay where you are and you are left with a new house at the end. There was a modification of that saying in order to be able to do that and to have a flexibility in the scheme, we need to have a small pool of empty houses because which I assume to be a constant pool of empty houses because you would need X number of houses in the first place into which people would be moved while theirs were being repaired and then at the end of it either you would have the repaired houses as the pool or the people would move back to the repaired houses and you would be back with the original houses as a pool. It was a one-and-for-all exercise that would remove a given quantity of

houses from the general allocation but that is not what is happening. All the houses are being removed from the general allocation and therefore the pointage scheme and the medical categorised scheme have been suspended and the Minister himself said that they had been suspended. In doing so, perhaps with the best intentions in the world, instead of making a positive contribution towards alleviating the situation, he has made a negative contribution and created a situation where people, quite frankly, have lost all faith at all in the fairness of the system as it is operating at the moment. I think that it is serious and that the Minister, given that it is information that I am bringing to his notice, should seriously reconsider whether the policy that he is following is in anybody's interest. He should seriously reconsider the suggestion that it is the Housing Allocation Committee who should be given the responsibility for taking these decisions. I do not believe that given the responsibility to the Housing Allocation Committee will produce a less fair decision nor a delayed decision. It is one thing to say the Minister should have the power to deal with emergency cases. For example, we have a case downstairs and there are many cases like that where people suddenly find themselves homeless for a number of reasons, the Minister can say; "Well, we will call a meeting of the Housing Allocation Committee in a month's time and you sit on the doorstep until the Committee meets." I am not suggesting that that should be done but the houses that require allocation when the modernisation programme is taking up that allocation, we are talking about moving people from house to house, then, I think, that the pointage must come into it. The priorities cannot simply be what suits a person who is in a position to hold the programme up and can therefore dictate the sort of house he likes and where he likes it and everybody else is shifted around in order to meet those needs. The priority of the housing list must play a part even in the movement within the modernisation programme if the movement within the modernisation programme is going to continue as it is being done at the moment and not as it was originally explained by the Hon Minister.

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

HON M XIBERRAS:

Mr Speaker, I support this motion. It is an area in which my colleagues and I have been concerned over a long period of time and in fact in this meeting we did table a question asking the Minister to tell us how many allocations had been made by the Housing Allocation Committee in the last six months and how many flats had been allocated by the Minister. I hope the Minister has the reply. I asked him in fact, whether we could have it before the motion was taken.

HON H J ZAMMITT:

I have just received the information that the Housing Allocation Committee has made one allocation in six months.

The Hon Leader of the Opposition did ask me to obtain certain figures which I committed myself to do in answer to one of the questions. It has been quite a lengthy exercise and I have those figures now. I did say that the Housing Allocation Committee had made one allocation in the last six months and under the modernisation programme I have provided thirty flats.

HON M XIBERRAS:

Mr Speaker, I am grateful for that information. I would imagine, and perhaps the Minister will come back to it in his contribution, that when he says that he has made thirty Ministerial allocations in the last six months he means that thirty flats have been occupied by his Ministerial directive but not necessarily the number of movements that there have been, in people moving from one house to another in connection with those thirty allocations. In an earlier contribution I think it was the Minister for Housing who said some time this year that the modernisation programme had provided something like 95 allocations and I assume that those 95 allocations were made also ministerially and not by the Housing Allocation Committee.

HON H J ZAMMITT:

Yes, that is so.

HON M XIBERRAS:

So that the total over a period of time is, in fact, in the neighbourhood 120 allocations. The point is nonetheless made that the comparison between the number of flats allocated by the Housing Allocation Committee and the number allocated ministerially since the modernisation programme came into existence is totally disproportionate to the other, that the Minister has allocated an overwhelming number of flats whereas the Housing Allocation Committee before used to allocate overwhelmingly the majority of flats it now allocates very few indeed. I appreciate that the change in Government building programme from new housing to modernisation was bound to bring about a change in allocation procedure, I accept that entirely, but we expressed concern that the allocation should even in the context of the Government's building programme of modernisation should nonetheless be fair and appear to be fair. I am afraid that this has not been the case. I entirely agree with Mr Bossano there has been a complete breakdown of confidence in the matter of allocating houses. A very serious one which has been compounded and aggravated by the shortage of flats coming on to the market, as it were, to be allocated. Therefore we have what I have what I have described before as a housing crisis. And the crisis is not only in the building but also a crisis of confidence in the allocation. The Minister knows that I am voicing the feelings of applicants and the feelings have never been so bad for any Minister for Housing as there have been for him, because we have had this huge gap in the production of houses and at the same time a breakdown in the allocation system. People are really at their wits. There

has always been criticism but on this occasion there is genuine criticism and a general sense of grievance amongst members of the public about this matter. I appreciate, too, that if Varyl Begg had been available for allocation then a greater balance would have been struck, but only for a while, that is why I asked the Minister earlier in this meeting how many flats in Varyl Begg were going to be allocated to people on the pointage scheme and there again the Minister will have to make inroads into the old pointage system of allocation because some of the flats at Varyl Begg will have to be used in connection with the modernisation programme in one way or another.

HON H J ZAMMITT:

No, Sir.

HON M XIBERRAS:

I am glad to hear that. I have heard differently. If the Varyl Begg flats come on to the market they will provide the Housing Allocation Committee with something to do for a little while. But what happens after that? There is very little new construction planned and most of it is modernisation or area development and area development, in fact, involves the Minister and the Government in the same problem which they have decided to solve by means of Ministerial allocation. Is the Government going to continue the system of Ministerial allocation with the prospect that all houses after the allocation of Varyl Begg or almost all houses are going to involve musical chairs are going to involve moving people around and are going to involve the Government if it continues in its present course, in ministerial allocations and is going to leave the Housing Allocation Committee in an absolutely ridiculous position of not being able to allocate anything at all. It has been bad enough in the last six months, one allocation by the Housing Allocation Committee, a body of gentlemen that faced at one time a very difficult task and for which great public spirit was needed, in fact, to be able to agree to sit on that Committee. At the moment I think that they are simply revising the Housing Allocation Scheme. That, to my mind, is an untenable position for a committee which used to play such an important part in the past in establishing confidence in the allocation of, perhaps, one of our resources which is in greatest demand - housing. A social problem which is perhaps one of the biggest of our social problems for which machinery was created to give applicants and the public, generally, the impression and the knowledge that their applications were being fairly treated. That system has broken down and I see no chance of recovery of that unless the Minister takes a decision to involve the Housing Allocation Committee in the allocation of houses. There are various ways in which this could be done. I think I suggested to the Minister, I believe it was in the motion of 24th June, I suggested to him all in good faith to try to get him to somehow involve the Housing Allocation Committee. For instance, couldn't the Housing Allocation Committee be given some sort of oversight of allocation? There have been questions, a multitude of

questions in this direction including questions from the Honourable Mr Bossano. The publication of the Housing Allocation list, the passing on before the actual allocations are made of intended ministerial allocations to the Housing Allocation Committee so that they would be able to see that things and be able to certify that things are done in the interests of modernisation or for some other good reason as provided for in the scheme. Somehow, if the Minister wants the Housing Allocation Committee to protect him from criticism that he is being unfair, then he must involve that committee. Because if he does not involve that committee then he must hear the hurt of criticism in this sensitive area. If the Housing Allocation Committee is going to allocate one house in six months then the Minister is quite unprotected from the charge of arbitrary action. I cannot see the reticence of the Minister on this point or his opposition to it. I understand that in a situation of modernisation, area development and so forth, he would like flexibility, as the Honourable Mr Bossano has said. It is not the easier task of allocating new houses on a strictly pointage basis but that flexibility must have certain limits, he must appreciate that for his own protection he must have certain limits to this discretionary power because the Housing Allocation Scheme never intended the discretionary powers, I do not know what clause it is, of ministerial discretion but the Housing Allocation Scheme does not have a discretionary clause allowing the Minister discretion for allocation of houses, but it was never envisaged that the disproportion of ministerial to Housing Allocation Committee allocations should be so great. There is no proportion at all, it has swung completely in favour of the Minister. The Minister is allocating houses on the basis of a departmental decision which has nullified completely in practice the Housing Allocation Scheme. There are many things which the Housing Allocation Committee must be consulted about. For instance, I have brought this problem to the House before. What happens after Varyl Begg is allocated and there are fewer houses to be allocated on pointage because they will go into the modernisation area development situation? If there are few houses to be allocated on pointage, what will happen to people with very high pointage who are not in an area affected by area development and modernisation? You might very well get the situation where somebody at Glasis, for instance, might have 500 points or 400 points and be superceded by other people who have a very low pointage and how does the Minister defend that in the eyes of the public and the applicants? These people have been given houses without the necessary pointage because they have been affected by modernisation but who knows what the grounds of the Minister are in providing somebody with a house. If it was submitted to Housing Allocation Committee of course the Minister's position would be safeguarded and then he could have his flexibility and also have the assent and the protection of the Housing Allocation Committee. If it carries on this way shouldn't the Housing Allocation Committee at least advise the Minister on the proportion of houses that should be allocated on pointage as opposed to the number of houses that should be used for movement

and area development. I am sure that is a reasonable point on which to seek advice from the Housing Allocation Committee. When I speak of the Housing Allocation Committee I am also including in so far as its functions are affected the Housing Advisory Committee. Therefore, Mr Speaker, I certainly agree with the principle, as I have said many times in this House, that the Housing Allocation Committee should be involved in practice, in the allocation as I agree, by the way with other things. In order of preference I would like to see a practical situation where the Housing Allocation Committee is in practice consulted and is happy with the situation, through the going over to full statutory powers but I do not object to full statutory powers if it is going to give the Housing Allocation Committee the necessary standing.

HON J BOSSANO:

Mr Speaker, I haven't developed the question of the full statutory powers but in essence I think this arises out of the fact that the Housing Allocation Committee does not appear to have the authority to insist on its views being taken into account and I think that authority should be given.

HON M XIBERRAS:

The points of view coincide. We are talking about the authority of the Housing Allocation Committee and that in fact is allowed to do its job. Whether this is done by statutory means or not is a matter for consideration. Surely, the Minister must realise he bears the brunt of things, he is in the breach there, he has to make the decisions, surely, he must realise the purpose establishing the Committee in the first place and he must surely realise the wisdom of getting the consent of the Housing Allocation Committee to the allocations that he makes. I am sure that the Housing Allocation Committee would be sympathetic with the Minister's problems of flexibility and so forth but they do not want to be shut out in the cold, they do not want to be left out, and that is what the Minister has been doing for a very long time. I will end up, Mr Speaker, by reminding the Minister that originally when he came to office I offered him my entire support and I did so publically on behalf of my colleagues at that time, But I cannot offer him my support if he is going to continue in the present manner shutting out an authority which I had to reinforce in my time and arousing tremendously the suspicions of the applicants and the public in general. I hope the Minister takes this to heart and on this occasion is able to give an indication that he is willing to change his mind.

HON A W SERFATY:

I think I must say a few words in replying to some of the statements that have been made and one of them is that there will be more new houses than modernised houses in this development programme. I think the Honourable the Leader of the Opposition was under the impression that there were none. There will be more new houses than modernised houses. None of the flats in Varyl Begg are going to be used for decanting

hard as I have tried, because I have tried and I say so quite honestly, in order to get on really well with the modernisation programme I would have loved to see my colleagues agree that some of the flats, Block 16, perhaps, should be reserved for modernisation. The decision has been that they should all go to the people in the waiting list. Fair enough. But I must give a note of warning, because the Honourable mover did mention Rosia Dale, that the flats at Rosia Dale or equivalent to moving people around must be available for modernisation if not we shall be in trouble with the modernisation and area redevelopment programme. Already we are beginning to have a little slippage and I must give due warning that there will be a lot of slippage on the area redevelopment and modernisation programme if we do not reserve the right number of flats for people so that we can decant people from this area.

The House recessed at 1.00 p.m.

The House resumed at 3.25 p.m.

MR SPEAKER:

We are debating the motion moved by the Honourable Mr Bossano on the Housing Allocation Scheme and Government housing. The floor is open to anyone who wishes to contribute to the debate.

HON H J ZAMMITT:

Mr Speaker, Sir, I would like to commence my reply to the mover and to the contributor of the motion by expressing my gratitude to both of them for the manner in which they have brought the motion to the House. I am quite sincere when I say that I am grateful to the mover for the constructive manner in which this motion has been put before the House. Mr Speaker, I think that to any Minister for Housing in Gibraltar, the terms of the motion would be, prima facie, more than welcome because it tends to take away possibly what is the best controversial issue in Government today and that is without any doubt the Ministry of Housing which I hold with a certain amount of honour and pride. Mr Speaker, if this motion had been brought to the House under normal circumstances one could do nothing but support it because I tend to agree with both the mover of the motion and with the Honourable Leader of the Opposition that it would do at least one thing and that is to take the unnecessary burden of having to face in a small place like Gibraltar a continuous array of allegations, a continuous array of possible misunderstandings with certain people and of course, as Minister for Housing one is always at the receiving end. I can assure the mover and all members of the House that for as long as I can remember housing has been without any doubt one of the most demanding ministries in the domestic affairs of the Government of Gibraltar. Mr Speaker, there are a number of factors which have been said about housing, not only today but in the past. I was appointed Minister for Housing in September, 1975, and I may say here, Mr Speaker, that I am now able to claim to be the longest surviving

Minister for Housing. I have completed three years and I think at least one does have the sympathy of all members of the House in one's task because I think that the Honourable Mover of the motion did mention that irrespective of how fair one was in housing the loser is always prepared to express allegations of unfairness irrespective of how fair one is. I accept that but I say, Mr Speaker, that that would be exactly the same situation whether it happens to be a Minister, a backbencher, a member of the Opposition or the Housing Allocation Committee. The unfairness will always be believed to be there. Mr Speaker, the Housing Allocation Committee came into existence way back in 1972 and I notice that it was during the term of office of the Integration with Britain Party Government that they began to think of this idea, way back in 1969. The terms of reference have not been changed at all in essence, they are exactly the same as the terms of reference were way back at their formation way back in 1972. Mr Speaker, although I do not think I have to remind members that Government is not a housing authority, there is no statutory obligation on the part of the Government to house anybody, there is of course a political commitment. In fact, I think that, invariably any manifesto irrespective of one's independence or party standing would have to inject something about housing because it is without any doubt a strong political issue. Despite the fact that there is no statutory obligation on the Government as a housing authority, the Housing Allocation Committee is a statutory committee. They are there with terms of reference and they are there under section 31 of the Housing (Special Powers Ordinance). What I am trying to say is that one could not give them full statutory powers because the commitment of the Government is, today, one of providing houses and then of course one could not very well have something there with statutory powers of allocation, if in fact Government, the provider of the houses, wasn't there by statute to be able to build these houses although I think is accepted that every Government obviously would like to produce and build as many houses as possible. When I took office in 1975, I issued a communique, I think the first day or the second day that I became Minister for Housing, and I did have the support, and I am very grateful, from the then Leader of the Opposition, Mr Maurice Xiberras, because I did say categorically not only in the House but to the Housing Allocation Committee, that I would not interfere in the allocation of post war housing but I did have to have the flexibility to continue with my predecessor's policy in pre-1945 or pre-war accommodation. I have never ever allocated post war accommodation other than in relation to the modernisation programme. Mr Speaker, whether we like it or we don't like it, whether we agree or we disagree, the fact is that this Government look it upon themselves, by way of policy, to carry out a modernisation programme and we have been given funds by ODA to try and rehabilitate those Government houses that are 60, 70, 80, 100 years old, that do not have the kind of services that modern housing is expected to have, running water, bathrooms, etc. We launched ourselves into this modernisation programme to try and modernise as many pre-war houses as possible. I think the result has not been as favourable as one would have liked it to have been but we already have some evidence of what can be done with

the old houses in modernisation. I agree fully with the mover of the motion and I equally agree fully with the Honourable the Leader of the Opposition that under these circumstances unfairness appears to be much more evident than under the Housing Allocation Scheme because all one has to do is to be in the right place at the right time and requires the decanting of that particular family which is offered post-war accommodation according to the family requirements. Now, Mr Speaker, a tremendous number of flats have been built and let us not forget that despite the disaster of the last phase of Varyl Begg the amount of allocation that the Housing Allocation Committee have done over the past few years is much more, on average, than to my first over the last six months because in Varyl Begg alone there would be, roughly speaking, some 600 allocations done by the Housing Allocation Committee. What has occurred is that the old pre-war accommodation which some of these tenants moving to Varyl Begg and elsewhere have left behind were given to social cases. I do not decide which areas are going to be tackled for modernisation, it is the experts who come and say that such a patio or such a building is up for modernisation or up for demolition. I agree fully that those unfortunate people who were given old accommodation have now turned up to be very fortunate people because they are now being offered post war accommodation. Let me remind the House, Mr Speaker, that when the Government originally considered the modernisation programme, Government began by offering pre-war accommodation so as not to hinder the Housing Allocation Scheme, so as not to hinder that particular scheme which we are now being criticised for so doing and it was found, rightly or wrongly, that people knew that if Government wanted them out of their pre-war accommodation for modernisation they were on a very good wicket to force Government to provide them with adequate housing otherwise they wouldn't move. We all know that our attempts that 55-57 Flat Bastion Road were most unsuccessful. We couldn't get anybody to move into pre-war houses and then of course rather than delaying, allow for slippage and in some circumstances lose a lot of money, we had to agree to a policy of the decanting in connection with the modernisation programme in post-war housing. Mr Speaker, members opposite refer to allocations by the Minister. I would like to call it not allocations by the Minister but administrative allocations in connection with the public interest otherwise the modernisation programme cannot succeed.

HON J BOSSANO:

If the Honourable Member would give way. The point that he has covered so far, Mr Speaker, is the initial policy which he informed the House about a very long time ago and which very few people opposed.

HON CHIEF MINISTER:

I am afraid that the Honourable Member did not listen to what the Minister was saying when he was speaking to his Honourable Colleague on his right, the Minister was saying precisely that that was the policy but that failed because nobody would move about.

HON J BOSSANO:

I did get that point. I accept that in order to entice the people whose houses need to be modernised the Honourable Member has got to offer them post-war accommodation. They won't accept the others, that I accept, but that is not the point that is causing trouble now. The point that is causing trouble now is that the Honourable Member is moving people four or five times and the person who is decanted is the fifth person and what he needs to explain is how he chooses the four preceding ones, that is what he has got to explain.

HON H J ZAMMITT:

Yes, Mr Speaker, that is a point I have got further down my list, the "musical chairs". Mr Speaker, Government is attempting to get the modernisation programme off the ground, and I think I should say that Government has spent an enormous amount of time trying to find sites to build flats because we have to accept that we haven't got areas such as the Varyl Begg Estate where we can build a big estate. I remember vividly, when the Chief Minister returned from the Development Aid Talks, when the development programme was commenced, that there were two factors apart from the modernisation and that was that our pre-war housing stock was and is, generally, in a very bad state of repair. I also remember the Chief Minister on television talking about the regional environment of areas where people wished to remain so when we launched this programme we made a number of suggestions to those people that the Public Works Department instruct or ask the Housing Department who to decant because the housing department does not select the patios or the buildings that are going to be modernised, it is the Public Works Department who produce costings, plans and what have you and then they come along and say "We would like you to decant such and such a place." It is then our duty to find out the family composition and try to decant these families. We tell these people that they will be decanted according to their family requirements in post-war accommodation and that they may return to their house if they so desire, once modernised, or remain where they are. We provide free transport for their furniture and other services such as the installation of telephone and electricity supply. Mr Speaker, despite the fact that we have offered adequate post-war housing according to the family requirements, we have still found a certain number of families who still think they can squeeze the lemon that little bit more and demand a third floor, a second floor, or a ground floor according to their particular choice and we have had a few obstacles there. This brings about the musical chairs that the Honourable Member seems to object to, Mr Speaker. If anybody says to me or to the Housing Department "We are going to be decanted, we do not wish to return back to our old house, we would like you to try and find us something at Laguna, Moorish Castle or wherever," then one tries to see if there is a way of accommodating not only one individual but possibly two or three. That has required musical chairs but I assure the Honourable Member that there are two factors he must consider. We must get on with modernisation.

MR SPEAKER:

I know what you are trying to say but let us not go into details. We are talking about whether allocations should be done on the administrative side by Government by the Housing Allocation Committee but let us not go into the reasons why certain flats have been allocated.

HON H J ZAMMITT:

I bow to your ruling, Mr Speaker, but I thought it was necessary that I should explain the question of musical chairs. There are a number of reasons and this is why I say that in these cases that appear to be unfair there are sometimes very pressing factors and I can say quite strongly that I do not think that I have moved more than two people in the process of one decanting, that is to say, a medically categorised case of somebody who has specifically requested to go up or down for ill health or other reasons. Mr Speaker, out of all these houses that I have made available for decanting there isn't one case, Mr Speaker, that I consider to have been unfair. I agree that there must be very many people who consider that I have been unfair. Mr Speaker, I do not think that I am unfair, I don't think that I am an unfair person but I may appear to be unfair, that I think I have enough intelligence to accept. As I said earlier on, if the Government had not had to go into the modernisation programme, the normal allocation of housing would have continued. The terms of reference are exactly the same as they were in 1971-72. The Allocation Committee would have continued to allocate houses. My Honourable Colleague and Friend, the Minister for Development, and I have many friendly arguments because he of course wants more decanting for the modernisation programme. This morning he said that I had strongly resisted the provision of Block 18 at Varyl Begg for decanting for the modernisation scheme because I feel that the Housing Allocation Committee is being further deprived and I think he also mentioned this morning that this development programme will be eventually producing much more new housing than modernised housing. I think it will be appreciated that if we have already decanted some 100 houses which may result, Mr Speaker, in some 130 or 140 applications being cancelled because these musical chairs sometimes cancel applications, then of course it is obvious that within 18 months or so, once we begin to obtain a claw-back of our modernisation housing, there will be no need to carry on decanting because houses will be coming up. There may be exchanges, I agree, but we will not have to continue to provide this bulk that I have had to do during my time as Minister for Housing in having to provide this bulk of post war housing so as to allow us to continue with the modernisation programme. Mr Speaker, my relations with the Housing Allocation Committee, are if I may say so with all modesty, excellent. I have never ever crossed swords with them. They are there for a very valid purpose and they are doing an excellent job and I cannot be accused of doing anything else other than abiding by a Government policy in decanting those families living in pre-war accommodation that Government requires to modernise. Mr Speaker, whoever happens to be here as Minister for Housing will have to realise that there

are two things to do. Either we stop modernisation completely and have nothing new coming in because as we said before we cannot find space to build the remaining 400 flats just overnight and we also have to take into account, Mr Speaker, one other important factor and that is the housing stock in the private sector because sooner or later we will be faced with that problem too. We are already receiving termination of leases of some old patios that will require very expensive repairs if we are to take the lease over. I accept fully that there are many complaints. If I were to walk up Main Street and people were to applaud me all the way I would be a very worried man. I would be very worried indeed. I do not think any Minister for Housing can expect that. In fact, one knows that despite one's unpopularity that is the price that one has to pay for being in politics and in particular for being the Minister for Housing. Mr Speaker, I reiterate my appreciation to the Mover and to the Leader of the Opposition for their consideration in these matters. I have not asked the Chief Minister to remove me from the post of Minister for Housing because I think it is a challenge. I am prepared to take that challenge on, Mr Speaker, and I will know that any person with a certain amount of sense will at least appreciate that one is trying to do one's best under very abnormal circumstances. I pray that I will be able to continue in my task to try and at least alleviate the ordeal of many Gibraltarians who have been living in intolerable conditions for many many years. Mr Speaker, I regret to say that one cannot support the Motion as it stands because Government has an obligation to the people of Gibraltar, we have an obligation to ourselves as a Government to try and ensure the best possible for the people of Gibraltar and we have considered that the best way to alleviate the housing situation is by placing particular emphasis in the restoration of our dilapidated old houses to the detriment, may I say, temporarily, of those poor people who have found it a little unfair on the priority list but I would ask them to hold out a little longer and the time will come when the situation will not be as bad as it is today. Mr Speaker, if the Honourable Member feels that before we decant anybody on general terms other than an emergency or earthquake or fire, if he feels that I will be able to be considered a little more fair by the Opposition or by the general public, then I am only too willing, Mr Speaker, to inform the Housing Allocation Committee, which I have done already may I say, of Government's policy on modernisation and if the Honourable Member feels that it will save the day for all those people who consider Government's so very unfair in our policy decision on modernisation then I am quite prepared, Mr Speaker, to consult the Housing Allocation Committee on every single allocation that is made in connection with the modernisation programme. I have no hesitation, whatsoever, Mr Speaker, in putting this to them. However, there must of course be a reservation and that is that as a Government we are committed to spend a certain amount of money between certain periods and I trust and I hope that the Committee will not make things impossible because Government cannot allow further slippage over an argument that so and so shouldn't be decanted because he has 70 points less than somebody else who ought to be decanted. We go purely on the advice of the experts and that certainly isn't the Housing

Department, it is the building experts in Public Works. Mr Speaker, I regret to say that the Government cannot accept the motion as it stands but nevertheless I will do my utmost to satisfy the Honourable Mover in consultation with the Housing Allocation Committee. I will consult them from now on, Mr Speaker, on every single allocation that is made in connection with the modernisation programme but it must be clearly understood that there are many occasions when it is not possible because these gentlemen are working, these gentlemen have businesses and these gentlemen sometimes are not even in Gibraltar and I cannot possibly allow Government to have any slippage which would cost Government money or result in ODA pulling us up for not getting on with the job because of delays. Government has a duty to discharge and we must continue with that duty. Mr Speaker, once again I would like to thank the Mover and I am sure that Government as far as we are concerned on this side, Mr Speaker, want nothing but to show how fair we are. Mr Speaker, I hope I have satisfied the mover of the motion. I am sure he would have liked us to have gone further but I think that one has gone as far as one can in what he has requested. Mr Speaker, thank you very much.

HON P J ISOLA:

Mr Speaker, I would like to say that I welcome this announcement of the Minister on consulting the Housing Allocation Committee on all allocations in the future. I think that will go a long way to allaying the obvious public anxiety there has been in these matters and certainly allaying very much the fears that the Honourable Mover has expressed and I think this is a good compromise, Mr Speaker.

HON J BOSSANO:

Mr Speaker, being a practical man, half a piece of cake is better than none. I am grateful to the Hon Member. I think that the assurance that he has given the House that he will be consulting the Housing Allocation Committee will be in everybody's interest including his own and I am grateful to him for giving this assurance. I still feel that giving the responsibility in total to the Housing Allocation Committee would be an even better situation but I appreciate that we do not see eye to eye on this at the moment, perhaps, the Government might change its mind at some point in the future. I don't think that the Honourable Member need fear that the Housing Allocation Committee will want to drag its feet and hold up the modernisation programme. I don't think he need have any fear of that score because quite frankly

HON H J ZAMMITT:

If the Hon Member will give way. I do apologise, Sir, but I do not want to give that impression even by way of interpretation. The Committee have at no time been guilty of dragging their feet. I said there could be cases of circumstances which could well require immediate decanting. We had this, Mr Speaker, in Lime Kiln Steps. There has been a case of a roof falling in and in those particular circumstances one cannot refer it to the Housing Allocation Committee

because there is no time to do so.

HON J BOSSANO:

That is not in dispute at all, Mr Speaker. I was referring to the point that he made that the Housing Allocation Committee might say: "Well, this man has got 70 points and the other one has got 80" and that would create slippage. He did give that example as well. I would say that in that sort of situation if the Minister puts his point across to the Housing Allocation Committee of the importance of an effective and speedy decision taking I am sure they would be appreciative of the point as much as anybody who is interested in seeing both the modernisation programme and the construction programme proceeding as fast as possible so that there are more houses available. Mr Speaker, I think that we all recognise that essentially the problem is that there aren't enough houses. If there were enough houses then nobody would really worry very much about whether it was the Minister who was deciding or the Allocation Committee or anybody else. It is only because there is a shortage that the people who know that somebody is going to be left out want to make quite sure that if they are left out then the choice is made by an impartial body and I believe quite honestly that in spite of the fact that people will still complain if they are not fortunate enough to be selected they are more likely to accept it from a Committee composed of a number of people than from the Minister deciding, particularly when it is so difficult to explain this business of the musical chairs. On that I feel, Mr Speaker, that the Honourable Member has not put up a strong enough case, really, because it seems to me that even if one is faced with the situation which he has explained where somebody has got to be decanted and expresses a preference, for example, for going to the Laguna Estate, the choice of the person to be moved out of the Laguna could still be looked at in the context of the priority of the Housing Allocation List. If there is somebody at the top of the list and somebody at the bottom of the list and if there is a choice as to which of those two shall be moved out, then that sort of priority can also be brought into play. I am sure there must be cases like that when even within the context of solving a number of problems and there is sense in doing it, there is sense in trying to solve two or three problems at once and reducing the number of cases in the waiting list but even then if it is done by the Housing Allocation Committee or if the Housing Allocation Committee is consulted as the Minister has pointed out that he is prepared to do now, they may well be able to advise him to choose X instead of Y for a number of reasons that are consistent with the criteria on which priorities are decided, whereas if it is just a question of the criteria being the exercise of the judgment of the Minister and the Housing Manager at their discretion, however fair they may be it is still a question of judgement, and that judgement cannot be questioned because there isn't a clearcut set of rules as to how it is reached. However, I am grateful to the Honourable Member for the assurance that he has given and I am sure that that will produce an improvement in the situation.

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

The Hon J Bossano
The Hon P J Isola
The Hon Major R J Peliza
The Hon G T Restano
The Hon M Xiberras

The following Hon Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A P Montegriffo
The Hon J B Perez
The Hon A W Serfaty
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon F E Pizzarello
The Hon A Collings

The motion was accordingly defeated.

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House repudiates completely the views in respect of Gibraltar expressed by the Spanish Foreign Minister at the United Nations and in particular his failure to recognise the right of self determination of the people of Gibraltar." Mr Speaker, this is the first opportunity that this House has had to consider the position of the Spanish Government towards Gibraltar since the views of the Spanish Government were made public once again in the forum of the United Nations. What those views reflect in my estimation, Mr Speaker, is an unchanged position as regards Spain's attitude towards Gibraltar, a position that has been consistently maintained in the United Nations regardless of what may have been happening internally in Spain. Consistently maintained by the previous regime in Spain, consistently maintained by representatives of the present Government in Spain and, indeed, supported by every political party in Spain. I would inform the House, Mr Speaker, that immediately after Señor Oreja spoke in the United Nations, Spanish television interviewed a group of parliamentarians who were also present at the United Nations, not participating but in a capacity as observers, representing Alianza Popular, the UCD, the Communist Party and the Socialist Party in Spain and all four of them congratulated Señor Oreja on his speech and all four of them identified themselves completely with it. And subsequently, in fact, the official organ of the Spanish Communist Party specifically mentioned that the Spanish claim to Gibraltar was an incontestable claim that was not even open to question. I do not think that we need have any doubts here in Gibraltar that the position in Spain is any different regardless of the ideological leanings of any particular political group in

Spain. They are all completely united as regards the claim to Gibraltar and I think we in Gibraltar, at least those of us who are elected to this House of Assembly, should be equally united in rejecting the Spanish view as regards the rights that Spain has to claim Gibraltar. The inconsistency in the views expressed by the Spanish Foreign Minister is something also that I think we should draw attention to because he specifically neglected to make any reference to the right of self determination of the people of Gibraltar immediately after making a specific reference to the right of the self determination of the people of the Sahara. He said that the citizens of the Spanish Sahara who are obviously very ably looked after by the Polisario Front - perhaps if we had the Polisario Front to look after us we might be able to persuade the Spaniards to think differently but we don't - the people of the Spanish Sahara had the right of self determination, had the right to decide their own future and that Spain quite categorically identified itself with this right and was prepared to defend it publicly in the context of the speech that made reference to human rights and the concepts of democracy. But unfortunately all those concepts and all those high flown ideas come crashing down to the ground when the subject matter turns to the question of Gibraltar and the rights of the Gibraltarians. We cannot remain silent because we have got an obligation to the people who elected us here to look after their interests, Mr Speaker, and I think that if Her Majesty's Government is not always able to express the views that we want them to express as we would like them to, that is no reason why we shouldn't ourselves express those views. I would hope, Mr Speaker, that at least in rejecting the Spanish view, even if we cannot all reach agreement as to where the way ahead lies, at least in rejecting the Spanish view as to the essential question of whether Gibraltar is Spanish by natural right and has been reserved by Britain, on that I think we should be absolutely clearcut in our rejection.

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

HON M XIBERRAS:

Mr Speaker, my colleagues and I have no hesitation in supporting this motion as could be predicted on the stand that we have taken over the years in this House. We do reject Señor Oreja's speech, of course. We have always manifested ourselves to be contrary to the sentiments that he has expressed. We believe in the right of self determination of the people of Gibraltar and we have expressed on many occasions in this House and at great lengths, if I may say so, these feelings. These sentiments, I can assure the Honourable Mover if he needs assuring on these matters, are expressed in this House, outside this House and in the presence of anybody involved with the question of Gibraltar, as my close colleagues and he himself, in fact, knows very well. As to the way ahead, there might be divisions about this. I am convinced that the way ahead chosen by my colleagues and myself allows me in representation of a good sector of Gibraltarian opinion, themselves and

to express the views that the Honourable Mover has defended today in quarters where they might not be expressed otherwise. There can be of course no camouflaging of the views of myself and my Honourable Colleague on this issue, and I would refer the Honourable Member to the debate we had I believe it was following the Strasbourg process at that particular time. There are reams written, I think it is something like 20 pages or so of very close print, in which my views and the views of my colleagues are amply expressed. As to the motivation of the Spanish Foreign Minister in making this particular statement, it is not for me to speculate on. There were a number of factors, of course, which might have prompted him to speak in this way, quite mistakenly, but it is to be hoped that it is not the beginning of a change of attitude, it is to be hoped that the next contribution to the new phase introduced by the visit to Strasbourg will be a more helpful one than this particular one. He himself can be under no illusion as to what interest and what views are held by members of the Opposition - I am sure the Government can speak for itself - and I am sure that these views were known to him from the very initiation of the Strasbourg process and he is quite aware that there can be no change in these views, so whatever he has to say, what we have had to say has been said from the very first moment. It is to be hoped that the next contribution will be a more helpful one. There are issues which we wish to discuss in the Strasbourg process and I continue to support the Strasbourg process whilst maintaining the very views which I expressed at the initial meeting. Those views are none other than those that got me and my colleagues to this House and those which it is impossible for us to change for as long as the people of Gibraltar are inclined that way and one which we will work positively to support in our political careers as their representatives. So, Mr Speaker, we have no hesitation at all in supporting this motion as it stands.

HON CHIEF MINISTER:

Mr Speaker, the elected members on this side of the House share the sentiments expressed in the motion as I believe they are shared by just about everyone in Gibraltar. One reason for this is not that we were shocked or surprised at what was said because we have heard it all before at one time or another. Some of us have heard it more times than others. What we found both surprising and disappointing was that it should have been repeated at the United Nations this year. It was natural that with the end of the dictatorship in Spain people in Gibraltar should have hoped and looked forward not, of course, to the abandonment of the Spanish claim to Gibraltar, but to the new attitude that a democratic country subscribing to the international convention on human rights and aspiring to membership of the European Economic Community might have been expected to adopt to the Franco policy of restrictions. Except for the sole issue of telephone communications a new attitude has not, materialised. Nevertheless, the Strasbourg and Paris talks appear to hold out some hope of progress through discussion and understanding. In particular, I believe that Señor Oreja's recognition of the identity of the people of Gibraltar was a source of some encouragement to the people here because against the

background of the insults and abuse that we had endured for so long from the previous regime, this recognition implied an awareness of the human aspect of the problem, the most important aspect of all. The setting up of Working Parties following the Paris talks to look into specific areas was also, I think, generally welcomed in Gibraltar. While no one could forecast what the eventual result might be, the agreement on Working Parties at least seemed to be a further significant step in breaking through personal contact and discussions the very thick ice which had built up over the years. I think the Honourable Leader of the Opposition will agree with me when I say that one of my impressions of the atmosphere both at Strasbourg and at Paris was that there seemed to be a general desire to look into the future rather than to the past. One of the most repellant features of the past, as far as Gibraltar is concerned was of course the aggressive and often misleading campaign waged by the previous regime against Gibraltar in the United Nations. The statement made by Señor Oreja in the General Assembly on the 2nd of October was unfortunately reminiscent of the past. Certainly, and these things must be said and stated frankly, that statement has done no good to the process which began at Strasbourg and can only be regarded in terms of Gibraltarian public confidence in that process as a serious setback. We, of course, completely repudiate, in the terms of the motion, the views expressed in the United Nations by the Spanish Foreign Minister and we also, of course, regret his failure to recognise the right to self determination of the people of Gibraltar. I would add, however, that had he not expressed the views he did then I think we might not have a complaint if he had abstained from making a positive statement recognising our rights to self determination. That might have seemed too much to ask in the present state of relations. The real practical question before us is this. Where do we go from here? Should Gibraltar's leaders continue to participate in the Strasbourg process? After long and careful reflection I have come to the conclusion that we should and I am glad to see that the Honourable the Leader of the Opposition, who has preceded me in the debate, also believes that it should continue. It would be easy for us simply to say that the Spanish Government had offended us and that we wanted to pull out; it is much more difficult to continue to pursue the possibility of a breakthrough in mutual understanding through continuing contact. I think the options are there and we have to take the one which, perhaps, requires more courage and more determination and I think we ought to take it. I do not advocate it simply because it is more difficult but because I believe that it is our duty as leaders of this community to carry on trying at least once more to see whether we can get some positive and practical results on which people do have a considerable amount of hope. I do not in any way minimise the impact which the Spanish Foreign Minister's statement has made on all of us and it is not one that will easily be forgotten. The Gibraltar problem it has been said many times is a most complex one and because of this and because of the emotions and sensitivities which surround it, all concerned, if they sincerely wish to see progress, should be sensitive to the views and feelings of the others. In my view we should continue to participate, making known our own keen disappoint-

ment and regret at what has happened and our hope that a further and more lasting effort will be made to arrive at an understanding to substantiate previous assurances of goodwill and to attempt to restore and improve on whatever confidence had previously been achieved. My colleagues and I will vote in favour of the motion and I would particularly make the point in this occasion that my contribution in this debate is regarded as an explanation of the vote.

MR SPEAKER:

Are there any other contributors? Then I will call on the Hon Mr Bossano to reply.

HON J BOSSANO:

Mr Speaker, I am very grateful both to the Honourable and Learned the Chief Minister and the Honourable the Leader of the Opposition for the support of both sides of the motion. Of course, I don't share either their optimism or their views on the Strasbourg process as they well know. I think that essentially there can be no progress when the objective that one side wants is the almost exact negation of the objective of the other side and whilst I respect the right of the Honourable and Learned Chief Minister and the Honourable Leader of the Opposition to think differently in that, I prefer to stay away from the area on which we disagree and concentrate on the area where we do agree and I commend the motion to the House.

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

The Hon I Abecasis
The Hon J Bossano
The Hon A J Canepa
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 Major R J Peliza
The Hon J B Perez
The Hon G T Restano
The Hon A W Serfaty
The Hon Dr R G Valarino
The Hon M Xiberras
The Hon H J Zammit

The following Hon Members abstained:

The Hon F E Pizzarello
The Hon A Collings

The motion was accordingly passed.

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House declares that the

territory and the people of Gibraltar are an inseparable unit." Mr Speaker, I shall be very brief on this. I am hopeful that I shall have the support of all Members of the House also on this motion and I am positive that I shall have the support of three Members who have no choice but to vote in favour of this motion since they have a mandate from the electorate in respect of this motion. It was an intrinsic part of the election manifesto on which four of us were elected to the House of Assembly so I know that there are certainly four votes in favour of the motion and I feel confident that the other Members will be able to support the motion as well. I think it is important to raise this matter at this point in time because I feel that when one is dealing with something as important as our future, we should attempt to preclude possibilities before they happen. I would draw the attention of members to the recent comment in respect of the Falkland Islands by the Foreign and Commonwealth Office which a local newspaper was making reference to this week in an article, where the position in the Foreign and Commonwealth Office is now being taken to a new level of virtuosity in the definition of what sovereignty means and they are introducing a new nuance to what they have always meant about not giving up sovereignty against the people's wishes in the Falkland Islands. I am saying that they are talking about the sovereignty over the Falklanders as opposed to over the Islands and since I would not want to find myself facing a situation where the Foreign Office introduces such niceties into the distinction over sovereignty over the Gibraltarians and sovereignty over Gibraltar, I think it is a good thing if I may lapse into bilingualism and say: "que hay que poner el parche antes que salga el grano" Mr Speaker. It is with this in mind really more than anything else so that if anybody is getting bright ideas in some obscure corridor in London, that the message should get there how we feel about the indivisibility of our home and our personality as a people.

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

HON G T RESTANO:

Mr Speaker, I of course associate myself entirely with the sentiments expressed in this motion by the Honourable Mr Bossano because as he has already said, this, of course, was the most important part of the election manifesto of the GDM for which I stood. It is a fundamental matter for me as I am sure for Gibraltar as a whole that there should be no difference at all no distinction made between the people and the territory itself. Nevertheless, the election manifesto of the GDM in some quarters was completely and unjustifiably misinterpreted and in order to avoid that this particular motion which is so important to Gibraltar is misinterpreted, in any way I would like to move an amendment to this motion, Mr Speaker. My amendment is that there should be a deletion of all the words after "territory" and that there should be a substitution therefor of the following: "of Gibraltar and its people are British in accordance with their wishes and are an inseparable entity". The motion would then read: "This House declares that the territory of Gibraltar and its people are British in accordance with their wishes and are an inseparable entity."

I think there is no departure from the intention of the original mover especially in view of the last motion which was unanimously passed in this House before this one. There is obviously I think unanimous support and what I don't want to see interpreted in any way is that this Motion should be represented by some, perhaps, to be advocating independence which I do not think it is. As it stands I suppose it could be and of course it has been said in the House previously that if we were 30 or 40 times bigger then possibly that would be a solution for Gibraltar, but in fact we are not that big and therefore it is important that it should not be interpreted as advocating independence or call for autonomy or what have you and therefore, Mr Speaker, I beg to move the amendment as circulated.

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

HON CHIEF MINISTER:

Mr Speaker, I propose to speak shortly now on the amendment. I don't want to speak on the motion and I think it is a pity that this amendment has been introduced. I think we could have obtained complete unanimity on the other one and if there is to be a motion of this nature at another time we will look at it on the merits, but I think first of all we must be careful in what we say that the House declares and not fall into the trap of the United Nations that make statements which are later not borne out by either policy or fact or anything like that. What the House declares Gibraltar is really does not alter what Gibraltar is. What the House wants Gibraltar to be or the House wants Gibraltar not to be is an expression of the feelings of the members. Gibraltar is not British because the people want it, Gibraltar is British because it was occupied by the British and it has stayed British. That the people want a British Gibraltar is a different matter. We do not declare that Gibraltar is British because the people want it, we are going back 275 years in making a declaration now of a statement of fact then. I think it ridicules the whole original motion and introduces elements which I would have thought were not in accordance with the thinking of some Honourable Members opposite because it leaves the option open that Gibraltar shall cease to be British when the people of Gibraltar don't want to be British. We propose to stand by the motion and oppose the amendment.

HON MAJOR R J PELIZA:

Mr Speaker, what the Chief Minister has just said doesn't make sense whatsoever. He is talking in complete contradiction to the very convictions, I think, that we so firmly stand which is the right of the self determination of the people of Gibraltar. And in doing so, if that self determination is exercised by the people of Gibraltar in its totality they can choose a self determination to remain in Gibraltar as British Gibraltarians and keep Gibraltar British or they may decide that Gibraltar should be completely independent, in their right to self determination, or they may wish in the exercise of their self determination to remain Spanish in a Spanish

Gibraltar. That, to me, is self-determination of the people, expressing their wishes in whatever way they would like to express it. What is questionable, of course, is if having expressed the right of self-determination, Britain would like Gibraltar to remain British, that I accept, but to express a wish in a motion here which is the true expression of the people of Gibraltar as it stands today and for the Chief Minister to try and find loopholes, I just cannot understand it. I don't believe he has a case whatsoever. Those were the wishes very clearly expressed by the people at the Referendum with only 44 people voting against the idea of keeping links with the United Kingdom. If you want to keep links with the United Kingdom and Gibraltar is not going to be independent, I cannot see anything but British attached to it.. That is, I think, the expression my Honourable Friend Mr Restano wants to introduce, to try and show the perpetuation of the expression that will at the time of the Referendum and that there is no other interpretation that that can be given to the motion here today. That, to me, is the idea of supporting the amendment. I never thought for one moment that there would be any objection from the Government. I am very, very surprised indeed.. Not only has the Referendum expressed that wish but in every subsequent election the people who have been elected to this House have gone to the people with exactly the same ticket, self-determination and the wish to keep Gibraltar British. What is all this business of thousands of signatures being collected recently, asking to have full United Kingdom citizenship. What is that if not an expression of wanting to remain British in a British Gibraltar? And what are the representations made by every elected members in this House, if not a similar expression? For the Chief Minister to stand now and try and find niceties which do not exist is to me incomprehensible. I wish that when he speaks again on the motion the Chief Minister tries to clear this point because he is certainly going to sow doubts in many people's minds as to whether the determination that he expressed in the previous motion that he carried is not somewhat questionable and I would hope that he can give a much more convincing explanation when he talks on the motion.

HON A J CANEPA:

Mr Speaker, the mentality of the Honourable Member who has just spoken, who was the Leader of the Integration with Britain Party when it was founded, and which is no doubt the mentality of his colleagues, is clearly still reminiscent of the age when unless one wrapped oneself up at night to go to bed with the Union Jack and got up in the morning and paraded dressed in red, white and blue and kissed the Union Jack the way that the Spanish soldiers kiss the flag when they are recruited. Honestly, Mr Speaker, unless one subscribes to the same degree of Britishness of the Honourable Members opposite, one is not British and one does not want Gibraltar to remain British and, of course, what more eloquent proof of that is there to be found than in the fact that they call themselves the democratic party of British Gibraltar so that they can go to the next election and say that they certainly do not leave anybody in doubt

as to where they stand. They stand for a British Gibraltar, but all other parties in Gibraltar, all those of us who do not either in our name or in a constant statement and restatement of our commitment to a British Gibraltar continue to play that record, I suppose and we are all suspects. Well, we are not suspect, Mr. Speaker, we stand for a British Gibraltar but what is there wrong in considering the original motion on its merits? The Honourable Mr Restano has moved an amendment has given not one reason as to what is wrong with the original motion. Not one reason. What is wrong with the original motion? I think the original motion stands on its own. It is worthy of support on its own. I know what is in the mind of the Honourable Mr Bossano when he seeks to assert that the territory and the people of Gibraltar are an indivisible entity. I know what is in my mind and I will be explaining it later on today, I hope, in support of that motion. I have a very shrewd idea because I have heard Honourable Members opposite, particularly the Honourable Mr Isola, express certain fears which to me would be indicative of the fact that he should have no problem about supporting an assertion, a statement, of the fact that the people and the territory of Gibraltar must go together. I honestly do not see why they want to amend this motion. The motion is worthy of support in its own and if they want a motion, if they want the House of Assembly to assert once again the Britishness of Gibraltar and that we should all parade and kiss the Union Flag, I am quite willing to do so, I am quite willing once again, but let us bring a separate motion which doesn't have to in any way water down the essence, the intrinsic value of the motion which the Honourable Mr Bossano has put before the House this afternoon.

HON P J ISOLA:

May I contribute a little, Mr Speaker?

MR SPEAKER:

To the amendment, I imagine?

HON P J ISOLA:

To what the Honourable Mr Canepa has said on the amendment.

MR SPEAKER:

Certainly.

HON P J ISOLA:

Listening to his argument I am rather surprised he didn't get up in the previous motion and say: "Why is Mr Bossano moving this? Of course we all repudiate what the Spanish parties say." Instead we all got up and repudiated it. We all agreed with him. Now the Honourable Mr Bossano brings in a motion that says that the territory and the people of Gibraltar are an inseparable unit and the Honourable Mr Canepa says: "What is the reason for bringing an amendment? After all, we all know what the Honourable Mr Bossano wants

to avoid. He mentioned the Falkland Islands, the possibility of the sovereignty of the people going to one person and the sovereignty of the territory to the other. We fully understand." But what the amendment seeks to do is to avoid the sovereignty of the people and the territory going to one person, not necessarily Britain. I would have thought that answer was self evident. I would have thought that would be a self evident answer. As it now stands you say the territory and the people are an inseparable unit, full-stop. Agreed. But it begs the question where the sovereignty lies as an inseparable unit, or it leaves that open, surely? All the amendment does, with all due respect to the Honourable Mr Bossano, I am sure he appreciates this point, what the amendment does is that the House declares that the territory of Gibraltar and its people are British in accordance with their wishes, which is the fundamental factor, and are an inseparable entity. That is the reason why an amendment is necessary to the motion as it stands because the motion as it stands only goes part of the way. We all know what the Honourable Member really wants and what he really means and the amendment that is being introduced, I would have thought, clarifies it. I don't think it has anything to do with wrapping the Union Jack round yourself every day and so forth, although all Honourable Members in their turn in fact do so, don't they, from time to time. It may be that my Honourable Colleagues and myself do it perhaps more often than others but I haven't heard the Members opposite once getting up and saying they are not British. Don't you believe it, they get up just as frequently but perhaps, we do it with more show. Anyway that is a matter of taste, Mr Speaker. I would say to the Honourable Mr Canepa that there is a very good reason for this amendment I would have thought. There are two things one is trying to project that you cannot treat the people and the territory separately and that that people and that territory is British by virtue of its heritage and its wishes and that is how we want it to stay. Once we are making a declaration we might as well make a complete declaration, surely. What is the merit of making an incomplete declaration? That is why I would have thought that the Government would be doing less than credit to the mover and to the mover of the amendment if they vote against this amendment and to themselves and to what they have said they aspire to.

HON A P MONTEGRIFFO:

With this amendment the Party who call themselves the Democratic Party with a British Gibraltar are, I assume, proclaiming that Gibraltar is British and that it is British because of British sovereignty over Gibraltar apart from the wishes of the people. Because even if the people of Gibraltar wanted Gibraltar to cease to be British the fact that sovereignty doesn't lie with us it would still carry on being British if Britain so want it whatever the people might say. The wishes of the people of Gibraltar obviously strengthens the presence of Britain in Gibraltar and also establishes more firmly the sovereignty, if it can be established more firmly than by conquest and Treaty. Perhaps if they had

said that the House declares that the territory and the people of British Gibraltar are an inseparable unit it might be a different thing but I think that putting the wishes of the people in this particular context, in the context of this particular motion which is not in the context of what Señor Oreja said in the United Nations, would be a different proposition. I cannot understand why the wishes should be inserted in a motion which to me is quite acceptable and much stronger than diluting what I consider is the sovereignty of Britain over Gibraltar by including in this particular motion the wishes of Gibraltar.

HON J BOSSANO:

Mr Speaker, I don't agree that there is a need to amend the motion as the Honourable Member has suggested. In fact, the Honourable Member has said that the election manifesto in which he stood and was elected to this House of Assembly was misinterpreted by some people as implying that the candidates presented by the Gibraltar Democratic Movement were seeking independence of Gibraltar. If anybody interpreted the manifesto like that he must have been illiterate, Mr Speaker, because it was quite explicit what the Party was suggesting as far as Gibraltar's constitutional future was concerned and there was no mention precisely as to one particular form of decolonisation because the whole essence of the policy which he was committed to then and stood for election on, was that we could not make specific proposals for the decolonisation of Gibraltar. I don't think anybody who got as far down the page as coming down to the part where it said: "The territory and the people of Gibraltar are an inseparable unit and the Movement will seek to give this reality constitutional form, could have missed out all the preceding bits which made absolutely clear that we were not advocating independence or any other specific solution for Gibraltar's constitutional future. If people ascribed those motives to the Gibraltar Democratic Movement candidates then they ascribed them quite willingly and maliciously, not because they misunderstood what was being said. As far as the present situation of Gibraltar and its people being British is concerned, Mr Speaker, what I am asking the House to do is to make an assertion of our view for future reference in case that assertion should ever become necessary but let us make no mistake about the unsatisfactory nature of the status of the Gibraltarian today. When the Honourable and Gallant Member talks about the reply to the Green Paper which we have all subscribed to and the petition that thousands of people signed, those people in fact were objecting to the potential danger of being classified as British Overseas Citizens. So what should we do then, perhaps include that possibility and say that Gibraltar and its people are British Overseas Citizens/or British Citizens and/or British Overseas Citizens or all the potential situations in which we may find ourselves. I am saying that Gibraltar is our home and that if anybody is going to take any decisions affecting our home, then we are the ones who should have the overriding voice. Therefore this is the

natural consequence of the assertion implicit in the previous motion that we believe in our right of self determination and what I am saying with this motion is that for us self determination means the right to determine our future as individuals, our personal status as citizens and also the future of the territory. But at the moment that is not the position, at the moment we are colonial subjects and Gibraltar is Crown property by right as a result of the Treaty signed in 1713 whether we like it or we don't like it and whether we are here or we are not here. The reality of the situation is that in 1713 Gibraltar was British and there were no Gibraltarians. That situation is a statement of fact. This situation is a statement of our views as to what should be the case and therefore the fact that the people of Gibraltar and Gibraltar is British in accordance with their wishes is in fact, in my view, unnecessary, out of place and, in fact, not strictly accurate because if there is any implication that I approve of the status of the Gibraltarian today then let me make it quite clear, Mr Speaker, that I do not approve of that status, that the Hon Mr Restano should not approve of it because as well as accepting this as one of the fundamental principles on which he stood for election, he also accepted that the present Colonial status of Gibraltar is an affront to the dignity of the people of Gibraltar. That is also something he stood for. I am certainly not prepared to be associated with any sense of approval of the so-called British status of the people of Gibraltar which I think is of third, fourth, fifth or heavens knows what category.

HON N KIBERRAS:

Mr Speaker, I must say that the reaction of the Government is completely unexpected. I would have thought the Government would have no objection at all to this simple statement of what we all believe in. In fact, Mr Speaker, the issue before the House today was debated, I believe, in January of 1977 on the issue of a motion also brought in by Mr Bossano that; "this House considers that the soil of Gibraltar should belong to no one but the people of Gibraltar," the same issue, and perhaps the Honourable Member will recall that and subsequent motions in which the House also asserted the inseparability of people and territory. That is not so long ago and that amendment, if I remember rightly, was put in by Honourable Members on this side of the House in an attempt to reach a compromise, a compromise which we should not have had to strive so hard to achieve on that occasion. I remember that my Honourable Colleague, Mr Isola, and Major Peliza and I did quite a lot of battle on that motion and eventually the resulting consensus motion that was approved I believe, and perhaps the Honourable Mover will correct me if I am wrong, did contain a reference to the inseparability of territory and people.

HON J BOSSANO:

Yes.

HON N KIBERRAS:

If that is the case I see no reason for bringing this motion to the House if it is simply going to state something which the House stated not so very long ago. But if there is a restatement of the position of the people of Gibraltar to be made, then let it be made quite categorically in the present context in which we find ourselves. In the previous motion I thought the Chief Minister's contribution was admirable. I thought it was admirable in its resolve in its stance in defence of the people of Gibraltar while my reply could be very simply to vote in favour of this amendment. That is a repudiation of all statements of a similar nature that might be made now or in the future. That does not deal partly with the views of the people of Gibraltar but deals with the views of the people of Gibraltar in their entirety. Whether Honourable Members find it convenient or expedient or inconvenient or inexpedient at this particular time to subscribe to this motion, may I recall that one of the slogans of the AACR at election time was "Vote AACR and stay British". So why get tongue-tied in linguistic....

HON CHIEF MINISTER:

If the Honourable Member will give way.

HON N KIBERRAS:

I will finish my sentence if I may. I am saying that in the linguistic sense why do Honourable Members opposite get tongue-tied in the linguistic sense and oppose this motion for not being accurate. What is inaccurate about this motion? Listening to the Honourable Mr Montegriffo I don't know what end of the argument he was approaching or why he was objecting to this and the Chief Minister was not much better. I will now give way to the Honourable Member.

HON CHIEF MINISTER:

Thank you. The fact that we may or may not agree with any particular wording coming from those sages of British Gibraltar which are the ex-members of the LDP and their present allies, does not mean that we change our policy every 10 minutes. I don't have to start repeating every morning when I get up; "I am British, I am British, I am British I want Gibraltar to be British to be British to be British," and then wrap myself in the Union Jack to be British. I don't have to explain that at every moment. The original motion is a motion of which five day's notice was given, I did a lot of research on it and I have a contribution to make which I hope will be helpful to the House on the substantive motion. This thing deviates completely from the theme. If at the next meeting the Honourable Member wants to bring a motion in these terms we may support it, if it makes sense, of course we may, but we have come here prepared, at least I have, and I have done a considerable amount of homework and I have a lot of things to tell the Honourable Mover that he will be very pleased to hear about some of the misconceptions that he has understood about the Falkland Islands. I don't take these things easily. These are serious matters and they must be taken seriously and I have a contribution to make to a substantive motion of which five day's notice was given and on which I obtained certain information for the benefit of the House. Whether we are British or not, that goes without saying or have you got to remind yourself, are you so uncertain of yourself?

HON N KIBERRAS:

I thought the Honourable Member was going to make his long contribution now, Mr Speaker. I think the Honourable Member wraps himself up in the Union Jack at certain times of the year. Mr Speaker, on the substance of the motion, all this has been discussed by the House. We have discussed the right to our

soil, we have discussed the indivisibility of territory and people, we have done all these things before and we have ended up by asserting a British Gibraltar.

MR SPEAKER:

Let us talk about the substance of the amendment, not the motion.

HON M XIBERRAS:

That is precisely what I am doing, Mr Speaker.

MR SPEAKER:

No, you have just referred to the substance of the motion and I am telling you to speak on the amendment.

HON M XIBERRAS:

The substance of the motion has in fact been discussed over and over again and I am saying that, equally, when we have discussed it we have ended up asserting a British Gibraltar.

MR SPEAKER:

Fair enough.

HON M XIBERRAS:

Therefore I find the Government's unwillingness or even the Honourable Mr Bossano, less so, the Hon Mr Bossano, but the Government's unwillingness to simply come forward with this word British Gibraltar, a simple statement of the fact, of British Gibraltar in accordance with the wishes of the people, surprises me. We did not try to put him into a hole over this or into a corner. We simply want to be consistent with our attitude at the time of the motion of the right of our soil where we said quite clearly, and the House agreed with us, that it was not enough to assert that we had a right to the soil of Gibraltar. I remember on that occasion the Chief Minister argued forcefully in the direction of the consensus when it was eventually achieved. Mr Speaker, why the embarrassed attitude of the Government on this?

HON CHIEF MINISTER:

We are not embarrassed. We just do not agree with you.

HON M XIBERRAS:

I am not questioning for a minute that the Chief

Minister or his Colleagues believe in a British Gibraltar, that is what they stood for in the elections and won the election, of course, and this is their mandate and therefore they have found that there was no embarrassment at all but the reaction of the Chief Minister when the amendment was presented. He can still make his contribution, Mr Speaker, on the original motion.

HON CHIEF MINISTER:

I will make my contribution.

HON M XIBERRAS:

And I shall make a humble contribution as well on this issue of inseparability. But why oppose this? Because it did not go according to plan? Because it is wrong in the context? Well, if he was able to speak so strongly in the motion before this one and say: "We repudiate this statement" and so forth, why cannot the House simply and without any argument assert the proposition

MR SPEAKER:

Order. I will ask the Honourable the Leader of the Opposition to address me when he is speaking so that there will be no misunderstanding and no talking across the floor of the House.

HON M XIBERRAS:

Mr Speaker, the reason is that they don't want. This is the simple fact of the matter and if they don't want to, no amount of talking on our side is going to persuade them to and it will just go down on the record that a simple motion on these terms has been rejected by the Government for reasons best known to themselves and by the Honourable Mr Bossano, whereas about a year before we were able to reach a consensus on this type of motion. I have great pleasure in supporting my Honourable Friend's amendment and I commend it to the Mover and to the Government.

HON M K FEATHERSTONE:

Sir, I will vote against this amendment not only for the reasons that have already been said by other Members on this side, but also from the fact that this is one of the most loosely worded motions I have come across in the whole history of the House of Assembly. I should assume or consider that on a matter of this import a motion should be really tightly worded and not give rise to all manner of interpretations especially when one

considers where it is going to finish up, on the other side of the fence, and be taken and torn to pieces and used, possibly, against us. "This House declares the territory of Gibraltar and its people are British in accordance with their wishes." This is not so, Sir. Gibraltar is not British in accordance with the wishes of the people, it is British because it was conquered in 1704 and whether the people want it to be Chinese, Turkish or anything else it is the Parliament of Britain which determines that this place remains British. And the people here are British, Sir, not simply because they wish to be British but because they happen to be born in a British territory. The child of a Moroccan woman who is born in Gibraltar has the right to be called British. This is a most loosely worded amendment and I feel that it would do far more harm than good to the whole of Gibraltar if it were to be accepted in its present form and I think that the original motion was tightly worded and puts across what is really required and therefore I will definitely vote against this amendment.

MR SPEAKER:

I will then call on the Hon Mr Restano to reply to the debate on the amendment.

HON G T RESTANO:

Mr Speaker, quite frankly, as my Honourable Friend the Leader of the Opposition so rightly said it is difficult to see why the Chief Minister should so immediately and vehemently have disagreed with the amendment. After all, the reason for the amendment being put in was because the original motion could give rise to misinterpretation because it is not complete enough. The Chief Minister said that it was wrong to declare that Gibraltar was British, because it was British in 1704 when it was conquered by the British and therefore he uses that as an argument to vote against the amendment. Yet he has no qualms about voting for the original motion which declares, and quite rightly so, that the territory and the people of Gibraltar are an inseparable unit. He said it was wrong to declare that it was a British Gibraltar because it was militarily taken in 1704. I put it to him that on that concept it is not logical for him then to say that he agrees with the terms of the original motion because in 1704 there weren't any Gibraltarians in Gibraltar. The Hon Mr Canepa said that he had heard no reasons given for the amendment. If he had listened, or perhaps had been talking to somebody else at the time, if he had listened he would have heard that the reason was that the Gibraltar Democratic Movement manifesto and the terms of the motion as it stands at the moment, could be interpreted and in fact was

interpreted at the time of the elections as being a call for independence and I agree with the Hon Mr Bossano that anybody who really read the Gibraltar Democratic Movement Manifesto correctly was unjustified to make that claim. But if they did so and I know that they did where there were qualifications, how much more will that interpretation be able to be put on this one where there is no qualification? The Hon Mr Bossano also makes a point about Colonialism and what have you. Well, we are talking about sovereignty here and I would refer him to a motion which I think was one of his motions in November 1977 where he says: "I have no doubt at all that the overwhelming majority of the people of Gibraltar do not wish Gibraltar to be anything other than British. And I myself do not wish that either, let there be no doubt about that." That is what he said and this is why it is rather incomprehensible that he himself who has agreed with this should now be saying that he doesn't agree with the terms of the amendment which say purely that and that alone. The Honourable Mr Featherstone said that it was a loosely worded amendment. What was very loosely worded was the reply of the Chief Minister to the amendment, there was very little logic in that and I would submit to the Hon Mr Featherstone that it would be more harmful and could be used against us much more for the Government to be voting against the amendment. That would give the wrong impression, the Government would be giving the impression that it does not want what the amendment says, namely, that Gibraltar is British in accordance with the wishes of the people. It is very clear, Mr Speaker, that all we are really talking about is that the Chief Minister has done a lot of work and he has prepared himself and he thinks that if he were to vote for the amendment then he wouldn't be able to come up and say all that he has been preparing himself to say. Mr Speaker, I think it would be very wrong for the Government to vote against the amendment and I commend it to the House.

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

The Hon P J Isola
The Hon Major R J Peliza
The Hon G T Restano
The Hon M Xiberras

The following Hon Members voted against:

The Hon I Abecasis
The Hon J Bossano
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 J B Perez
The Hon A W Serfaty
The Hon Dr R G Valarino
The Hon H J Zammitt

The following Hon Members abstained:

The Hon F E Pizzarello
The Hon A Collings

The amendment was accordingly defeated.

The House recessed at 5.20 p.m.

The House resumed at 5.45 p.m.

MR SPEAKER:

I will remind the House that the amendment to the question before the House was defeated and that therefore we go back to the original motion as moved by the Honourable Mr Bossano and that the contributors so far have been the Mover and Mr Restano. The floor is now open to anyone who wishes to contribute.

HON A J CANEPA:

Mr Speaker, before dealing with the motion proper I would like to dwell briefly on a point made by Mr Xiberras in his intervention when he harked back to the motion of January 1977 which Mr Bossano had moved, in which the House was asked to consider that the soil of Gibraltar should belong to no one but the people of Gibraltar. Both Mr Xiberras and I, during the tea recess, have asked for copies of the minutes of that meeting and I would like very briefly, because I think it has a bearing on the discussion this afternoon, to explain what the events were particularly as Mr Xiberras asserted that the three independent members had been the ones who had brought the House round to a consensus motion and that is not the case at all. The Honourable Mr Bossano moved that motion and it became very soon evident that the motion had no hope in hell of getting through. The next thing that happened was that there was an amendment on behalf of the three independent members moved by the Honourable M Xiberras. That was put to the vote and that amendment was defeated. The Government was in the rather comfortable position all along that the real quarrel was between the four Gibraltar Democratic Movement members and the three independent ex-IWBP members and so, in the course of a recess, the Chief Minister then moved what was hoped would be a consensus motion and which made reference to the booklet which the members of the

Legislative Council had produced in 1964 and which, I think, Mr Bossano wanted to have, as it were, re-endorsed. The three independent members were not entirely happy because there were not sufficient assertions of Britishness in the Chief Minister's attempt at a consensus motion and I myself then moved an amendment to the Chief Minister's motion which introduced the words: "to remain British after the Referendum" - I am as British as they come, born and bred. Mr Isola then moved a further amendment to that that in which was reiterated the right of the people of Gibraltar to self-determination as advocated over the years and at the end of the day no final agreement could be reached on that and what happened was that the Chief Minister then moved the adjournment of the House and it was agreed that between then and the next meeting of the House there would be consultations so that we could come back to the House with a consensus motion and that, in fact, is what happened. On the 21st March there was a consensus motion which was moved by the Honourable Mr A W Serfaty since he had been one of the few people who had not taken part in the earlier debate. Those are the events of 18 months ago and having set that particular motion in its historical perspective I want to set the points which are raised by Mr Bossano's motion also in their historical perspective as I see them; there is nothing startling in what I am going to say I think it is something that Honourable Members know. In the first place the Treaty of Utrecht gave sovereignty over Gibraltar to the British Crown at a time when the people of Gibraltar didn't exist. They say they were in San Roque. Then over the years, people from various parts of the world, the Mediterranean and Britain and so on, settled in Gibraltar and gradually these distinct people evolved. In the course of the 20th century there was on the part of Great Britain increasing devolution of power to the representatives of the people of Gibraltar and therefore ipso facto recognition by Great Britain of the people of Gibraltar and that recognition came, to my mind, to a culmination in the Referendum of 1967 in which the people of Gibraltar were given the right to decide where the territory of Gibraltar which did not and juridically does not belong to us, where the future of that territory would lie. We were given the choice to decide whether Britain would retain her present responsibilities over Gibraltar or whether we would come under Spain in accordance with the Castiella proposals. It was recognition by the United Kingdom in a negative way of the right to self-determination and the right to decide the future of the territory, in a negative way. We then come to the 1969 Constitution and its preamble which crystallized and met the generally expressed wishes of the people that a link with the United Kingdom should be established. In the preamble to the Constitution Her Majesty's Government

declared that the people of Gibraltar would not pass under a foreign power unless they freely and democratically so agreed, but it was also asserted that Gibraltar is part of Her Majesty's Dominions. Where the preamble to the Constitution fell short was that there was no declaration that the territory of Gibraltar would not be handed over to some other power unless the people of Gibraltar so freely decided. That, really, would have been to my mind full recognition of our right to self-determination. That would, I think, have taken the matter to the extent that we would all have wanted to see it go. I think it is no secret that in most quarters there has been disquiet in Gibraltar which let us be absolutely frank, we the professional politicians, shall I say, have always been careful not to kindle, disquiet about the fact that you could, in theory, in practice I don't think that it would happen, you could in theory find yourself in a situation in which the people of Gibraltar were not handed over but they were asked to go elsewhere, they were invited to go over to Britain and the territory could be handed over. I think it is against that background that the degree of disquiet which we certainly in the AACR were aware of, that we from round about then, in the early 1970's were beginning to assert the oneness of people and territory. I will have something more to say about that.

HON P J ISOLA:

If the Hon Member will give way. Is he now putting forward what the AACR consider to be the correct interpretation of the preamble? Is, what he is saying now his interpretation of that of his Party of what the preamble states, because I think it is very wrong.

HON A J CANEPA:

What the preamble states is that the people of Gibraltar will not be handed over to a foreign power, against their wishes. But it said nothing about the territory other than it is part of Her Majesty's Dominions. The preamble to the Constitution reads: "Whereas Gibraltar is part of Her Majesty's Dominions and Her Majesty's Government have given assurances to the people of Gibraltar that Gibraltar will remain part of Her Majesty's Dominions unless and until an Act of Parliament otherwise provides, and furthermore that Her Majesty's Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes." What I have said is that it would have been I think the realisation of all our aspirations if instead of it being said in the preamble that Her Majesty's Government will never enter into arrangements under

which the people of Gibraltar would pass, we would have naturally preferred to have seen," under which the people or the territory of Gibraltar will pass under the sovereignty of another State. That is the point that I am making. In 1976, during the election campaign, the Gibraltar Democratic Movement made it one of their main planks in their platform that the people and the territory of Gibraltar were a single entity. I remember saying at the time, during the election campaign, that that was something that we had thought of previously. It was an intrinsic part of the concept of "the right to our land" and in fact it was something which figured in the 1971 AACR Conference. I, myself, on behalf of the Executive Committee of the AACR moved a motion at a conference in April 1971 and I quote the motion: "This conference affirms that in the context of the Gibraltarians' right to their land, the people of Gibraltar have got a bigger stake in human concepts than anywhere else in the world as to the future of its territory and that Gibraltar is not a piece of land which can be disposed of by those who hold it or who have held it". My speech then appeared in the form of an article in the Gibraltar Evening Post that the Editor gave it the headline: "People and Territory must be one". I would like to quote from that speech two paragraphs in which I was developing the theme of people and territory being one and the theme which is the subject of the motion before the House. I said, Mr Speaker, and I quote: "In support of her claim to Gibraltar, Spain applies in her arguments, the concept of a territory. In the eyes of the Spanish Government, therefore, the people of Gibraltar are settlers. Moreover, Spain finds it unbelievable that it should be against the context of the Treaty of Utrecht that relations between the two countries are governed with respect to Gibraltar. Britain for her part realises that her right stems precisely from Utrecht and she strengthened her case with arguments that are based on the concepts of the people. This is all very well, but it is important for Gibraltar to realise that Utrecht does not give us rights over the territory, Britain's appeal is certainly to the people but divorced from the concept of territory". I went on to say: "It is clear that Spanish aims are directed at divorcing or separating the concept of people from that of territory for they realise that in that case the people of Gibraltar would lose their very *raison d'être*. Where would the people of Gibraltar be without Gibraltar? How can they be, how can they exist and evolve as a people without any right over the territory which they inhabit? It is therefore of vital importance for us that there be no dichotomy in the two concepts of people and territory for only thus can we ensure that our very birthright will not be bartered away on the altar of political expediency. Gibraltarians must ensure

that the people and the territory must be one since it is the fusion of the two that represents the main safeguards for our future. It is this above all that will give us the inalienable right to develop our chosen way of life on the land of our birth, in short, the right to self-determination would be ours". That was what we were thinking in 1971, that was the view that we were subscribing and that is not intended, either then in that motion before the AACR conference, in my speech or in my view of the motion before the House, that the Britishness of Gibraltar should be in any way diluted. I see the motion before the House today as a response, in the same way as the previous motion, an emotional response, an assertion of our rights not as settlers but over the territory against the Spanish claim. That was the way that we were focussing it in 1970/71, this is the way that I focus it today. It is another response to Snr Oreja. I think that with this motion our representatives at the next round of talks, if there is going to be another round of talks, once again are asserting something which the Spaniards need to bear in mind, that the people of Gibraltar cannot be divorced and are not going to be divorced from the territory of Gibraltar and it is against that background, Mr Speaker, that I am very happy to be able to support this motion.

HON P J ISOLA:

Mr Speaker, I don't think that Señor Oreja is in any doubt that the people of Gibraltar and the territory are an inseparable unit. I don't think he is under any doubt at all about that. All he wants is that unit to pass under Spanish sovereignty. Therefore, passing a motion of this kind is hardly a response to Señor Oreja; a response to Señor Oreja is the previous motion in which we unanimously agreed to repudiate the views he expresses in respect of Gibraltar. I think the Spanish position on Gibraltar is very clear so this is hardly a response. It would become a response if one were to add to the motion three short words which the Government and the original Mover seem so reluctant to put in "under British sovereignty". The last speaker has said this is our strength, that they should be an inseparable unit, the people of Gibraltar and the territory, but what strength have the people of Gibraltar and their territory if treated as one if they do not have the backing of a power? What strength have 25,000 against the communist party, the PSOE, the UCD and all the others, on their own as an inseparable unit? How far does that take us? Or is this motion really a defensive motion against the British Government which I think is more in the line that the Honourable Mover put it forward, of not having a sort of Falklands

rumoured solution being thrust upon us. This motion can never be a response to Señor Oreja. He would be delighted to agree with this motion as it is going to be passed, apparently, with the full connivance and support of the Government. The Honourable Mr Canepa's interpretation to the preamble is, I thought, rather interesting, Mr Speaker. Having correctly described the history of the situation he draws incorrect conclusions from the preamble. I know that what he is saying. What he is saying is what people have been saying about the preamble who have had definite leanings towards a solution on the Castiella lines. These people are the people who have been saying that the Constitution does not give you anything, that all it said is that you people will remain British as long as you want - this is what these people have been saying - and the British Government at any time can say to Spain: "Here is the sovereignty of Gibraltar and you people from Gibraltar you come along to England or elsewhere". That is the interpretation that has been put on the part of people who wish to undermine the confidence of the people of Gibraltar in what the preamble says but, apparently, they have taken in the Minister for Labour because he has been giving the same interpretation to the preamble in this House only in the last few minutes. There is no need for a motion to clarify what the Constitution says, to me. It is quite clear what it says to me. It is perfectly logically written out and it is in the only way it could have been written out, Mr Speaker, and I would suggest that it is not in the interest of the people of Gibraltar whom we represent if we ourselves start having doubts as to what the preamble of the Constitution says. Mr Speaker, Gibraltar is British, as the Minister for Labour quite rightly said, by virtue of conquest and then by virtue of session. At that time, as he quite rightly says, there were no Gibraltarians in Gibraltar but under Constitutional law which is what applies here, Gibraltar could not be given to any country legally at any time just because we say so or on the statement of the Prime Minister. It would have to be on the say so of the Queen and an Act of Parliament and that is why you have got that statement of an Act of Parliament, it has to be that way, and that that is as far as the sovereignty of Gibraltar cannot pass whatever the United Nations Charter may say about self-determination and so forth, the sovereignty of Gibraltar, as such, could not pass as a result of a resolution of the United Nations, thank God, otherwise the sovereignty would already have passed to Spain under their resolution of 1969. It can only pass as a result of the exercise of the Queen's Prerogative because it belongs to the Crown and the assurances that we got are that that prerogative would not be exercised without the consent of Parliament, so it wasn't the British government who was going to decide, it had to be an Act of Parliament and that takes a bit of time to pass to give and gives

you time to protest and all the rest of it. That was the fundamental assurance and it is, I would think, a very good one because, my goodness, if Parliament is not behind us and if Parliament does not support the Gibraltar situation we are finished, we have got no strength, where is our strength, what is the sense in the rejection of the previous amendment, it just didn't make sense; it has been rejected and we are facing it but let not the Minister for Labour, in order to justify his attitude on the motion as it stays, start sowing doubts in people's minds as to what the preamble says. It is very clear and what it goes on to say is "and furthermore that Her Majesty's Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes". Mr Speaker, how could the people of Gibraltar be passed under the sovereignty of another State against their wishes whilst they are living in Gibraltar? How could they? Is the Minister suggesting that the British Government could tell the people of Gibraltar, the people who belong to Gibraltar; "You no longer belong to Gibraltar, you now belong to England, say Ipswich, so come to Ipswich." We haven't got integration, if we had they might be able to say that and that is one of the arguments the Government have used against that particular point. Under this Constitution it is not possible for them if there is any honour in the British Government, and there is a lot more honour in the British Government than a lot of other Governments in the world. We believe it and we trust it and if there is any honour in the British Government there is no possibility of the people of Gibraltar who live in Gibraltar, in their home, being passed against their freely and democratically expressed wishes to the sovereignty of another nation. That is why, Mr Speaker, at the risk of us, my colleagues and I, being accused of being boring and always waving the Union Jack and so forth, it is a risk we are prepared to take because at least we realise that the people of Gibraltar have no strength at all without British sovereignty. We have no strength, that is the truth and that is the reality. What happened to the people in the Sahara? The Spanish Government who was their protector decided it was discreet to move out and quick and that was it. What is the use of self-determination and all that if you have got nobody to back it up, Mr Speaker? What is the use of passing a motion saying Gibraltar is an inseparable unit if, apparently, the only intention in the motion is a defensive move against the British Government, that is what it seems to me to be and this is how the motion has been put. When we are doing public acts in this House I think we have got to be careful how we do it and what we say and we do not have to give the impression, I think, of not trusting people. We do not have to give the impression of not believing in what

the Constitution says. This motion is being put in utterly good faith by the Honourable Mr Bossano. We on this side of the House agree with it but we say it is not complete in its present form. That is all we say. Perhaps our amendment before was somewhat imprecise but anyway it was rejected. Mr Speaker, the House has rejected it in all its solemnity so I think that in the interest of accuracy perhaps we could persuade other members of the House to accept a shorter amendment to the motion, Mr Speaker, and that is to leave it exactly as it is adding after the word "unit" three simple words "under British sovereignty" to give effect to what I believe is what we all feel. I would move Mr Speaker an amendment to this motion merely by adding the three words "under British sovereignty" at the end. I commend the amendment to the House.

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

HON J BOSSANO:

I wish to speak against the amendment. Of course, Honourable Members can keep us going for the next week insisting on introducing the word "British" if they want to but in fact the arguments are exactly the same now as they were before because the argument against the original amendment, as far as I was concerned, was that there was no need to introduce the question of whether Gibraltar was British or Chinese or whatever it was. We all know what Gibraltar is, Gibraltar is a British Colony and we are British Colonials, Mr Speaker. I would remind the House that the quotation that the Honourable Mr Restano produced in respect of a previous motion that I moved in this House in November, 1977, was exactly the result of exactly the same sort of circumstances. When I put the motion up asking the House to oppose any talks or negotiations on the question of the sovereignty of Gibraltar the Honourable Mr Xiberras at the end started worrying whether it was British sovereignty that I was talking about. No, I wasn't talking about British sovereignty I was talking about any sort of sovereignty of any colour or conception. What I was saying is that we are the ones who decide our future, not our British future, our future, fullstop. We can in fact insist on introducing the word "British" as an adjective to describe every conceivable function of life. We can talk about having our British breakfast, collecting our British pay packets and putting on our British clothes and going to our British work. We can if we want to do that but I do not want to do that, Mr Speaker. If the Honourable Member wants to do that let him put that sort of motion and perhaps he can get other people to support it. I will probably get on with some more important work rather than spend time convincing everybody of how British I am because

as far as I am concerned, Mr Speaker, I stood for election to this House of Assembly and so did the Honourable Mr Restano, who has introduced this British bit this time, on a very clear cut ticket in this respect and I can tell the Honourable and Learned Mr Iscla that he is absolutely wrong in saying that it is the people with leanings towards the Castiella solution that put the interpretation on the Constitution that he said. The Gibraltar Democratic Movement put that interpretation on the Constitution publicly in the election campaign and had an exchange of correspondence, which Mr Restano can confirm because he was fully involved in it at the time, with the Secretary of State for the Colonies through His Excellency the Governor, but we never got a clear-cut answer because of course the Foreign and Commonwealth Office never gives a clear cut answer to anything and eventually they wore us down and we stopped writing. Anyway with the Government putting up the postage rate at the same time it was becoming quite an expensive exercise, Mr Speaker. He is wrong in thinking that the interpretation of the Constitution put by the Honourable Mr Canepa is of necessity an indication of wanting to be Spanish or wanting Spain to take over Gibraltar because I don't think anybody can have any doubt, Mr Speaker, that those of us who got elected are absolutely clear-cut that we do not want a Spanish Gibraltar but those of us who got elected on the manifesto of the Gibraltar Democratic Movement said that we considered the present colonial status of Gibraltar to be an affront, that we were not happy about our Britishness as defined at present and that we wanted to re-define our status with Britain, we wanted the relationship re-defined and that is why we were pressing for our immediate talks on our future. There is a very clear difference between that line that we took in the elections and the line that the Honourable Member took. The line that the Honourable Member took in the elections is consistent with introducing the word "British" at every conceivable opportunity, fair enough, but I didn't stand on that platform, Mr Speaker. On occasions I have supported what he wants and now I am asking him to support what I want on the terms that I have put without at the same time insisting in putting "British" in because I do not think it is applicable. In the context of the previous motion, Mr Speaker, we had the same problem and when I was pressed on this point I said that the motion which stated that we were against the sovereignty of Gibraltar being discussed between Britain and Spain, was a motion effectively talking about the self-determination of Gibraltar i.e., who has got the right to talk about Gibraltar sovereignty and the Honourable Member said that he was worried about the fact there being nothing about being British there and I said, in the bit that came before the bit quoted by the Honourable Member that the only people who have got the right to decide Gibraltar's future is not the

Spanish Government or the British Government but the people of Gibraltar themselves, whether we are Spanish, Russian, Chinese or North Vietnamese and it was then that I was asked to state whether I was talking about British sovereignty or not. Of course I was talking about the sovereignty we have got today. I am saying that the sovereignty we have got today cannot be discussed. But the sovereignty we have got today, as far as I am concerned, is the sovereignty acquired by Britain as a result of the conquest of Gibraltar and the Treaty of Utrecht, that is the one we have got today, and what we are seeking, in fact, is that we should have a right in Gibraltar which we do not have. We cannot obtain that right by declaring it in the House of Assembly but at least we can commit ourselves to wanting that right by declaring it. That is what we are doing. We are declaring it publicly once again at a time that I consider it to be appropriate because, Mr Speaker, as far as I am concerned the position is not a satisfactory one and calling ourselves British doesn't solve the problem. The position is, Mr Speaker, that the commitment that we have in the preamble, as the Honourable Member said, is a very valuable one. But I can certainly describe several hypothetical situations where you can treat the people and the territory differently and I can assure the Honourable Member that I am sure the Spanish Government is talking about recovering the territory of Gibraltar, and they don't care where the people go. If the people are thrown in as an extra bargain, well, it will probably be a useful thing, they can send us off to the iron mines in Huelva or somewhere as a result but they will not be bothered if we are shipped off somewhere else. So the Spanish claim is that Gibraltar is Spanish soil. We cannot say it is Gibraltarian soil because there isn't such a thing as a Gibraltarian but we can say that the only people who have got the right to decide what the soil should be should be us. That is what I have been saying on every Motion, Mr Speaker. And what the Honourable Member is doing is what he is trying to do on every motion previously Mr Speaker, and as the Honourable Mr Canepa pointed out, the previous time, when there was still four Gibraltar Democratic Movement representatives, the four Gibraltar Democratic Movement representatives then agreed with the position I am taking now and the three independent members at the time did not agree and the Government was prepared to accept either of the two positions. The position today is that the Government today, instead of trying to find a compromise between me and the four members of the Opposition, they have now decided that they can agree with me without having to persuade the other four, which is an improvement in the situation as far as I am concerned.

HON CHIEF MINISTER:

I am now speaking on the amendment. I think we are in the same cul-de-sac as we were when the other motion was decided. I think sincerely that anything that is added to the motion as it is framed now, qualifies it, and therefore the principle of it is affected. I will speak on the substantive motion later on, but if the preamble divides the territory from the people by deciding that an Act of Parliament is required to dispose of Gibraltar before the people are handed over to any foreign country and if you link up this by the motion then the preamble is exactly what we want. That is the force of having the concept irrespective of anything to do with nationality - the concept - and that is why again we find ourselves not in a position to agree to the amendment which has been proposed by the Honourable Mr Isola because it qualifies the concept. I entirely agree with the Honourable Mr Bossano that the concern about the question of the difference is not from the people who want the Castiella proposals. They are delighted with the concept because they can play about it in the way it has been suggested the future could be dealt with, by sending all the Ceutis to Spain and handing over Ceuta to Morocco, because they are Spaniards. This is the sort of thing that we want to avoid by linking by a motion which is in abstract a principle and bears no relation to anything but a concept of people and territory which we have been advocating for years that the motion is likely to have a desired effect and that is why again we regret we cannot agree with the amendment. If Honourable Members opposite think that by putting the word "British" in any motion and waving the Union Jack they are more British than the others, they can go back home and wrap themselves up in the Union Jack tonight and sleep comfortably. We are not going to give way to that kind of blackmail in order to be pointed out as being anti-British because we are not, but we are not prepared to be bamboozled by people who are full of doubt, we have not got any doubts, perhaps the Honourable Member has doubts, I have no doubts that we will not be let down. Therefore I have no hesitation in saying that we will agree if there is a motion to be brought, generally, with time, in order to be able to discuss it, we are prepared to do that. I do not need, as one member opposite muttered before and I heard, that I needed instructions from the Foreign Office. I say what I want here and sometimes I can assure you that the Foreign Office don't like it and I don't care two hoots. Let members opposite be a little more responsible and not play about with matters which are so serious. What I did say was - and the notes that I have prepared are as valid with the

amendment or without any amendment, because it is directed to the point which has motivated, I am sure, the bringing of the original motion and that is that you could have Falklanders on one hand and Falkland Islands sovereignty on the other, that is what brought this motion to this House and it is to that that I think I have the answer that that report is not correct because I made it a point of finding out what the position was in order to be able to inform the House. To that extent, yes, I owe it to the Foreign and Commonwealth Office to give me information in order that at least the representations or bad information in the papers cannot mislead the people or cannot confuse the people any more than they already are. That is the connection when I referred to the notes that I said I had prepared. The matter is far too serious to start adding bits to the motion.

HON MAJOR R J PELIZA:

Mr Speaker, I think this is hardly the place to come to discuss, academically, concepts of a constitutional nature. I think we are here to try and give a practical solution to the problems that we are facing and we have faced and to try and secure our future. The reasons why I support the idea of including the words "British sovereignty" at the end of the motion is not just because I like sleeping at night with a Union Jack wrapped around me as I think has been repeated quite a few times by the other side of the House tonight just to ridicule the whole concept that we have tried to include in the motion. That way of debating, I think, is not very constructive. I think this is a serious matter and we should treat it with the seriousness that it deserves. I am surprised to hear the Chief Minister trying to play around with so much flippancy all that the Union Jack means to Gibraltar as a whole. It is a very serious matter that we are discussing and the reason why I think that the concept which the Chief Minister does not want qualified is so important that it should be qualified, Mr Speaker, is that without that qualification it is no more and no less than a theoretical concept but if we attach to it the question of British sovereignty then we are beginning to give it some strength. It is obviously vital and I think anybody who analyses this question knows perfectly well, that the only way in which the people of Gibraltar can be linked to the territory and can remain inseparable, unless Spain gives up altogether the claim to the territory, is by retaining British sovereignty so therefore if we accept the principle that Gibraltar cannot be handed over to another State because the principle of the inseparability or indivisibility of the people and the territory is accepted, in practice if this is going

to be effective, it is absolutely necessary that the question of "under British sovereignty" should be added to it. Suppose that the principle were to be accepted by Britain and they said: "Yes, you can have it, purely and simply without any qualification whatsoever, you want that, you can have it, forget about British sovereignty." Suppose Spain were to agree to that as well in what position would we be? In a position of independence, and in a position of independence could you say that Gibraltar could possibly exist? Suppose that two years later Spain came back with the claim as they are doing now with the Sahara. Therefore the concept is a good one but the concept has to be reinforced in a practical way, in a way that will give substance to that concept. I do not understand why the purity of the concept has got to be put in that way when it can be reinforced in the way that we suggest, it doesn't make sense. In fact, having heard my Honourable Friend Mr Bossano explain that that concept might mean any form of sovereignty, I think it is really leaving the whole idea open to many interpretations.

MR SPEAKER:

The Hon Mr Bossano said any form of sovereignty that the people of Gibraltar wished.

HON J BOSSANO:

I think we take a long time to take a decision in this House of Assembly, Mr Speaker, because it is quite obvious, that all of us spend a long time listening to what we are saying and not listening to what anybody else is saying and this is what I am suffering from now. The point that I made, Mr Speaker, was that when I moved the Motion in the House of Assembly in November, 1977, I said that the sovereignty over Gibraltar was not a matter for talks or negotiations between Britain and Spain and the same argument was used then that it should be the British sovereignty over Gibraltar and I say no. If I say that the future of Gibraltar should not be discussed I refuse to have the future limited to only that the British future should not be discussed, the Spanish future, the Italian future, and the Russian future can be discussed; but the British one cannot. No, I am saying that the future of Gibraltar cannot be discussed, fullstop. If you qualify that by saying the British future of Gibraltar cannot be discussed or the future of British Gibraltar cannot be discussed then you are opening discussion of every other possibility except that one and that is the point that I made that what the Honourable Member is trying to do to this motion is what he failed to do to

the motion on sovereignty and what he succeeded in doing on the motion of the soil, but when he did it to the motion of the soil, the Honourable Mr Restano was against it because the Honourable Mr Restano was then GLM. We voted in favour of a compromise solution produced by the Government because the Government said they were prepared to accept the motion of the soil with or without "British".

HON MAJOR R J PELIZA:

Mr Speaker, again I carry on with my argument. I think he has said nothing at all which changes my view on the importance of the inclusion of sovereignty because the inseparability of the territory with the people must also necessarily be attached to the will of the people. One has to accept, if one has got to proceed from any basis which is stable and I think the stability of Gibraltar is that the people have conclusively decided that they want the sovereignty of Gibraltar to remain British. To me there is no question about it, the Referendum proved it and every subsequent election after that has proved it. The people want the inseparability of the territory, there is no doubt whatsoever, and it has been qualified many times, under British Sovereignty.

HON CHIEF MINISTER:

Against the background of the preamble.

MR SPEAKER:

Order.

HON MAJOR R J PELIZA:

It is more than the background of the preamble.

HON CHIEF MINISTER:

Against the background.

HON MAJOR R J PELIZA:

The preamble, Mr Speaker, as my Honourable Friend says here, gives all the possible practical assurances that under the existing legal position of Gibraltar in international law the British Government can give because as has been stated here it is through cession under the Treaty of Utrecht that Gibraltar is British today and we cannot depart from that unless the position is re-negotiated. Therefore we are really wasting our time if we are talking about any other sovereignty, this is what I am trying to say. All that is academical. The practical fact, here, in the United Nations, in the Houses of Parliament and even with Spain is that Gibraltar is

British through that Treaty and no one is going to change that by having academical discussions in this House. That is a waste of time if I may say so, Mr Speaker. As I said when I started, we have got to give a practical solution to this problem. We want a security for Gibraltar which is a practical one and the practical one is the one that this side of the House is offering. The Government is now saying that the preamble is not watertight. That is what the Minister for Labour said and we do not agree.

HON A J CANEPA:

What I said was that it would be far better, it would be taking it a step further if it said "the people and the territory".

HON CHIEF MINISTER:

And that is what we are doing with the motion.

MR SPEAKER:

You will not give way any more.

HON MAJOR R J PELIZA:

Thank you very much, Mr Speaker, I will be delighted because the more we discuss this matter the better. I think our argument is so strong, Mr Speaker, I can give way all the time.

MR SPEAKER:

Order. I have told you not to give way and that is the end of the matter.

HON MAJOR R J PELIZA:

Very well, Mr Speaker, I will bow to your ruling. Mr Speaker, we are saying that that preamble is effective. We are saying that the intention of the British Government was not to hood wink the people of Gibraltar. We were at the conference and we in fact got that preamble. I, and my colleagues in the Integration with Britain party got that preamble inserted in the Constitution. We brought a Member of Parliament from the United Kingdom who was a constitutional lawyer who gave us the advice and wrote the letter that produced that preamble, Mr Speaker, and those were the assurances that the Minister of State gave us. That was the spirit and this is the letter as far as it can go and I completely disagree with the submission made by the Minister for Labour which I think is extremely dangerous to make in public because it is partly admitting, in an international sense, that the preamble doesn't mean what it says.

MR SPEAKER:

You are talking about the motion and we should be discussing the amendment.

HON MAJOR R J PELIZA:

Well, Mr Speaker, we are talking about sovereignty and security for Gibraltar, this is basically what it is all about, sovereignty, security for Gibraltar and security for the people of Gibraltar and therefore whether I like it or not I have got to bring that discussion and what I am saying is not only do we say that that is sufficient assurance but we say let us reinforce it in a way not only that will make it practical but will make it also understood clearly without any misunderstanding in any quarter of what we mean by the territory and the people being inseparable. And if we do that, in the way that we suggest, it is not open to any form of misinterpretation either by people who know the correct meaning and can analyse it with legal knowledge or by the man in the street who is not capable, perhaps, of doing that because he hasn't had any legal training. But if you put it to John Citizen, if you put it to him, then I think he will understand ours much better than the one being suggested by Honourable Friend. They will see the full implications of what we are trying to say. What we are trying to say is that the territory and the people are indivisible and want to remain British under British sovereignty, that is what we are saying. That is what we want to say. If that is not what we want to say then you leave the word "British" out and then that is open to many other interpretations, it could be Russian, it could be Chinese, it all depends, because all you are saying is a concept. We are not theorising here, we are trying to give a solution to the problem. I do not think that just by theorising we are going to get anywhere. On the other hand, if that is the security we want then I think ours is a much better proposition. Because I feel strongly about this, I do not know whether the Leader of the Opposition will authorise me to say this, but if the words "British sovereignty" are omitted I think we shall have to abstain and that is a very sorry state of affairs. We have always tried very hard on matters concerning the position in Gibraltar in the eyes of the world to show complete unanimity in this House. What I suggest is that in the same way as we made great efforts the last time that something similar was raised in this House to find a consensus, we should do it again. I do not believe that the Chief Minister just for the sake of putting a concept in its purity should overlook the important factor the popular view

that is going to be taken of the whole thing by not having a consensus. The responsibility is his, and I urge him to try his best to find a way of overcoming this difference that exists which seems that in spirit is not there so if in spirit it is not there we should be able to produce, I think, an amendment of some nature in which not only the Government and us but also Mr Joe Bossano should be able to vote in favour. If this goes out of this House with the word "British" deliberately omitted, then I am afraid that there will be many interpretations here in Gibraltar and also outside. I hope that a way can be found to obtaining a consensus and the responsibility, above all, lies with the Chief Minister.

HON CHIEF MINISTER:

Mr Speaker, all I have to say is that I move the adjournment of the House and let us have an attempt at a consensus behind doors. We are not going to be here arguing simply because there are people with thick heads and until you agree with them it is bad. I am being held as being responsible if there is no consensus so I say let us adjourn to see whether we can find a consensus. You cannot have it both ways. I want to participate in the general debate which I have not done yet. I have not been allowed to do that.

MR SPEAKER:

It is a matter of proceeding with the debate or recessing until tomorrow morning. If the Hon the Leader of the Opposition wishes to speak on the amendment he is free to do so.

HON M XIBERRAS:

I will be very brief in what I want to say. I am speaking on the amendment. I think the amendment should be supported, Mr Speaker, but I am willing to concede that if there is an attempt now as there was in January, 1977, to find a consensus motion, if there is an attempt to do this and on that basis, Mr Speaker, I think it is productive in the same way as it was productive at that time. May I remind the House, Mr Speaker, that the issue before it then was precisely the one which is facing us now and the resolution of that issue because of the matters involved on the side of Mr Bossano and his colleagues at the time, on our side, the three independents, and on the Government side, the eventual consensus which I think reflects the will of the people of Gibraltar and should be supported by all in the House was as follows: I am quoting from the motion of March, 1977: "Bearing in mind that the people of Gibraltar have evolved as a distinct entity over more than two hundred years in Gibraltar and are inseparable from the territory of Gibraltar, declares

that sovereignty over Gibraltar must be decided solely according to the democratically expressed wishes of the people of Gibraltar and as evidenced by the results of the 1976 General Election that the people of Gibraltar, including all members of the House, adhere firmly and unwaveringly to the view expressed in the 1967 Referendum that sovereignty should continue to lie with Britain and should not be a matter for discussion with Spain". That, to my mind, is an excellent consensus motion. I am perfectly prepared to go ahead with that proposition and reaffirm what the House said on 23 March 1977 when faced with a similar problem, viz, the motion moved by the Hon Mr Bossano "This House considers that the soil of Gibraltar should belong to no one but the people of Gibraltar". That raised exactly the same problem as we are facing today. I am willing to move, if all members agree, the amendment in those terms.

HON CHIEF MINISTER:

Not now. I want to deal with the original motion.

HON M XIBERRAS:

Very well. I think that it is a good thing that the Chief Minister is going to try to get some sort of consensus motion on this and I agree that the House should adjourn.

HON P J ISOLA:

Mr Speaker, may I suggest that perhaps the Chief Minister would like to move the adjournment of the House now until tomorrow morning and I shall leave a decision as to whether I withdraw my amendment to whether a consensus is reached or not because I really cannot resist the opportunity of replying on this one. It is much too precious a pearl to miss if I may say so.

HON CHIEF MINISTER:

The only point that occurs to me, Mr Speaker, is that there may not be sufficient time for proper discussion on the consensus by the time we start the meeting tomorrow morning. I do not know whether the Hon Leader of the Opposition would like to get on with his other motion and then, perhaps, leave this question until a subsequent day.

HON M XIBERRAS:

I am perfectly in agreement to starting tomorrow morning on the Varyl Begg motion.

MR SPEAKER:

We will now recess until tomorrow morning at 10.30 a.m.

The House recessed at 6.45 p.m.

FRIDAY THE 27th OCTOBER, 1978

The House resumed at 10.30 a.m.

MR SPEAKER:

As was decided yesterday evening when we recessed we will now proceed with the motion in the Order Paper in the name of the Hon the Leader of the Opposition:

HON M XIBERRAS:

Mr Speaker, I have the honour to move the motion standing in my name on the following terms: "This House calls for an immediate public enquiry into all aspects of the construction of the Varyl Begg Estate and into the scandalous delays in the completion of the Estate". Mr Speaker, the subject matter of this motion, with the exception of the call for a public enquiry, was debated very fully in the House in the meeting started on 24 June 1977. I do not intend to take the time of the House with a repetition of what was a very long intervention at that stage, one which quoted extensively from previous Hansards and which purported to show that there had been a very serious delay in the reaction of Government to the events that were taking place in Varyl Begg Estate during its construction. Mr Speaker, the Varyl Begg Estate has been a polemical subject to the extent that when the present administration, and indeed the past, has been charged with a certain responsibility for what has occurred at Varyl Begg Estate, the reply has been, in general terms, that this was an IWBP Government project and that therefore the responsibility lay at the door of the IWBP. It is true that the project was started as a result of aid talks in December 1969 in England and the construction of the Estate started some time after that, about a year and a half or so afterwards, and when the time of the election came in June, 1972, the project had barely got off the ground. Certainly, I do not recall any allocation by the IWBP administration and I do not recall seeing the Varyl Begg Estate take shape. From the middle of 1972 onwards until the present day, the Varyl Begg Estate project has been the responsibility of the AACR Government and much of this time has been characterised by defects in building, either in design or in bad construction, the matter is still pending these many years afterwards, and my colleagues

and I feel that it would be a good thing to have a public enquiry into the matter for various reasons. We appreciate that there have been enquiries or investigations by various consultants brought in by the Government but these insofar as we know have not dealt with political responsibilities in this matter and we feel that the political responsibilities in this matter are grave bearing in mind the tremendous importance of the project in financial terms even though it is out of ODA funds that it is paid and, of course, all the ramifications of that expenditure. The legal problem was stated by the Attorney-General's predecessor, the Hon Mr Havers, on various occasions. I would not like the argument that this issue is sub judice, whether it is or not, to stand in the way of this motion. The House is entitled to discuss political responsibility even though the Government may be considering taking certain legal steps to establish responsibility for certain aspects of the project. There will, of course, be little said if eventually the matter does go to court, about political responsibility in that forum. It is more a question of determining technical responsibility. But how are the people of Gibraltar to explain that a project which consists of blocks all built on a regular pattern stretched over a very long period of time between 1971 and 1978, when these blocks were going up seriatim how can the people of Gibraltar explain that the Government of Gibraltar acting on behalf of the people of Gibraltar, were not aware until a later stage, as it appears, that there were serious defects either with the design or with the construction of these blocks. In the motion of June, 1977, I quoted extensively from Questions asked in 1976, when the Hon and Gallant Col Hoare was Minister for Public Works, to show that in 1976 the Government was taking a defensive attitude and in fact, I accused the Government of covering up the defects of Varyl Begg Estate. I refer to Question No 79 of 1976, Question No 81 and No 89 in which, for instance, in respect of the first one there was the red herring of vandalism put in by way of an explanation, a proper explanation. It was said in reply to Question 79 "We do not know if there will be dampness in the houses to be handed over." There was also a reply which denied that there was widespread leaking at Varyl Begg. This was in 1976 after, let us say, 4 years of construction of blocks that are very much the same and with problems being experienced by tenants living in these blocks throughout. Mr Speaker, this was the period of delay, to my mind, the period either of ignorance of the Government at what was occurring at Varyl Begg or, alternatively, of cover-up. It is very strange, Mr Speaker, that the Government was apparently insensitive or unaware of the problems that were arising with the Estate during this period. There is ample evidence about this in the motion of June 1977. When one is dealing with a very big project like this one requires certain safeguards. The party that was paying for the

project, ODA, from the very start was conscious that in a very big scheme like this involving 658 flats, something could go wrong. So much so that in December 1969, when my Honourable and Gallant Friend, Major Peliza, the Honourable Major Gache and myself went to the United Kingdom, ODM, I think it was then, insisted that we should have consultants named by them, and that they should produce the plans and the designs for the project. When we on our part said that we had people in the Public Works Department who were very keen to tackle the project, we were told in no uncertain manner that in fact there was no real trust in a scheme of such a kind, so big, to commit it to local people for design. And it was a sine qua non of our grant, of the allocation being made, that ODM should appoint the consultants. Of this of course there is ample record, I believe the official in charge at the time was a Mr McDonald and we had a fair to do, I will put it that way, with him at the time. Her Majesty's Government therefore have an interest in this project and ODA is not a party to be involved in the enquiry, in other words, we should not nominate the enquirers, because ODA in the appointment of consultants is an interested party in this enquiry and therefore when we ask for a public enquiry we do not mean one by an expert from ODA because it is political responsibility generally extending everywhere that should be determined by the enquiry. Mr Speaker, as part of the safeguards I understand that regular monthly site meetings were held throughout this period, meetings that are supposed to be limited and at which, so I understand, I am subject to correction, Government representatives should have attended. And if, by any chance, they did not attend these regular meetings, the minutes of this meetings, so I understand, were to be made available to the Public Works Department. There was also, Mr Speaker, the man appointed by the consultants to be their man on the spot as resident architect, a Mr Lee and his duty is obviously to inform his employers but also as I understand it to liaise with the Government on these matters. The man responsible for keeping a very close eye on the project apart from the Engineer on site and, I believe, Clerks of Works was, of course, the Director of Public Works of the time as being in charge of the Department and from there to the Minister of Public Works, Council of Ministers, Gibraltar Council and the chain of command. It seems to me, something that needs investigation, that in all these months of the development, of the building at Varyl Begg Estate there must have been an intimation of the defects of the building as they went up and we hope that the public enquiry will reveal whether there was such an intimation and whether officials or Ministers reacted properly through whatever information had been supplied from the site. And if it wasn't being supplied, why wasn't it being supplied? The defects of the Varyl Begg Estate are such that it is very difficult to imagine that there were no reports

of faulty construction. I don't know whether any variation orders were asked for, whether any architects' instructions were sought or given, whether the problem in fact was identified in the four years of which I am talking. Then there is Mr Speaker, a treasury responsibility in the payment of monies for the continuation of the project. The position was touched upon by the Attorney-General in answer to an intervention by the Honourable Mr Bossano and appears on pages 122 and 123 of the Hansard of June 1977. Mr Bossano, on page 122: "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." The Honourable the Attorney-General - page 123 - "I am told by the Hon the Chief Minister that we have got a certain amount of retention money in respect of certain of the blocks". I don't know but I imagine it is so, that the Government at that time if it was not satisfied with the progress of the Estate and if it felt that the defects that were being revealed were sufficiently serious, could have either threatened or actually retained monies due and called for a virtual hold upⁿ practical terms, of the project at that time. I would like to know the extent of Treasury intervention in this matter on the advice of Ministers or Gibraltar Council. That is another reason for the enquiry. Then there is the handing over of the various stages to the Public Works Department. When one accepts a building one ensures that it is in a good condition, in fact, the Attorney-General put it nicely at another point in the debate when he said that if you have houses built you are entitled to expect that they are in a good condition. I don't know to what extent the Public Works Department was able to influence decisions in this respect, whether they were able to get the builders the consultants to remedy faults before they took over the various blocks or whether blocks were taken over which were not in a good condition, and there, there is a responsibility. Then there is the taking over by the Housing Department from Public Works and the question of allocation. We all know that houses have been taken over by Public Works, passed on to housing, allocated, rents demanded, rents collected, and they are not in a habitable condition today. There again there are responsibilities. I feel the responsibilities extend from the officials concerned with the project to Ministers and Council of Ministers in accepting blocks. We know that there are people in Varyl Begg who refuse to pay rent. That is a possibility of another liability in the future or even now. I would also like to know how the department of Public Health was able to accept a number of these flats and what their role in this has been considering that in their, I might almost call very loosely, quasi-judicial capacity or seeing that laws on public health are kept by all, whether they had any recommendations

to make on the matter, any warnings to give, because they are there to protect the public, generally, and are quite disassociated in this function from Public Works or Housing. Mr Speaker, the Government has asked a number of people, as I have said earlier, to look at the project, to carry out investigations of the project. I believe that the last one still leaves in the balance certain issues. That is my information of it. I know that at a particular point the builders, Taylor Woodrow, were writing to the Government - I said this in the motion of June, 1977 - telling them that there were serious faults, in their view, of design with Varyl Begg Estate and there was subsequently an offer by Taylor Woodrow to put what they considered to be work that had not been properly done by themselves, to put this right, I believe it was to the tune of £112,000. I know for a fact that the builders at a particular stage were concerned about this matter. I know that the consultants have proved particularly elusive. I know that the consultants chosen by ODA in the first place in 1969 have also been in trouble in other places and I know that this is a big project which requires very careful tending, very careful looking after as it grows and the complications are immense. But if at one particular stage the builders quite openly raised the point with the Government and are prepared to put their money where their mouth was in some respects, there must have been some fire when there was this amount of smoke. I think that we should have had a more forthright and earlier response from the Government and the absence of this, as illustrated by the questions of 1976 that I have quoted and the answers to that, does not convince me and could not convince the public that the Government acted promptly enough or strongly enough. The project as it stands now will require remedial work. I know that some remedial work has already been done on blocks already allocated. Another question which requires an answer is to what extent Public Works Department employees were involved in doing work at public expense in matters that may or may not be judged now or by an enquiry to have been, properly speaking, the responsibility of the Public Works Department, in other words, they were consequent perhaps on a decision to take over the blocks before they were in a fit condition necessitating the use of direct Public Works labour. Mr Speaker, there are other issues of course which Honourable Members opposite have raised and we would like them cleared. It has been said that we, when we were in government in 1969, insisted on certain modifications to the project and we are quite prepared, my colleagues who were involved in this, we are quite prepared to have these investigated publicly as well, we would like them investigated, in fact. But if we do not have them investigated and all this work and money having been spent, what of the future? It seems quite clear now that the Varyl Begg Estate is to be a problem for many years to come, we have had this from the Government benches as well. The expected expenditure to put Phase 6

and Block 18 right may be a very high figure which ODA may be prepared to pay or may not be prepared to pay. But what happens after that, Mr Speaker, if the indications we have are correct? Is all maintenance, all the 'putting right' that will be necessary in forthcoming years, is all that going to be a burden on the taxpayer? What proportions would it assume? Because it is not just a question as has also been said from the Government bench, of leaking roofs. There are also other defects, as I understand it. We have had the question of rising damp, we have had the question of water filtering around the balconies that project, we have the question of slopes being in the wrong direction, we have the question of the layers of felt in the roofs. I do not know what defects there might be in the future and I do not know who was responsible, politically, neither do the people of Gibraltar, and I do not know who is going to pay for this. Over a period of, let us say, ten years how much expenditure will need to be incurred? It is anybody's guess, so I believe that a public enquiry is necessary for all these reasons. We might be well over the million pounds and in years to come, I do not know. So, Mr Speaker, my colleagues and I associated with it are prepared, metaphorically speaking, to put our neck on the chopping block with a public enquiry because of our association with the project from its inception to 1971 and we ask the Government, in fairness to the people of Gibraltar and to the reputation of people in Gibraltar, of this House of Assembly and of the Government itself, to agree to a public enquiry. I do not think we can cover this up any longer and it would be like a boil that if you try to cover it over it just gets worse and spreads and then, when the time comes for reckoning, who will be to blame. I know that there is immense preoccupation on the Government side about this. I would be very worried in their shoes. I am concerned about my part in the proceedings along with my colleagues from 1969 to 1971 and I think the people of Gibraltar are concerned as well. I have not brought into account other factors like rents not collected, the housing crisis created and so forth. These things are obviously relevant as well. So, Mr Speaker, on that note which I hope is a reasonable one I commend the motion to the House in the interest of Government, of Opposition and of the people of Gibraltar as a whole and of Her Majesty's Government.

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

HON M K FEATHERSTONE:

Mr Speaker, I will thank the Hon Mr Xiberras for the restraint and constructive way he has spoken and I would assure him and members of the Opposition that the Government appreciates their worry over the Varyl Begg

Estate and would inform them that they are also as upset, in fact even more so, at the unhappy and very unfortunate situation in which we find ourselves with the Varyl Begg Estate. This, of course, as has been mentioned by the Hon Mr Xiberras, has a long history, a history which, as he said, started when ODM decided that they would have to select the Consultants for this Estate. Perhaps if the consultants when they were doing their design had been queried to a greater extent than some of the factors which today are alleged to be design faults might not have occurred. They would have been spotted by the Public Works Department because I understand that one of the alleged design faults is that the bottom of the ducts are at a level such that they cannot have weep-holes into the patio and so any bursts in these ducts means that water falls to the bottom, lays there and then gives rise to what is known as rising damp. Had this, what appears to me as a layman, rather obvious mistake been shown to the Public Works Department I am sure they would have picked it up because they have vast experience in this sort of thing and the Consultants would have been put to right. Another factor which again seems to be rather peculiar is that the Public Works Department at the time did not say to the Consultants very strongly: "We have had a lot of experience in Gibraltar, flat roofs are not a good thing, pitched roofs should be the order of the day", but the Consultants were allowed to go ahead and make a design based on flat roofs which the Public Works Department must have known full well in Gibraltar tend to give rise to difficulties over the years either sooner or later. But none of these things apparently were done, the Consultants were allowed to make their designs and work was commenced all this being done during the time of the IWBP Government. When the AACR Government took over after the happy events of June, 1972, they were faced with what one might call a fait accompli, there was a design that was on-going, work had started and, obviously, it would have been an impossibility to set the whole thing back. More so, there were Clerks of Works and the Resident Architect, Mr Lee, who was in sole charge of the construction as such and although there was a Public Works engineer designated to look into it and although he did on several occasions make comments, he was told it was not his place to make comments, they knew what they were doing and they would get on with the job quite satisfactorily without any interference. I do not know, really, whether there is any question of political responsibility in all this. As I said it was a fait accompli but if there were any political responsibility then I think it would devolve mainly on the persons who had some contact in the initial stages when the designs were being done so that if there were any grave political responsibility for design faults then these, I think, would devolve not on the AACR Government. By 1976 a number of blocks had been built and I understand were starting to show some

signs of water penetration and the Consultants were asked about this and I will not say they shrugged it off but they commented that they did not see that there was anything gravely amiss, in fact, some of this water penetration was put down to what they called "residual water" which apparently occurs whenever you make concrete and it takes a little time to come out and therefore they did not give very grave responsibility to it. I would not like to take on my shoulders all the statements made by the last Minister of Public Works. He made his statements, I presume, he fully believed what he was saying at the time but, of course, as a period of time goes on and events change, there may be a rethink in what is possibly wrong in any building which is giving trouble. I am not hesitating to say that as far as I would go it seems to me that there are some considerably difficult aspects of the Varyl Begg Estate both in construction and in design. This last two years we have been, in Government, very worried and very perturbed over the matter because obviously, firstly, it has to be put right and, secondly, it has to be paid for. We would like to know with some concrete evidence at whose door the blame should be laid. Should it be the Consultants, should it be the constructor or should it be a matter of both? To this effect we had, as I have said on previous occasions, considerable consultations with both. We had, as has been said by the Hon M Xiberras, the case with Taylor Woodrow, that they turned round and said: "Yes, we agree there are some faults in construction, we are willing to put them right, we will rip up the roofs, we will put in a new stuff which I think they called Multiplas", but they warned at the same time that it would not solve the problem because they considered that the main fault was a design fault. We tried, on several occasions, to get the consultants, especially Sir Hugh Wilson who is the main protagonist in this, and as I have said before he has been rather a slippery customer to deal with and we have never been able to tie him down to anything definite. In fact, he has insisted all the time that his design is quite satisfactory and that any faults that are there are entirely the fault of the constructors. To this end we came to almost an impasse and we felt that the best answer would be to bring in an independent firm to look into the whole matter and last December we negotiated with a firm known as Andrews, Kent and Stone who know Gibraltar and know something about the troubles of flat roofs here and we asked them to look into the matter. They came out and they said they would send out a team to look into it and could this team work on one of the unoccupied blocks and could they be given some physical assistance in so doing. They came out in February and the physical assistance was provided, of course, by the direct labour of the Public Works Department and this is one of the instances in which the Hon Mr Xiberras refers to when he says that direct labour of the Public Works Department

was working on the roofs. Andrews, Kent and Stone made an extensive and exhaustive enquiry into the roof of the building that they were dealing with and they have made a very good report, some 70 pages I believe, on the whole matter. I would not like to go into all the aspects of that report but it does appear, as we had thought, that there were some faults in construction, some faults in design and they give three possibilities of remedial work two of which would practically solve the main problem at least with the roofs and the other one which they think would do so. The first one, of course, is to take the roofs up and to relay this Multiplas, but that one is the more doubtful one. Stronger than that they say that to put a pitched roof is a possibility and another possibility is to put another floor of living accommodation with a pitched roof on top of that. Obviously, Government has got to look at these ideas and we rather feel that a pitched roof might be a good idea but, of course, the question is going to come up as to who is going to pay for this. We have written to the consultants and to the constructors with a copy of the report of Andrews, Kent and Stone and we have asked them to give us their comments on the report, even to get in touch with the consulting firm, and to come to us with what suggestions they have, especially in the suggestions of the repairs to be done and what they are willing to pay towards the financing of it because it is quite a possibility that if a pitched roof were to be in the region of £2m. and the consultants and constructors were willing to pay £300,000, we might be willing to go along and pay the balance rather than to have just a repair on the flat roofs. The two different firms were given a deadline of September 30th by which to make their replies, they did reply perhaps a little late, I believe that Sir Hugh Wilson's reply came on 10 October but there is always a few days leeway in this, and these replies are now being studied by Government who are determined to press for some legal action in this because the situation has got to the stage that we really must put the responsibility fairly and squarely on to the people who are responsible. This legal action, of course, may take a reasonable period of time to come to fruition and in the meantime, as I have stated before, we have on two roofs experimented with a paint membrane to stop water penetration and this may also be another instance in which the Hon Mr Xiberras refers that Public Works Department direct labour has actually worked on these roofs. The amount of money spent on all this has been annotated and put into separate accounts so that when the legal responsibility for the water penetration is ascertained then these accounts can be passed over since they have been works in amelioration of the situation and therefore the money spent would be recouped. The Hon Mr Xiberras' comments: "What of the future?" He is worried that we will have this situation with us for five or ten years to come. I would perhaps

stick my neck out but I would say that if we were to put a pitched roof then I do not think the situation would be a ten-year difficulty, we would only have difficulties until the pitched roofs were there and some other remedial work was done because I believe there is water penetration at the canopies where the construction work was not done exactly in accordance with the actual specifications. Once that work were done and once there was a pitched roof we feel and we have been advised with a fair measure of confidence that there would be no further penetration through the roofs. As regards the question of the rising damp and the situation of the ducts, the Public Works Department has looked at this and feels that the remedy is not too difficult. There may be a number of pipes to be moved about but this should be possible to remedy without too great difficulty. The majority of the serious defects would be remedied within, perhaps, a period of eighteen months to two years from the moment we start on building pitched roofs. There is a certain measure of interest in the third suggestion that a further floor should be built on the present buildings as such. This has the advantage to the Minister of Housing that it would give him approximately 140 houses very quickly. The expense would not be so great but it does have other disadvantages in that the area density of population would be extremely high, the school might be too small, there would be difficulty with parking problems and that matter is being looked into by Government very seriously and if they were to consider that the idea was good they would obviously approach ODM to see what their thinking on the matter was and whether aid could be forthcoming to do this. Personally, I am not in favour of that idea but there are other opinions which have to be taken into consideration. I think that the best answer is simply the pitched roof. As I said, this is a matter which Government is determined is going to be proceeded with in the legal field and I do not think that a public enquiry at the present moment, if one is necessary in the future perhaps that can be considered in the future but I do not think a public enquiry at the moment is going to do any good, perhaps, it may do a little harm in the needs to have a legal enquiry. In this I disagree with the Hon Mr Xiberras, he thinks opposite to myself, but I think that once the legal enquiry has got under way and we have got the results this will be made public, it will therefore give the public all the insight that they require into the situation and will obviate the need for any public enquiry which, on its own, is not going to solve the problem as to who is responsible for the Varyl Begg Estate problems which must devolve sooner

or later on one of the two protagonists, the consultants or the constructors, or both. Therefore, Sir, I would state that the Government is going to vote against the public enquiry since they do not consider it is really going to solve any problems and may, to some extent, prejudice the legal situation.

HON CHIEF MINISTER:

I would like to say that the way the matter has been put before the House is reasonable. I think it is misconceived in a way. I think the Hon Leader of the Opposition is putting the cart before the horse by asking for an enquiry now mainly as he says for ascertaining political responsibility when in fact we must initially be entitled to say that for good money we are entitled to have houses which are not leaky and which have no major defects and therefore it must be the responsibility of either the consultants or the constructors, or both. The constructors have been to some extent more cooperative in that when they were pointed out what was considered to be their faults they said they were prepared to carry out the indications given by the consultants as to what had gone wrong and they had all the plans ready but they gave us a fair warning that they themselves felt, and that would have disposed of their own responsibility, that if they carried out the work that was ordered by the consultants it would not solve the problem and the houses would still be leaking. They, therefore, warned us that that in itself was not the answer, although they themselves were prepared and are prepared and have always been prepared to put right what they think they have done wrong. So that really apart from the question of responsibility for the appointment of the consultants and so on, there could well be an enquiry after a legal action because that could disclose matters which require an enquiry of a political nature but I think I have the support of the Legal Advisers to the Crown, both the present acting Attorney-General, Mr John Havers and of Mr Eric Thistlethwaite, Crown Counsel, who had been dealing with the matter for a very long time, that we would prejudice any possibility of legal rights against the constructors and/or the consultants if we initiated an enquiry because whereas the enquiry can find responsibility even of a constructional nature, it does not bind the parties who may be responsible if they are the contractors and the consultants. A binding judgment against both or either of them would have the force of law and we would be able to enforce it. If after that it was disclosed in the course of the action that there had been some fault or defects or some non-feasance or malfeasance by officers or others in the course of the construction that would be the matter of a separate enquiry. The point that the Hon Member raises, I think is mainly his obsession about political responsibility in almost everything that he touches. The other day he was talking about a Public Accounts Committee that would

question Ministers, etc it seems to be his obsession in the Opposition. I can understand it in his frustration in the Opposition wanting to find out how much he can hit at the Government. The judgment of a court of law would be enforceable whereas the enquiry would not. Even if there were political responsibility it would leave us with the problem unsolved and with who was going to pay for it with not even an attempt at trying to make somebody responsible. I was saying that an enquiry would prejudice completely legal action. Normally an enquiry follows the result of legal action and in any case you could have an enquiry that would have a finding of one nature and subsequent legal proceedings that would have findings of a different one. That would be most unsatisfactory. The first and foremost importance that we consider should be established is legal responsibility for the fiasco and I am glad that the Hon Member notes the concern. I would like to say that short of the Spanish question and short of industrial problem, in my long experience in public life this has been the greatest headache that we have had in Government ever, and I am not saying now who is to blame or not, the problem as it exists, the having of a huge housing estate, the considerable overcrowding that there is, the extent to which if there has been no faults and people would have suffered less, the extent to which the Minister for Housing would have been able to solve all his problems, all these are matters of great concern to all the members of the Government as indeed they are the concern of members of the Opposition, to some extent, perhaps in a different way but we are advised that if we are to make, and we intend to establish legal responsibility for the fact that either one or the other is to blame or both, that the enquiry at this stage would prejudice the chances of any legal responsibility. We have not employed a series of consultants and enquiries over this. We have had the matter enquired but the only authorised and the only qualified people who have been entrusted with a consultancy on this matter before legal action was taken, and that was the decision taken, was Andrews, Kent and Stone. Prior to that there have not been any consultants. There has been building research in specific items of whether the material was good but not the overall responsibility. Of course, all the results of the studies that have been made in respect of that were available to Messrs Andrews, Kent and Stone. The decision as to what is to be done in this matter must be taken very soon. The replies have just been received from both the consultants and the constructors to the report which the independent consultants desired should be brought to their notice and desired to discuss with them, this has all been done in London already, and now that the reactions have been received we are really at a

breaking point as to what action is to be taken and the Government will be taking a decision on this matter as soon as we have the advice of everybody concerned within our administration both in the legal and in the technical field. After that if, as a result of the legal proceedings, anything comes to light which requires an enquiry of a public nature, we would be the first to welcome that enquiry so that all responsibilities are established in a fair and reasonable manner.

HON P J ISOLA:

One thing that has always puzzled me on this question of the Varyl Begg Estate has been the attitude taken by the Attorney-General's department in the matter. I do not wish to reflect on the present incumbent of the post whom we know has had very little to do as far as decision-making in this question. It always puzzles me, Mr Speaker, because there is no question about it in my mind that there have been scandalous delays in the question of Varyl Begg Estate. There is no question in my mind that things have moved much too slowly on a project of this nature. There is no doubt in my mind that the months have gone by whilst letters have gone here and there and that somehow or other things could have been speeded up a bit and I was always puzzled with the opinion of the previous Attorney-General that one had to, first of all, decide who to sue, who was responsible for all this. I could never understand why both parties could not have been sued and let the court decide who was responsible.

HON CHIEF MINISTER:

If the Hon Member will give way. We offered arbitration, we offered every possible means of the two parties coming together to establish the liability and it was refused by the consultants, always by the consultants.

HON P J ISOLA:

I appreciate that, Mr Speaker, it does seem from the information that I have, but, again, very limited indeed, it does seem as if it is the consultants who have been delaying things and so forth but it also seems to me that this must have been apparent many, many months ago, more than a year and a half ago and if the consultants were dragging their feet trying to put off the evil day as it seems to me they seem to have been doing whether they are responsible or not I do not know, I never quite understood why the decision to sue was not taken two years ago in

which you make both the parties defendants, then one party can say: "It is not me, it is the other fellow", and the other party can say: "It is not me, it is the other fellow." It seems to me that it is very late in the day, knowing the time it takes to litigate, it seems to me that the Minister is optimistic if he thinks it is all going to be settled in a year and a half. The litigation certainly will not be, the roofs might be, I suppose. I also seem to remember that the advice the Government was getting two years ago if I remember rightly from the answers to questions was that the Government could not touch anything and must not do anything until the question of responsibility had been decided. That did not seem to me to make sense either because it seemed to me then that what the Government had to do was to make up its own mind what was wrong with the help of its own consultants, and having made up its mind with what had gone wrong with its own experts consulted as it has now done, carried on to do the work, sued both the parties and let the court decide who must do the remedial work. You do not have to leave a place in a state of disrepair till you hear the case. This is what you have got experts for. The judge will not go and look at the houses, the judge will act on the evidence that is before him. I have often wondered why it is that this sort of advice was given. I am not trying to ask the Hon and Learned the Attorney-General to get up and say that his predecessor was wrong, he probably has not looked into it himself, but at least I am sure he can tell the House that it is very much a tactical possibility to just issue a writ and make both the parties defendants in the alternative, it is either him or him but it is one of the two. I have never quite understood why the legal side on the part of the Government have not moved to bring things to a head. The Government has done now what I think it should have done originally, got its own consultants in and said: "This is what is wrong, this is what we are told, this is the remedy and we go forward. I know it takes a lot of time to get to that stage but as a result of things moving slowly I think there is still going to be a lot of delay and there have been serious delays in this. Can the Attorney-General at least confirm to the House that it is possible to initiate proceedings soon.

HON ATTORNEY-GENERAL

The matter, of course, was the subject of long negotiation as the Chief Minister has said, and now that the Government has got the report of its consultants on the damage done there is no real reason why a writ should not be issued soon. I would expect that we would first consider the two letters which have been received which I have not seen yet, and see whether in fact they provide a basis for negotiation in which case, perhaps, a writ might not

have to be issued. But, of course, if that is not the case a writ would be issued soon I would think.

MR SPEAKER:

I will then call on the mover to reply.

HON M XIBERRAS:

Mr Speaker, I am grateful to my Hon and Learned Friend for his contribution. I did have a note to the effect that perhaps the Legal Department, the Attorney-General and Crown Counsel, could have been more forceful in this whole matter. I think, again, it is one of the subjects explaining Government's action or inaction in this matter that could be looked into by a Public Inquiry. The statement of the Attorney-General is contained in the motion of June, 1977 - pages 119/123 - and one can see the hesitation in moving forward on this matter. In fact, a propos of the contribution of the present Attorney-General may I read the following from the Attorney-General at page 121: "Government has, as I have said, been to the United Kingdom and most of the evidence and 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 has been levelled against the Government cannot, in my submission, be sustained." That was over a year ago and now in October, 1978, we have another fresh report on the matter which I repeat, to my information, is deemed inconclusive in solving this. I think my Hon and Learned Friend certainly has a point. I appreciate that he was not in the Attorney-General's shoes at the time but in this question of political responsibility it is up to us to press the Government for disclosure of information to ensure that the public gets an account of what is happening behind the closed doors of Government in matters of this import.

HON CHIEF MINISTER:

If the Hon Member will give way on a small matter which will help in this which I have just remembered, and that is that at the time of the aid talks when Mrs Hart was here and we mentioned the question of legal proceedings, knowing from professional experience the difficulties and delays and the especiality, if I may say so, of building litigation, I asked her whether we could have, once we had made up our minds to start litigation, the help or at least the consultancy of the Legal Department of the ODM on this matter since we cannot expect the Attorney-General

to be a specialist in every angle and she readily agreed that that would be available to the Government.

HON M XIBERRAS:

I agree Mr Speaker, that that would be helpful even at this late stage but I think it is also implicit in my Hon and Learned Friend's contribution that when one talks of the Hon Mr Havers' and Mr Thistlethwaite's dealing with these matters, one wonders whether the Government, pressed as it was with the problem, did not seek another opinion legally on this matter as the basis for any action that it might have wanted to take. It is quite clear from statements in the House that the Attorney-General was extremely hesitant, for one reason or another, to press either of the two parties. He was concerned that if he cornered one the other might escape and long litigation might ensue. The point about this is that without the litigation having even been started we are still very much at the same point and this brings me to the reason for a public enquiry. We cannot move the Attorney General of the day. Our responsibility is to move Ministers at the level of political responsibility. Hon Members may very well say today that it was a question of either legal advice or building advice and so forth and we all know the delicate relationship that exists between experts and Ministers. It is our duty, surely, and this the Chief Minister will be able to concede without calling this an obsession and without calling this a witchhunt, that funds that had been voted by this House, albeit coming from ODM, require an explanation as to how they are spent and whether they have been spent properly or not. The responsibility in the last resort is on the Ministers. I do not think it helps to talk about an obsession, I would go further, I think properly, this being an expenditure voted by the House, it should come within the purview of that body or anybody set up to investigate on expenditure. It is the Improvement and Development Fund which is a part of the House, it comes within the purview of the House. Let me refute, any allegations that might have been intended in the Minister for Public Works' statement that the consultants were not properly advised, that it was strongly represented to them that these houses, of all others, should not leak. That was the first consideration.

MR SPEAKER:

I think in fairness to the Minister, he never said anything of the sort. He did say that the Government in power at the time should have advised in their knowledge that flat roofs in Gibraltar were not the order of the day, for obvious reasons.

HON M XIBERRAS:

I said such allegation as there might have been in the Minister's statement. The fact is that we were extremely concerned because so many roofs were leaking at that time. We had, in fact, the Tower Blocks, we had St John's leaking and Churchill House, Schomberg, and we were extremely concerned about this. I remember one meeting in the Chief Minister's office, with expertise available, where various systems were discussed. Of course, we could not make the final decision but it was not for lack of political urging, Mr Speaker, that a pitched roof or any other kind of roof was not put on. It was the first requirement particularly since we were very much aware that the area was an exposed area and the rain would come not only vertically but also from the sides and we were extremely perturbed and there were many meetings to try to guard against this. We were told that there was a system that was being used of interlocking bricks and so forth in between floors which was absolutely water-tight. Mr Speaker, the Government has been saying what they have done and the concern that they have shown in this matter of Varyl Begg but they have not, to my mind, really argued cogently against the enquiry itself. I shall put this consideration to them, that most of the people involved with the Varyl Begg Estate are no longer with us in Gibraltar. It is going to be very difficult to look into these matters at a later stage. Two Ministers involved are no longer members of this House. Two Directors of Public Works are no longer with us. By the time the Government gets around to agreeing to an enquiry there will be no witnesses left and the evidence will have vanished. The Andrews, Kent and Stone recommendations are not known to Hon Members on this side of the House. I do not think the Building Research recommendations were known and if they are not known to members of this House they are not known to members of the public, so where have been the public statements about this? How can people judge what is going wrong at Varyl Begg and what has gone wrong in the past? And if these reports contain any matter with political implications we in this House do not know about them and the Government has kept absolutely quiet about it and I do not think this is right and that is another reason for a public enquiry. Finally, Mr Speaker, it is up to the Government to accept or reject, to exercise its vote. We have done our duty by putting the suggestion to the Government. We consider it is a reasonable suggestion, we consider that the wheels of this enquiry should be set in motion even at the same time as the legal steps when they are taken. We do not know if they are going to be taken, for sure, but if so when they are going to be taken. But even whilst these things are being considered we feel that the public enquiry should determine not only political responsibility which I attempted to stress in this motion, but other responsibility as well. If Government cannot agree to it then, perhaps, in three

years' time when they are sitting on the Opposition benches they will be asking for a public enquiry themselves.

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

The Hon P J Isola
The Hon Major R J Peliza
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 Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A P Montegriffo
The Hon J B Perez
The Hon A W Serfaty
The Hon H J Zammit
The Hon F E Pizzarello
The Hon A Collings

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon Dr R G Valarino

The motion was accordingly defeated.

HON CHIEF MINISTER:

I have news that Mr Bossano, who is not here, is not prepared to agree to the idea that we had thought of reiterating the previous consensus without reference to his Party and that therefore he would not be able to agree to anything of that nature today. He is busy, I am told, negotiating some claim or other and, as Leader of the House, I do not think we could go on with any kind of consensus in the absence of the member who originated the motion. I suggest, perhaps, that we adjourn now to a convenient date to be fixed.

MR SPEAKER:

Is it proposed that it should be at the beginning of the week?

HON CHIEF MINISTER:

Some time next week, perhaps.

MR SPEAKER:

Either we adjourn to a fixed date or we adjourn sine die.

HON CHIEF MINISTER:

If it is adjourned sine die then, of course, it means summoning a meeting and Questions and all that. Perhaps Monday the 13th November.

HON P J ISOLA:

I will be away from Gibraltar on that date, Mr Speaker.

HON CHIEF MINISTER:

We could adjourn to Friday the 17th November. If that is agreed I now move the adjournment of the House to Friday the 17th November, 1978, at 10.30 a.m.

Mr Speaker put the question which was resolved in the affirmative and the House adjourned to Friday the 17th November, 1978, at 10.30 a.m.

The adjournment was taken on Friday the 27th October, 1978, at 12.15 p.m.

FRIDAY THE 17TH NOVEMBER 1978.

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 H J Zammit - Minister for Housing and Sport
The Hon A W Serfaty, OBE, JP - Minister for Trade and Economic Development
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon F E Pizzarello - Acting Attorney-General
The Hon J J Caetano - Acting Financial and Development Secretary

OPPOSITION:

The Hon P J Isola, OBE
The Hon G T Restano

ABSENT:

The Hon A J Canepa - Minister for Labour and Social Security
The Hon A P Montegriffo, CBE - Minister for Medical and Health Services
The Hon Major F J Dellipiani, ED - Minister for Education
The Hon I Abecasis - Minister for Tourism and Postal Services
The Hon M K Featherstone - Minister for Public Works
The Hon J B Perez
The Hon M Kiberras - Leader of the Opposition
The Hon Major R J Peliza
The Hon J Bossano

IN ATTENDANCE:

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

MR SPEAKER:

Gentlemen, when we recessed on Friday the 27th October, there were two matters still pending on the agenda. One was under consideration which was the motion moved by the Hon Mr Bossano, and notice had been given by the Hon Mr Isola that he wanted to raise a matter on the adjournment. May I say that Mr Isola has now withdrawn his notice and therefore the matter before the House is the motion which is under consideration.

HON CHIEF MINISTER:

Mr Speaker, at the request of the Leader of the Opposition who had need to absent himself from Gibraltar will not be here today, he asked me whether we could leave the pending business of the motion before the House till the next meeting of the House, to which I naturally agreed, so I would now move that the motion before the House be adjourned and that the House do adjourn sine die.

MR SPEAKER:

When the motion will be continued at the point where we left off.

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

The adjournment of the House sine die was taken at 10.35 a.m. on Friday the 17th November, 1978.