

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

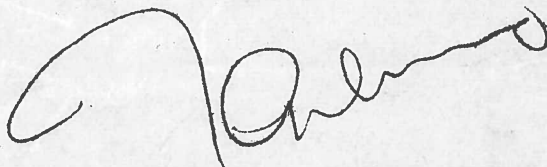
26th JUNE 1978

HOUSE OF ASSEMBLY,
GIBRALTAR.

HOUSE OF ASSEMBLY - VERBATIM REPORT

A copy of the Report of the proceedings of the House of Assembly meeting held on the 26th June, 1978 is attached.

2. In case of any amendments Hon Members are kindly requested to hand them in not later than Thursday the 21st December, 1978.



28.11.78

Clerk of the House of Assembly

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eleventh Meeting of the First Session of the Third House of Assembly held in the Assembly Chambers on Monday the 26th June, 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 & 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 & Economic Development

The Hon M K Featherstone - Minister for Public Works
The Hon Dr R G Valerino - Minister for Municipal Services
The Hon J K Havers OBE, QC - 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.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 3rd April, 1978, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID.

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

1. The Employment Survey Report - October, 1977.
2. The Weights and Measures Regulations, 1978.

Ordered to lie.

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

The Educational Awards (Amendment) Regulations, 1978.

Ordered to lie.

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

Gibraltar Registrar of Building Societies - Annual Report 1977.

Ordered to lie.

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

The International Trunk Calls Charges Regulations, 1978.

Ordered to lie.

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

1. The Long Services and Good Conduct Medal (Gibraltar) (Amendment) Regulations, 1978.
2. The Maintenance Orders (Designation of Reciprocating Country) Order, 1978.
3. The Supreme Court (Barristers and Solicitors) (Amendment) Rules, 1978.
4. The Indictments Rules, 1978.
5. The Gibraltar Supreme Court (Admiralty Practice) Rules Order, 1978.
6. The France (Extradition) (Amendment) Order, 1978.

Ordered to lie.

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

1. The Drawback on Import Duties (Amendment) Regulations, 1978.
2. The Imports (Relief from Duty on Packings) Order, 1978.

3. The Public Health (Exemption from Rates) Order, 1978.
4. The Accounts of the Government of Gibraltar for the year ended the 31st March, 1977, together with the Report of the Principal Auditor thereon.
5. Supplementary Estimates Consolidated Fund No. 1 of 1978/79.
6. Supplementary Estimates Improvement and Development Fund No. 1 of 1978/79.
7. Statement of Consolidated 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. 3 of 1977/78)
9. Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No. 1 of 1978/79).

Ordered to lie.

MR SPEAKER:

As this is the beginning of question time, perhaps I should inform the House at this juncture that the Hon the Leader of the Opposition has asked for leave to ask a question under Standing Order No. 13(1) without having given the required notice. In order to be able to allow the question I have to be satisfied that the question is of an urgent character and secondly, that it relates to a matter of public importance. I am satisfied in the particular instance that the Leader of the Opposition wishes to ask a question which is of an urgent character since it seeks an undertaking that the provisions of a particular section of the Price Control Ordinance will not be applied and this is the last opportunity that the House has to consider the matter before the summer recess. Secondly, I am also satisfied that it relates to a matter of public importance as it affects the rights of the individual. The question which the Leader of the Opposition seeks to ask is the following; "In view of the decision of the Supreme Court that it would be unconstitutional to apply the provisions of Section 5 of the Price Control Ordinance, will the Chief Minister take immediate steps to repeal this section and in the meanwhile give an undertaking to the House that the provisions of this section will not be applied?" I will for the reasons I have stated allow the question to be asked as the last question on the Order Paper at question time, so that the Government has an opportunity to prepare its reply.

ANSWERS TO QUESTIONS

THE ORDER OF THE DAY

MR SPEAKER:

The Hon the Chief Minister has given notice that he wishes to make a statement. I will now call on the Chief Minister.

HON CHIEF MINISTER:

Mr. Speaker, with your leave, before I make the statement of which I have given you notice regarding the Gibraltar Regiment, I would like to make a statement arising out of question time.

MR SPEAKER:

You have a right to make statements and you are now going to make two instead of one. Since you are going to make a statement on the question that was asked on Housing, I would like to take this opportunity to say that the Hon Leader of the Opposition has given notice that he is raising on the adjournment the question of Housing Allocation.

HON CHIEF MINISTER:

Without prejudice to anything that may arise in that debate, in the course of supplementaries to Question No. 137, Mr. Bossano made an allegation in connection therewith that he had seen a cheque by Mr. Zammit for £100 to pay for wallpaper in the Savignon case. Mr. Zammit, my colleague, has assured the House that he knows nothing about this, nor has he made any cheque in favour of Mr. Savignon or anybody else, for that matter. I asked Mr. Bossano to withdraw the allegation, as he is in honour bound to do, but I am not satisfied with the nature and manner of his withdrawal which should be unambiguous and clear. His withdrawal was not so in my judgement. In the circumstances I consider that an improper allegation has been made against Mr. Zammit, a Minister, by virtue of his office and I propose to cause an independent inquiry to be made into the allegation and I will report to the House.

HON J BOSSANO:

Mr. Speaker, could I just say that I have not said I have seen it, that was the information I had and I would have to go back and check my information.

MR. SPEAKER:

You are now going to make another statement

HON CHIEF MINISTER:

Yes, I am making another statement. In accordance with established practice, I rise to make a statement on the affairs of the Gibraltar Regiment. This statement covers the period from the 1st April, 1977 to the 31st March, 1978.

The establishment of the Volunteer Reserve is 190, ie one below strength

In addition to the four annual training camps held in Gibraltar during the period under review, a total of 115 members of the Regiment, drawn from the Light Troop, the Light Air Defence Troop and the Infantry Company held training camps abroad at Larkhill, Manorbier and St. Martin's Plain. Weekend and evening training continued to be held in the usual way. The Regiment also organised its own recall and deployment exercises, held a very successful Open Day and carried out the duties of the Convent Guard on two occasions during the month of April and on one occasion in August, 1977. They also took part in the Queen's Silver Jubilee Parade and Remembrance Sunday. A number of the Regular members of the Regiment and volunteers successfully attended courses both locally and in the United Kingdom. All ceremonial salutes were fired by the Regiment.

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

A team from MOD visited the Regiment in September, 1977 to deal with the pay review which is under consideration.

The Corps of Drums continues to receive instruction from the Drum Major of the 2nd Battalion the Queen's Regiment and performed in public on a number of occasions.

The Regiment continued to take part in communal activities.

The number of quarters for members of the permanent cadre of the Gibraltar Regiment was increased by ten following the surrender by the MOD to the Government of Gibraltar of 1 - 10 Moorish Castle. In allocating these quarters, account was taken of each applicant's particular housing requirements.

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

HON M XIBERRAS:

Mr. Speaker, I would like to ask the Chief Minister about pay negotiations. He mentioned that in September, 1977, a Pay team visited Gibraltar about the pay review which is under consideration.

MR SPEAKER:

Are you asking for clarification on that statement?

HON M XIBERRAS:

What I wish to know is whether there has been any outcome and whether the outcome is, in fact, satisfactory to the permanent cadre of the Regiment.

HON CHIEF MINISTER:

Pay reviews for the Gibraltar Regiment are carried out by a team from Finance 2 Army Department MOD Army. The team visited Gibraltar from the 27th to the 30th September, 1977, in order to offer them an interim settlement for the review due as at the 1st March, 1977. A full review could not be completed at this

time while Gib Pay 76 was still under negotiation. The Regiment requested that the suggestion of an interim award be deferred as they preferred to have a full review once GibPay 76 was resolved. It was agreed during the visit to change the date of reviews of the Regiment from the 1st March annually to the 1st October to bring them into line with local settlements. This change has been fought by the Regiment for a considerable time and was considered by them to be a step forward. The team agreed on their next visit to defer the new pay rates as at the 1st March, 1977 and the 1st October, 1977, and to consider 1978 once local settlements were made in 1978. The present position is that Finance 2 Army Department - this, I suppose is the Section which deals with that - were kept updated as GibPay 76 negotiations were conducted and the new local pay rates were forwarded on the 8th June, 1978, for MOD industrial and 19th June, 1978, for Gibraltar Government Police Constables and Firemen. Finance 2 Army Department were asked on the 25th May to advise when they could carry out their review. Due to their worldwide commitments the team cannot visit Gibraltar until mid August. This delay was felt to be excessive and the DFC has arranged to visit Finance 2 Army Department on Friday the 30th June, when it is hoped it will be able to assist the team to complete the review for 1977 without the necessity of visiting Gibraltar. In view of the decision to award parity of rates of pay locally from the 1st July, 1978, the question of the timing of the next review of the Regiment's pay will also be discussed. The present pay rates for the Gibraltar Regiment were last reviewed on the 1st March, 1976.

HON M XIBERRAS:

Is the Chief Minister then saying that the position is satisfactory to the members of the cadre or is it not? Or is it not a fact, Mr. Speaker, that I have heard that they get the feeling they are falling behind the rest of the community especially with the parity negotiations now completed?

HON CHIEF MINISTER:

I think that the decision of the Deputy Fortress Commander to visit London on Friday the 30th June in order to expedite the work of the review team should be welcomed by everybody in the Gibraltar Regiment as an indication that they want to get on with the review as soon as possible.

HON M XIBERRAS:

I am sure all members of the House will wish the Deputy Fortress Commander success in this venture because it would not be fair to allow this particular section of the community to fall behind. Will the Chief Minister convey this view to the Deputy Fortress Commander?

HON CHIEF MINISTER:

I will. In fact I have already done so.

MOTIONS

HON ATTORNEY GENERAL:

Sir, I have the honour to move the following motion:

"Be it resolved that the House do approve the giving by the Governor of the following notice under section 52 of the Licensing and Fees Ordinance:

Title and commencement.

1. This Notice may be cited as the Licensing and Fees (Amendment of Schedule) Notice 1978, and shall come into force on the 1st July, 1978.

Amendment of Second Schedule to Cap. 90.

2. Item 5 of the Second Schedule to the Licensing and Fees Ordinance is repealed and replaced by a new item as follows:

5. Passport Fees.

- a. For the issue of a passport valid for one period of ten years - £11.00
(Note: These passports are not renewable except those issued to minors under 16 years of age, which will have an initial validity of five years and may be renewed for a further period of five years free of charge).
- b. For the issue of an emergency passport or certificate of identity - £3.00
- c. Amending holder's name - £2.50
- d. Affixing a recent photograph and/or amending the personal description of the holder except where under 21 years of age - £3.00
- e. Adding the particulars of a child or children - £3.00
- f. Visas: The fee to be paid for a visa by the national of any particular country shall be equivalent to the fees charged by the representative of the government of the country for their visas on the passports of British subjects.

As Hon Members will appreciate passport fees are prescribed by the Schedule to the Licensing and Fees Ordinance. The Governor is given power to amend the Schedule by Notice but of course he must have the approval of the House before he can do so. The motion before the House now is that the House approves the making by the Governor of the Notice amending the passport fees. At the present time the fees for a 10 year passport is £7 and this is increasing it to £11. It is a substantial increase, it is admitted,

it is the same price as a passport in the United Kingdom and the price is, in fact, based on what is, perhaps, the administrative costs of printing and producing a passport. The fee for emergency passports which is at the moment 50p now become £3 and there are various fees charged for amending the name, fixing a new photograph, and adding particulars of children. These will now cost £2.50 and £3 respectively. These are the same costs as exist in the United Kingdom. We are under no obligation to follow the United Kingdom on this, but it is felt that there is justification for increasing these fees bearing in mind that apart that it is only issued once every 10 years it is not considered that the increase from £7 to £11 is unduly onerous. Mr. Speaker 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 Attorney-General.

MR XIBERRAS:

In terms of what the passport itself stands for I am sure no Gibraltarian would object to pay the four extra pounds for getting a new passport, proud as most Gibraltarians are of the fact that they are British. I sincerely hope, in a more jocular vein, Mr. Speaker, that these passports will in fact continue to be worth as much to the people of Gibraltar in other ways with the impending changes in British Nationality. I do hope that as a result of those talks, representations and what not, we will not have reason to say that the commercial value in terms of how far one can get with the new passport will not be worth the £4 extra that the Attorney-General is asking the House to put on the price of passports. Apart from that, I welcome the resolution moved by the Attorney-General, the motion before the House, because it does illustrate at this opportune moment that the House, in matters such as raising the price of a passport from £7 to £11, is required to vote on the issue and this emphasises the need that there is for the legislature to control the levying of charges. I hope that the Honourable the Minister for Housing and Sport will, in fact, be able in reconsidering the matter which we discussed earlier, to adopt the same procedure in respect of charges at the Victoria Stadium.

HON P J ISOLA:

My Honourable friend, I am sure, if he had talked about it a little more might not have welcomed every provision in this motion. There is only one point I will raise and I think the Government ought to consider not following United Kingdom prices entirely in this respect and that is the adding of the particulars of a child or children for the fee of £3. It seems to me that the people who have to add particulars of a child, and it could be children, are possibly the people who may not be quite the best off in our society, people with children. We heard earlier on that the personal allowances in Gibraltar are not as high as in the United Kingdom, and I think having children does put a burden on a family in Gibraltar. It does seem to me to be a bit high to charge a fee of £3 to include a child in the passport of his parents. I would have thought that in that particular case, the Government could do what it did on the previous one where I notice

that for fixing a recent photograph you charge £3 quite rightly because usually recent photographs are put in for reasons of vanity, possibly, but not in the case of a child under 21; I think we should have that either the charges be reduced to £1 or I think the Government ought to consider giving that particular service free. It is not a very difficult one, it is a question of just writing in the name of the person on production of a certificate of baptism and I would ask that the Government consider taking away that particular fee from the Schedule.

HON MAJOR R J PELIZA:

I think, Mr. Speaker, if I remember rightly, it was the Honourable the Attorney-General who said that really what the Government was after was to try and get the cost of the passport itself, the actual printing of the passport, and the administrative work that goes with it. I agree entirely with my Honourable friend's suggestion.

HON P J ISOLA

I would move Mr Speaker that the motion should be amended by the deletion in Sub-paragraph (e) thereof of the symbol and figures £3 and the substitution therefor of the symbol and figure £1.

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

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

TRADE LICENSING (AMENDMENT) 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. This is a suggestion that we should extend the life of the present Trade Licensing Ordinance which lapses at the end of this month until the 31st of October, 1978. I know I have done this before, but I think that this will be the last time I shall come for its extension. As the Honourable Members know, further down the list of Bills for first and second reading, I will be bringing an Ordinance to make provision for the licensing of traders which will, I hope, replace these Bills. As this Bill will not go through all its readings in this meeting, I am hoping to extend this Bill until the end of October so that it can be published this week. 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, we agree to the passing of this Bill which is necessary, because as the Minister says quite rightly, it would be preposterous to ask the House to pass in one sitting the first, and second reading and committee stage of a Bill such as the Trade Licensing Bill. I might say

the same for other Bills which seem to be on the Agenda. I think that as a matter of course, Bills should only go through two readings in one meeting and committee stage and third reading should be left for a subsequent meeting, so that Honourable Members can consider the Bills and the general public, who then get to know about the Bills before the House, can make representations and so forth. We certainly agree to this particular Bill.

The 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 this Bill be taken at a later stage of this meeting.

This was agreed to.

THE REGULATION OF DOCK WORK ORDINANCE, 1978.

HON A J CANEPA:

Mr. Speaker, I have the honour to move that a Bill for an Ordinance to make provision for regulating employment within the Port and for matters incidental thereto be read a first time.

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

SECOND READING

HON A J CANEPA

Sir, I have the honour to move that this Bill be now read a second time. Mr. Speaker, 19 years ago, in 1959, the Dock Workers Regulation of Employment Ordinance was enacted with the object of regulating the employment of Dock workers. At that time dock workers were employed on a daily or casual basis and the purpose of the Ordinance was to ensure that as far as possible all dock workers received their fair share of the work available. It served its purpose for just two years, until 1961 when the two main employers of Dock workers took on the majority of the registered casual labour force as full time weekly employees. The only casual workers then remaining were a small handful who used to be engaged on loading small vessels at short notice and who have long since disappeared from the scene. The de-casualisation of labour which took place in 1961 made the Ordinance very much of a dead letter, mainly because it created a situation which was almost totally different from that for which it was devised, but as the years have gone by this has become even more outdated because it did not allow for the registration of the Dock employers other than those who were already regularly employing dock workers immediately before the commencement of the Ordinance in 1959. In the intervening years Mr. Speaker, the inapplicability of the Ordinance to the actual circumstances became more and more obvious, and so when the Port Advisory Committee was appointed in 1973 with terms of reference to examine and advise on the operations of the Port with a view to ensuring the greatest efficiency and economy for the general benefit of the community, my Colleague charged with responsibility for the Port, also asked them to advise on the revision or the replacement of the existing Dock Workers Regulation of Employment Ordinance of 1959. The several recommendations made by the Port Advisory Committee in this respect in their Report of 1974 were

then considered by Government and subject to some changes and to further discussions with interested parties, they were incorporated into a draft Port Operations Bill which it was hoped to bring to the House in the near future. Before this could be done, however, matters came to a head in March of this year when employees of the Stevedoring and Cargo Handling Company Limited went on strike in protest against a number of redundancies of which the company had given notice. The very serious situation which was emerging for Gibraltar was only averted after a series of urgent discussions by all parties concerned, by Government's declared intention to reconstitute the long defunct Dock Labour Board under the 1959 Ordinance for such time as it was necessary for the interested parties to hold consultations and reach agreement about the future rationalisation of the Port and to enact whatever legislation was necessary as a result thereof. Sir, the Dock Labour Board was therefore reconstituted on the 19th of April this year under the Chairmanship of Sir Howard Davis, only recently retired as Deputy Governor and here Mr. Speaker, I wish to express the deep appreciation of my Colleagues and myself of Sir Howard's willingness to accept the appointment almost overnight, and to pay tribute to the zeal and indeed, I would go so far as to say the statesmanship with which he has chaired the Board over a period of two months during which no less than 14 difficult and lengthy meetings have already been held. The outcome of these intensive deliberations and discussions of the Dock Labour Board has been the Bill now before the House which incorporates their various recommendations and which it is intended to replace the existing Ordinance. Sir, the Explanatory Memorandum to the Bill sets out very clearly what its various clauses provide for but I would like to inform the House of the purpose of the Bill, generally. Firstly, it will defreeze the situation existing under the present Ordinance and enable the registration of new employers and of new Dock workers in the discretion of the Dock Labour Board which is set up under Clause 3, if it considers such registration necessary for the efficient operation of the Port. A new departure in the Bill is that Dock employers, even though registered, may still not engage in Stevedoring unless they have been licensed for the purpose by the Board, who, again, may do so if it considers it necessary for the efficient operation of the port although employers who satisfy the Board if they were engaged in Stevedoring, whether alone or with others immediately before the 1st of May, 1978, shall be entitled to be so licensed. In so far as Dock workers are concerned, Mr. Speaker, only those who have been duly registered by the Dock Labour Board may be employed on work in the Port, and furthermore a registered Dock worker may not be employed by his employer on any other work than dock work as newly defined. This Bill therefore whilst introducing a welcome and necessary element of flexibility in the organisation of dock work, generally, in the interest of the community as a whole, will safeguard as far as is economically practical the livelihood of dock workers by regulating their employment and requiring employers to pay rates of wages and observe other conditions of employment not less favourable than those established in the industry. This general control will be exercised by the Dock Labour Board which, as under the existing Ordinance, will be composed of representatives of registered employers and registered dock workers in equal numbers and which will have power to remove from the register any employer of dock worker who does not re-register annually as provided for or any

employer who does not apply for re-licensing as a Stevedore. Upon receiving such application the board is required to re-register or re-licence unless it is satisfied that the applicant has not been regularly engaged in the preceding year as a dock employer, dock worker or stevedore as the case may be. Mr. Speaker, the Bill now before the House does not purport to solve the wider problems in the Port. It would, in fact, be wrong in my view to pretend that this piece of labour legislation can be used as a vehicle dealing with such matters. The Bill regulates labour matters but not methods which could be adopted to introduce greater all-round efficiency and rationalisation in Port Operations. That is more properly, in my view, the direct concern of my colleague charged with responsibility for the Port. With regard to what the Bill sets out to achieve, however, I have, Mr. Speaker, no hesitation in commending it 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, one knows there have been many negotiations and many talks between the operators, the Unions, the ex-Deputy Governor, who I am sure in his usual manner has put in a tremendous amount of work into this Bill, but I am not sure and I am not clear how it is felt that this particular Bill will, in fact, solve the problems in the Port. It seems to me that this Bill is just a re-hash of the existing Dock Workers Regulations of Employment Ordinance, where certain provisions have been taken away from it as, for example, I notice that in the last Bill in 1959 when there was more of a colonial age, they used to discipline the dock workers and there was a section that dealt with disciplining them if they didn't behave themselves and there was no section disciplining the dock employers. Now I notice the pendulum has swung around and it is the dock employers who are going to be disciplined if they don't observe the provisions of the Ordinance and the Dock employees are apparently, not going to be done and I think it is perfectly right because in any event the Government is probably not able to be effective in this way. I don't think the Dock Labour Board could be effective in this way. So, Mr. Speaker, I don't really know what this Bill sets out to do. There are some sections that are almost entirely the same as they are in the Old Bill as to what the Bill is going to do. I think it brings the thing up to date in so far as it legislates, I suppose, the operations of employers who weren't registered as dock employers and have been carrying on as Dock employers for many years, and it regularises the position of employees who I suppose equally are not registered employees but were working in the Port and the Government now starts with a clean slate and says, "As from today, all the employees will be registered and all the employers will be registered". And that will be it, nobody else can work in the Port and the Port seems to be carved up, if I may use the word, between the existing employers and the existing employees by the new Dock Labour Board which has four representatives of employers on it

and four representatives of the employees on it and between them they will run the Port and they will decide whether it is necessary for any new operator to come in and they will decide whether it is necessary for any new employees to come into the Port from which no doubt we gather that there will no longer be any new employees in the port or any new employers in the port and this will stay until, I suppose until people move and others start working in the Port and then we will have another Bill to deal with the matter. Mr. Speaker, I don't see how this will solve anything in the Port because it is basically the same Bill there is in the Statute Book, but I do say this, Mr. Speaker, and that is I notice in one of the sections - Section 6 - it says the function and duty of the Board - I think this repeats the same section in the existing Ordinance - "to consider the most efficient utilisation of dock labour whereby the rapid and economic turnround and the speedy transit of goods through the Port may be effected". I think we all agree with this and this is great but, Mr. Speaker, I just don't see how a Dock Labour Board which has equality with the employees in other words employers of dock labour and employees of dock labour, will necessarily redound in measures being taken but will utilise dock labour efficiently and produce the rapid and economic turnround of ships. Economic turnround for who? This is the problem, isn't it. Is it just for the employers of dock labour and for the labour or is it for the community at large? In other words, the amount that is paid by the trader for collecting his goods or eventually of course by the consumers. It occurs to me that if ever there was a Board where there should be some representation of outside interests of the Port, it is here, surely. If we have the Trade Licensing Ordinance there is outside representation. Why not in the Dock Labour Board? We all agree that the labour inside should be protected, that we should not allow more labour to be employed in the Port than is necessary, that is agreed, and, equally, we agree that we should not have a free-for-all in the Port. That may be so, Sir, but we are legislating for the future and when you are legislating for the future it is always dangerous to leave decisions relating to such an important part of the community, in this case the docks, in another case it could be the trade of Gibraltar, in another case it could be development in Gibraltar, to leave it only to the people directly interested because if you do you run the risk, I don't say it will happen, but, surely, you must inevitably run the risk that it will be purely the interests of these people that will be considered in any decisions relating to the port and there are wider interests and I am sure the Honourable the Minister for Labour will concede this and the Honourable Minister for Trade and Economic Development will agree that there are wider interests in the Port than just the labour and the employer in the Port. The other people who live from what happens in the Port, who depend on the Port, we have had instances of this, how far any sort of industrial action in the Port can paralyse the rest of the town, but obviously we hope that this will not occur with the same regularity as it has occurred in the past. I am sure it won't do in view of this great new era that the Government has talked about of improved relations between the Unions and Government. We are talking about the efficient running of the Port and trying to ensure that what happens in the Port does not cost the people outside the Port more than is absolutely necessary or fair or reasonable and I would suggest to the House that it would be inhuman, it would be asking too

much of people who have vested interests in the Port such as labour and the employers of labour in the Port, to think that they are going to make decisions all the time which is in the best interest of the whole of Gibraltar, of the commercial community, of the consumer and not in their own and that is why everybody has to protect his own interests. The Union is very forthright in this, they say quite clearly "We are here to protect the interests of our members and we will do what we think is right by them." The employers of dock labour will say "We are here to protect the interests of us, the employers in the Port and we are not going to let anybody else come in if we can help it," and the Union will say; "We are not going to let anybody else in if we can help it." So how can the Government reasonably think that this Dock Labour Board is going to say as regards, if I may just refer to Section 7(3) of the Bill: "The Port may, if it considers it necessary for the efficient operation of the Port, register any person as an employer or as a dock worker who has not been registered", How does the Government feel that, for example, if somebody comes along and says; "I would like to work in the Port, I think that if I work in the Port I can bring great efficiency, I can do this I can do the other." Well, the employers are not going to say; "Come in, old boys, I am sure you will teach us how to do things." They would say "No". And the Union will say "Well, you know, we agree with these Port employers because we hope that they will agree with us if some new employee wants to come in whom we do not think should come in." So, Mr Speaker, I just don't see how this suggested set-up, the Government puts forward as a solution of the situation in the Port because it does not do much more than re-enact the existing legislation which appears to have been disregarded over the years, re-enact it and tightening it up here and there. Mr Speaker, there is one particular point that one would wish to bring into this legislation, this is the question of right of appeal. We have brought this up, actually, in the Trade Licensing Bill and we will be talking about it then. If you give a right to appeal against the refusal of the Board, for example, to register an employee to that employee, and, equally, you give a right of appeal to the employer to appeal, I think there should also be a right of appeal written into the legislation that if somebody objects to the registration of an employee or to a new employer, that person who objects should also have a right of appeal. As in civil matters the right of appeal should be on both sides and not as in criminal matters when you can only appeal mostly, in practice, against conviction but the prosecution cannot appeal except on a point of law. I think that is an aspect of general legislation that ought to be brought in. Mr Speaker, if, for example, there comes an occasion when the employees do not agree with the Union as for example if it occurs, I suppose, if they are having a little argument about wages or conditions and some other new employees could come in and the employers thought they should be registered as dock labour, the employee side would say "No". Every crucial argument in that Dock Labour Board in which, in fact, the employees and the employers disagreed would be left to the decision of the Chairman. I don't know who would be the Chairman. I do know whether Sir Howard Davis is going to be the Chairman but I think whoever is the Chairman would be in a very, very difficult and, in fact, an impossible position and presumably would go back for political direction. I cannot see a civil servant as Chairman of the Dock Labour Board or an ex-civil servant as Chairman of the Dock Labour Board faced with an impasse between labour and employers in the Port ruling at all without going back to higher authority. It

seems to me that the composition of the Board is something that the Government should look at and they should bring into the Board another two members - we won't call them independent members - perhaps, one representative of trade in general not connected in any way with shipping, that would have to be I would say an important consideration and condition, and another person - I know it is a difficult job - representative of consumers. You would then have a Board of four employers and four employees, and one representative of consumers, and one representative of trade and the Chairman. That, Mr. Speaker, would allow for a more successful operation of the Dock Labour Board because there is no question about it, that unless they agree in everything and the only way they will agree on everything is a quid pro quo every time between one side and the other. If there is a dispute and you have got four ranged up against the other four then I think it is unfair and asking for trouble to allow the decision to rest with the Chairman. As far as I am concerned, and I don't know whether any other member on this side of the House will have other things to say, but I would say that there is a fundamental objection to this Bill or rather fundamental objection to the composition of the Board which I think hasn't been improved upon on the previous Bill. The definition of employment I know has been tightened up, the definition of dock labour, all that has been tightened up, probably rightly so, I don't know, but the basic Ordinance is still the same and the composition of the board is still the same. I think the Government should give very serious consideration to having a little bit of outside interests in an area which is of vital interest to the whole of the people of Gibraltar, of vital interest to the economy and it should not be left purely and simply to dock workers and dock employers to sort out among themselves.

HON A W SERFATY:

Mr. Speaker, I will grant that the Honourable Member has made several pertinent points. I would like first to refer to the, if I may call it, stillborn Port Operations Bill of which I was one of the parents, and which never came to this House because of the problem that suddenly arose as my Honourable Colleague has explained before of redundancy and led to the establishment of the committee headed by Sir Howard Davis. After the deliberations of this committee this Bill has emerged. There are certain points that are not answered by this Bill. This stillborn Port Operations Bill included the establishment of a Port Operations Advisory Board which would advise the Government on measures of working, changing the present method by other methods and more important still the future of the Board after the proposed reclamation between jetties 2 and 3 had been implemented and the operations of lighters and containers had taken a few steps forward. That, I will grant, is not the function of this new Board. This will not be the function of this Board to advise the Government on new methods of working at the Port, on what will happen to the Port when containerisation has developed even further and the slow death of the lighters comes nearer and nearer to a fait accompli. I will bring to my Colleagues in the Council of Ministers proposals for the establishment of a Port Operations Advisory Board which I do not at this stage know whether this will come to light as a result of an administrative action or as a result of legislation,

but where wider interests will be represented other than that of the employers and the Dock workers, where the Chamber of Commerce will be represented, where the consumers will be represented and I think that my Colleagues will agree with me that this Port Operations Board should be set up. This Bill, as I see it, is mainly to bring the employers and employees into a working relationship. I will grant that it includes for the registration not only of dock workers but of port employers. This is the point that the Honourable and Learned Mr. Isola was trying to make, that, perhaps, the employers and employees will get together and prevent other new employers coming into the scene. I would like to state that as I see it there will be about 5 employers working in the port which is as many as we would like taking into account the restricted areas in which they work. However, this may change and there may be some merit in the suggestion that the consumers and the traders should be represented, but I will not say anything about that, I will leave that to my Honourable Colleague to reply. I do think that eventually we shall have a Port Operations Board with wider interests and wider representations to advise Government on methods of work and operations.

HON J ROSSANO:

Mr. Speaker, I support the Bill and I support the present composition of the Dock Labour Board proposed in the Bill. I disagree, in fact, with the analysis of the Honourable and Learned Mr. Isola because it is an analysis based on the wrong premise. This piece of legislation is a labour measure designed to protect labour. It is not there to fix prices, it is not there to regulate competition between employers, it is in fact only doing one thing in the context of competition between employers in the docks and that is ensuring that competition is on the basis of equality, because the dock workers and their representatives - and the House may wish to know that in fact I was one of the nominees on the Dock Labour Board that advised or recommended on this Bill as the representative of Dock workers - the dock workers and their representatives feel very strongly that whereas there is no objection to any number of employers setting up shop in the Dock or anywhere else for that matter, there is certainly every objection to a new employer coming in and being able to undercut an existing employer by paying lower wages or having inferior conditions for his workers, and therefore to the extent that this law has nothing to do with the business side of dock work, it is only in the clause that says that everybody who employs a dock worker, every registered employer, must pay wages and provide conditions of service not less favourable than those that have been established in the industry, so it provides an equal basis for everybody with which they can compete with each other. As far as this Ordinance is concerned it is true to say that it is an updating of the Ordinance that it repeals on the Statute Book, but in fact, Mr. Speaker, part of the problem that led to the redundancies in the port arose, according to the employers, out of unfair competition through the non-implementation of the existing Ordinance. There is one fundamental difference between this Ordinance and the existing Ordinance and this is that the existing Ordinance in fact didn't just regulate employment, it didn't just regulate conditions between employers and employees but was, in fact, directly carrying out the role of the employer. The old Dock Labour Board had the job of allocating workers to different

employers and had the power to charge employers a fee in order to supply an income to employees when there was no work available so that, effectively, the old Dock Labour Board was a clearing House for the pool of dock labour and no dock labourer was directly employed by any one firm. That situation changed shortly after the passing of the legislation and that is why the legislation fell into disuse, because it wasn't applicable to a situation where individual employers came together to form a combine in the Stevedoring Company and gave permanent employment to their employees. Whereas the original Dock Labour Ordinance sought to give a measure of protection to casual workers, the de-casualisation of dock labour made the Ordinance inapplicable. What this ordinance does today is to give dock workers the same measure of protection as they have got in the United Kingdom and in most other ports in the world where there is a register of dock workers and it is not possible for any Tom, Dick or Harry to come into the dock and work as a dock worker and it is not possible for somebody to spend one day of the week unloading ships and four days of the week on another job. This measure of legislation in the protection that it gives of labour does for dock labour in Gibraltar no more and no less than dock labour enjoys today in most other places in Europe and in advanced countries like Australia and America and so on the same sort of legislation is on the Statute Book which gives protection to dock workers who have got to be full-time employees and does away with the fragmentation of dock work that exists in unregulated employment. As far as the entry of new employers into the situation, there is nothing in the Ordinance at all to preclude anybody else coming in, provided he comes in on the same conditions as existing employers already are required to comply with. It is absolutely right that this should be started in the context of employers and employees deciding whether a new employer should come in, and let me say, Mr. Speaker, that the position of the Trade Union side on the Dock Labour Board was that we believe that anybody should be required to register so that, in fact, registration should not be something that people apply for and be either granted or denied. We believe that registration should be a requirement and that all one should require in order to register should be to give employment to a registered dock worker. If you have a situation where there is unemployment in the docks, then in those circumstances all that would be necessary would be that a new employer should come along and offer employment to the unemployed dock workers and by virtue of offering them employment he would be able to register as an employer. But if you have got full employment in the dock work then it is obvious that either the new employer has got to take up people who are employed by somebody else and in that case the consequences that have to be studied is what will the employer losing the workers do? Will the employer bring in somebody from outside to replace him or will the employer, by virtue of the fact that he is losing employees to a new employer and, possibly, work to a new employer, have to face a situation of redundancy. The whole concept of the Ordinance effectively arose from a redundancy situation where one particular employer was making redundant 32 of his employees. As the Honourable Minister for Labour has explained, it was a commitment that the Government gave to bring back to life the defunct Dock Labour Board and to study the possibility of updating that Dock Labour Board that enabled the situation to be defused so that the workers faced with redundancy notice, agreed to a two-month cooling period when they would take no industrial action to allow the possibility on the one hand of negotiations between their

union representatives and their employer and, on the other hand, the production of an amendment to the existing legislation which would ensure that the protection that they had expected to obtain as a result of the original legislation in the 1950's was, in fact, brought into the Statute Book and the original legislation was updated in such a way that it fitted with the modern requirements of the Port where none of the employers are in favour of the idea of a pool of labour, and they each want to have their own employees on their own pay roll but, nevertheless, where the worker had the same degree of protection that he had anticipated he would have when the original legislation was passed 20 years ago. This legislation deals primarily, I would say almost exclusively, with the protection of the workers employed in the Port. It only affects the employers to the extent that no employer will be allowed to compete with existing employers by having inferior positions or pay inferior wages. There is nothing to stop the Government introducing further legislation to deal with other aspects of port operations but as far as the regulation of the employment of the workers themselves are concerned, in fact, this measure is what the people in the port on both sides, on the employer and the employee side, have come to the conclusion is the best that can be devised in order to ensure that there is stability on the labour front in the docks and I fully support this measure. Mr. Speaker, as I say, I was involved in the production of proposals which the Government has subsequently amended to meet their own needs and I support the Bill.

HON M XIBERRAS:

Mr. Speaker, I support the Bill before the House but I do not support it for either the reasons of the Honourable the Mover of the Bill nor for the reasons given by the Honourable Mr. Bossano, although I agree with him that labour in the port where, as he knows I happen to work peripherally, is something that deserves protection and this is a matter with which I was concerned at the time I was Minister for Labour. I think it is right to support the Bill in expectation of what it can do and that is, perhaps, rather less than the Minister for Labour had anticipated but rather more than the Honourable Mr. Bossano had said. I should also like to comment on the suggestions made by my Honourable and Learned friend Mr. Isola. Mr. Speaker, I think the House should be aware that the parent of the Bill is neither the Minister for Trade nor the Chairman of the Board, nor the Transport and General Workers Union but in fact the situation that arose about redundancy which has been discussed in fourteen different lengthy meetings since the 19th of April, 1978. I happen to know, by virtue of my employment, of some of the things that have transpired in these meetings, and I happen to know that the position of the various parties represented in that Board have been, I wouldn't say ambiguous, but certainly rather complex and difficult to follow. And I am rather hesitant Mr. Speaker, to put a rubber stamp on the deliberations of the present Dock Labour Board by agreeing to this Bill without any kind of qualification or explanation. To illustrate my point, Mr. Speaker, if this legislation comes as a result of a redundancy situation, and if we hear the Minister for Trade saying that he hopes that there will be 5 employers registered in the not too distant future, then I am bound to ask myself what is the nature of the agreement reached within the Board where a redundancy

situation is posed by the expectation of more companies being registered in the port. It seems to me logical and if there is a redundancy situation it would be to revise in a downward direction those people operating but we find in fact that the thinking there is that there should be a widening of the number of employers there. Mr. Speaker, there might be a perfectly good reason for adding to the number of employers in the Port but this house is not going to hear much about this and therefore, Mr. Speaker, I would ask the Honourable Member opposite if he claims that the work has been done in the present Dock Labour Board to produce this Bill that he also gives an indication of the thinking of that Board and what in fact this Ordinance it is intended should be used for. Mr. Speaker, certainly, in so far as the reality of the Port today is nowhere near the Ordinance which is at present in existence - the old Port Labour Ordinance - it is to be welcomed. Mr. Speaker, as one working in the Port I was surprised to hear the Minister for Trade referring to specific employers in the Port to the exclusion of other people, and I would say, Mr. Speaker, that now the matter of employers can be brought up to date. In the same way, Mr. Speaker, I feel that the question of the pool of labour, the engagement by the Port itself, has been done away with, is a good thing, a very good thing and, in fact, Mr. Speaker, it had no relevance in the past six years to the situation in the Port at that particular time. I would warn Honourable Members about what this Port Labour Board is expected to do because the Port of Gibraltar has a curious habit of eluding all legislation in reference to it. I don't think, Mr. Speaker, that in fact that is going to carry out any great changes either in the protection of labour or in the efficiency of employers or, in fact, in the numbers of employers because the various interests in the Port are quite firmly established and as my Honourable and Learned friend has said the continuation or the resuscitation of the old Labour Board with the interests of employers and employees exclusively represented will mean that there would be only minimal changes in those conditions and even those changes that take place are bound to be simply a re-adjustment of the forces existing in the Port and not the creation of a new situation. Mr. Speaker, I was surprised to hear Mr. Bossano, who has taken part as a representative of the Union in the deliberations of the present Dock Labour Board saying that there was no objection to any number of employers taking part in the operations in the Port so long as they fulfilled the general conditions which the Board lays down. I think that this is difficult to reconcile in his trade union capacity with the question of redundancy.

MR. SPEAKER:

I think what the Honourable Member was trying to say is that their side of the Board would not object because they would still have to be registered and the Board would have to approve it.

HON M XIBERRAS:

Well, Mr. Speaker, my information is in fact, that the opposite thing has taken place even now, I don't know whether it is with the support of Mr. Bossano or not. Already the licences which the Honourable Mr. Serfaty was expecting, up to five, it is said have been discussed in the present Dock Labour Board and there is going to be an increase in the number of licences. I would

say, Mr. Speaker, that there is a need to gauge what labour is needed in the Port and there is a need to gauge this matter objectively in so far as it is possible bearing in mind a very strong representation of employers and employees. Until such time as there is a Port Operations Board in existence, I cannot see the Minister for Trade who does not really have a department of its own in the sense of a back-up of the civil service - he has in Port operations of course as Minister for Port - I cannot see anybody arriving at a really independent assessment of what is needed in the Port and there is a danger, Mr. Speaker, both of excessive protectionism and also of deals being done between employers and employees to the exclusion of the interests of the community as a whole. I think there is this danger and I am not satisfied that the Port Operations Board will come into existence quickly enough, knowing the various statements the Minister has made from time to time in the House, I do not think it will come into existence quickly enough and I do not think at the same time that the functions of the Board as outlined in the Ordinance exclude as categorically as the Minister would have us suppose that this Dock Labour Board would be able to consider things other than pure labour matters because, certainly, the man at the head of the Board now, the Chairman of the Board, is a man with a wide interest and a wide knowledge of the affairs of Gibraltar and there is provision in the Ordinance for the Governor to be able to refer any matter to the Board. And if there is no overall body like the Port Operations Board for let us say the next three or four years, the very basis of the working of the Port as a whole and the efficiency of the Port is de facto going to be as it has been in the past a question for the decision of those persons who will be represented in the Board under this legislation. The legislation is not going to change the power structure in the Board at all to my mind, Mr. Speaker. I think there are some references to A and B licences which the minister has not drawn attention to, I certainly knew that there was a proposal for A and B licences and here again the basis on which the present Dock Labour Board has recommended that A and B licences should be issued is a matter which goes far beyond the interests of labour and of the employers, to my manner of thinking.

MR. SPEAKER:

Is that one of the provision of the Ordinance?

HON M XIBERRAS:

I thought there was. They have been removed, in fact from the original Bill. Therefore I could put it as a question, Mr. Speaker. Is it the intention that the Board should issue A and B licenses?

MR. SPEAKER:

It cannot because it has not got the powers under the existing Bill.

HON M XIBERRAS:

My knowledge is that there was a proposition for A and B licences discussed in the Dock Labour Board. Is it a possibility that the Board will be able to recommend on the issuing of A and B

licences, in other words, make a distinction for various types of work in the Port because certainly, I have it from a lot of people involved in the Port that this was the idea. For instance, Mr. Speaker, the B licence, it was said, might apply to those people involved in transport and involved in the unloading of containers. I will give way to the Honourable and Learned the Attorney-General.

HON ATTORNEY-GENERAL:

It would have been open to the Dock Labour Board to advise the Governor that this system should be introduced. It would, of course, thereafter require legislation.

HON M XIBERRAS:

I am grateful for that comment, Mr. Speaker, but it does show how matters of considerable importance have been discussed in the Dock Labour Board in connection with this draft which the House has not heard of until now and perhaps the Honourable Minister for Labour will be able to complete the information of the House before asking it to vote on this Bill. Overall, Mr. Speaker, the finding of the balance between the needs of the Port and the work of the Port is an important consideration and this Ordinance must obviously regulate this in respect of employers and labour, I agree with that but who is going to do it, and according to what criteria is a different matter. I am not entirely satisfied that this is the best way of doing it and no doubt my Honourable and Learned friend will be moving an amendment at the appropriate stage.

MR. SPEAKER:

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

HON A J CANEPA:

Mr. Speaker, I think I made it abundantly clear when I moved the second reading of the Bill that what it proposed to do was certainly no more or certainly no less than to update the 1959 Ordinance bearing in mind that the de-casualisation of labour in the Port has been achieved, and also bearing in mind the fact that no new Port employer could now be registered unless they were operating in the Port before 1959, and clearly, only in respect of these two matters alone the Ordinance required updating. I think I also made it abundantly clear, and perhaps I should repeat what I said at the conclusion of my speech, that the bill before the House did not purport to solve in depth the wider problems in the Port, it wasn't meant to do that. I also said that it would, in my view, be wrong to pretend that a piece of labour legislation can be used as a vehicle for dealing with other matters. The other matters I had in mind were methods which could be adopted to ensure the most rapid and economic turn round of ships and the speedy transit of goods through the Port. The Bill proposes to do that in respect of the utilisation of dock labour, but it doesn't do anything about the methods that can be adopted. My Colleague, Mr. Serfaty, explained that he intended to bring some proposals to Council of Ministers. What needs to be done in this respect should not take anything like three or four years. There was

a draft Fort Operations Bill, something from that Bill has been taken out and put here by the Dock Labour Board. They used the Fort Operations Bill and it was from the draft Fort Operations Bill and from the old 1959 Ordinance that they recommended to Government a draft Bill which I think reflected a consensus of the thinking of the Dock Labour Board in respect of the functions which the present Board has which are limited, which are purely labour functions. I think that what the Dock Labour Board recommended again was the best that could be achieved at this stage in order to meet what could have been very serious difficulties for Gibraltar, to meet the labour difficulties that have arisen consequent not just on the very recent redundancy last March, what we ought to bear in mind that they came in the wake of redundancies which were effected last October and that the impression I think was certainly gathered by Dock workers at the time that that was going to be the end of those redundancies. And because you then had in March another lot of 32 redundancies proposed, that gave rise to industrial action, strike action in the Port, and let me add that everybody was very het up about it last March, and everybody wanted to get in from the act and I approached the matter as purely a labour problem. There was industrial unrest in the Port, there was a situation where we had strike action and I was concerned to get those men back to work immediately because I was being told on the one hand for instance by the transporters that after the weekend they were going to have 120 men laid up and I was being told all sorts of things by other people and I limited the scope of the whole matter to a labour matter. That is how I focused the thing.

HON M XIBERRAS:

If the Honourable Member will give way. In fact, I have an inkling myself of what has happened but how is the present Ordinance going to solve or help to solve the question of redundancy?

HON A J CANEPA

It has solved the question of redundancy in this sense, that the new Dock Labour Board which is going to be constituted under this Bill, the Ordinance when it becomes law shortly, will enable the Dock Labour Board to recommend registration of new Port employers as it is already evident from the consultations that there have been both within and outside the Dock Labour Board that the new employers will be able to absorb some of the labour that becomes redundant. So in that sense we are going to deal with the immediate situation that sparked off the troubles last March. I was also concerned, because I viewed the problem so far as the responsibility that I have as Minister for Labour, I was also concerned that nothing should be done that would pre-empt, that would tie the hands of my colleague the Minister for the Port, in what he would like to see, in what the community would like to see, consumer interests, the trades and so on. And I think we have achieved that. I feel that to a point the Honourable Mr. Bossano pre-empted my right of reply because he dealt with many of the points that I was jotting down which Mr. Isola had made and really there isn't a great deal of new ground that I have to cover. But in so far as outside interests are concerned, I think that that must be a matter for a Fort Operations Board. I don't think that this is the Board that should include representation of the Chamber of Commerce, consumer interests and

so on. I think the Honourable Mr Peter Isola suggested two independent members to be appointed. In any case the two independent members wouldn't have been much use in ensuring that there wouldn't be a deadlock in the Dock Labour Board when it came to voting time. You would for that purpose either require only one of these to break the deadlock and I think it is irvidious in a situation where you have four representatives of employers, four representatives of employees, it is irvidious to place outsiders, as happened in the old Price Control Committee for instance, in a situation where they virtually have a casting vote. As watchdogs, to ensure that consumer interests and trading interests are being looked after, perhaps, but as I say, I think it is a matter for a wider Port Operations Board and what the Government now has to give serious consideration to is whether that can be done by legislation which, to my mind, is preferable or whether it should be merely an administrative committee set up as the old Port Advisory Committee was in 1973. I was rather disappointed with the intervention of the Honourable Mr. Xiberras in the sense that he never spelt out the reasons as to why he supported this piece of legislation, I think he said something about in expectation of what it can do. Well, I certainly haven't brought something to the House and waved a piece of green paper and said: "This is going to be the end, from now on, of all problems in the Port", no, I haven't done that.

HON M XIBERRAS:

Mr. Speaker, the reason for supporting is in fact the aspect mentioned by the Honourable Mr. Bossano of protection of labour and the de-freezing of the situation, I support that. What I am saying is that I am not quite satisfied that the reasons that have motivated this particular law, or perhaps, the expectations in the mind of the present Dock Labour Board are, in fact, justified.

HON A J CANEPA:

There is one point which the Honourable Mr. Xiberras made which I would like to take up specifically. He spoke about the need to gauge what labour is required in the Port. From my reading of the minutes of the Dock Labour Board, I know that virtually from the word go they started working on this. I think questionnaires were issued and they were attempting to arrive at a figure that would be a reflection of labour requirements. I very much hope that the new Board that will be set up under the Bill now before the House will take the matter up where the present Dock Labour Board has left it. I do agree that there is a need to ensure that we have some idea about the labour requirements in the Port always bearing in mind of course the need to keep the situation under review as, hopefully, more cargo comes to Gibraltar. So within as I said previously, Mr. Speaker, the limited objectives which the Bill before the House sets out to achieve, I have no doubt that it is a good piece of labour legislation, it is something that will, I hope, bring about better dock labour relations in the Port. I know that the men have for some time been wanting this degree of protection because I myself have had representations from the District Officer of the TGWU accompanied by representatives of the men - I had a couple of meetings with them last summer - and I hope that to that extent they will feel that between the Government, employers and the Union an attempt has been made to give them

the necessary protection that will ensure a continued likelihood for them without, of course, consumer interests being entirely neglected. Mr. Speaker, 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:

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

This was agreed to.

THE FOOD AND DRUGS (AMENDMENT) ORDINANCE, 1978

HON A P MONTEGRIFFO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Food and Drugs Ordinance (Chapter 61) by making new provisions concerning the sale of ice-cream and for the prevention of the spread of disease from ice-cream be read a first time.

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

HON A P MONTEGRIFFO:

Sir, I beg to move that the Bill be read a second time. Sir, I hope that after such a heated day this Bill will have a cooling effect on all members, since it is dealing with ice-cream. The intention of the amendment before the House is a tidying up process and the strengthening of the power to control the sale and manufacture of ice-cream under the Food and Drugs Ordinance in order to protect the public and to bring our legislation into line with the latest legislation in the United Kingdom. The present section 18 which it is proposed to repeal and replace by a new section 18 and 18a, was in a way a duplication of the present section 50 of the Ordinance which requires registration of the premises and the dealer's name. Furthermore, section 18, as it stands, is a bit outdated and again duplicates the way street vendors of this commodity are regulated, because street vendors of this commodity are already licensed under the Market, Street Traders and Pedlars Ordinance. The new Clause 18, however, retains some of the features existing under the old section 18, basically the dealer's particulars to be displayed on the stall, vehicle or container used for the sale of ice-cream, but it now also provides that the extension of the requirements in the proposed clause be applied to other kinds of foods should the need arise. Clause 18a gives more teeth to the control and sale of ice-cream and it retains the previous requirements for notification of specific diseases as previously existed under Section 18 which we are now asking the House to repeal. However, under the law that we want to amend, the Director only has the power to withdraw the licence of any person selling suspected ice-cream but there was no power to stop the dealer in removing the suspected commodity elsewhere and if he could get away with it or disposing of such commodity. This is now stopped and we are now intending to stop it once the new clauses are approved under subsection 2 of clause 18A. The Director can direct that

not only the ice-cream cannot be sold but it cannot be removed unless it is to a specific place given under the notice that that the Director can issue. Subsections 4 and 5 of clause 18A gives power to the Director to destroy any ice-cream found to be contaminated or to pass it as fit for human consumption once the notice has been served and the necessary inspection has been carried out. If, as a result of any action taken by the Director any person feels aggrieved by the amount of compensation assessed as payable under the provisions of subsection 5, this person has the right to appeal to the Appeal Court. 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 G T RESTANO:

Mr. Speaker, any piece of legislation which helps to prevent the spread of disease will always be supported by this side of the House and we have no quarrel at all with the Bill. There is only one slight point which I would like to make and that is the question under subsection 18A (3) where any ice-cream which is suspected of carrying disease is placed under restriction on a directive or notice by the Director. Then we come to the penalty and the penalty for anybody who removes that ice-cream after the Director has served the notice, is only liable on conviction to a fine of £10. I think this is a ridiculously low figure for anybody who tries to remove ice-cream which is suspected of carrying disease. I would put it to the Honourable Mover that he might consider that that particular fine of £10 is too little especially in comparison with an offence in respect of somebody who sells ice-cream from a stall and doesn't put his name on it or his name isn't legible. I think it would be a very serious offence for anybody who has been given notice by the Director not to remove suspected ice-cream to do so and I think any penalty should be much greater than £10.

MR. SPEAKER:

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

HON A P MONTEGRIFFO:

This is a point which is worth considering when we come to the Committee Stage. I suppose that this particular clause is copied from the English legislation. It shouldn't be forgotten that the trader will lose his licence apart from the fine. I agree that it looks a little bit odd that if you do not put your name on the front of the vehicle you are fined £10 and if you remove the ice-cream you get the same penalty. We will look into that.

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

HON A P MONTEGRIFFO:

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

This was agreed to.

The House recessed at 8.30 p.m.

TUESDAY THE 27TH JUNE, 1978.

The House resumed at 10.45 a.m.

MR. SPEAKER:

We will now deal with the Trade Licensing Ordinance.

THE TRADE LICENSING ORDINANCE, 1978.

HON A W SERFATY:

Sir, I have the honour to move that a Bill for an Ordinance to make provision for the licensing of traders and persons carrying on certain businesses, 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. Mr. Speaker, Honourable Members will recall that in June, 1976, a Select Committee of the previous House appointed to consider the Trade Licensing Ordinance and to formulate proposals for a Bill to replace it, reported that Gibraltar was faced with the problem, on the one hand, of fulfilling the commitments of Gibraltar to the principles of the EEC and, on the other hand, of exercising a measure of control over the businesses and trades that could be operated in Gibraltar in view of the needs to protect businesses and traders already established in Gibraltar and a reasonable right to earn a reasonable living. The Select Committee came to the conclusion that there was a need to carry on with an element of control in the number and types of businesses that could be established in Gibraltar and made certain recommendations to amend the Trade Licensing Ordinance. The main recommendation was that instead of a Trade Licensing Committee which consisted, and still consists of representatives of different interests deciding on whether the needs of the community, generally, in any trade or business were added and provided for, it should be this House, by resolution, preferably taken at the yearly intervals which should decide the trades or businesses which were adequately provided for at a particular time and as a corollary to that, instead of having a Trade Licensing Committee composed of representatives of different interests, it should be composed of a number of civil servants who should limit themselves to implementing the resolutions of this House. The first stumbling block we faced when an attempt was made to draft a Bill on this basis for consideration by Government and by this House was that the Foreign and Commonwealth Office stepped in and called our attention to the fact that it would be discriminatory and therefore against the rules of the EEC if we attempted to freeze the number of licences in any particular trade or business by stipulating that the number of licences should not be increased. They suggested, therefore, that any resolution should not fix the number of licences at less than 5% or 10% above the number

of licences in issue. It does not need much of a mathematician to appreciate that if a resolution were passed by this House freezing the number of licences in a particular trade to, say, 100 and a lee-way of even 5% has to be allowed every year and the Committee, submitting to pressures, were to allow the five additional licences, over a period of say 10 years the number of licences would grow to over 170 so this suggestion of the Foreign and Commonwealth Office could not be accepted. The present Bill, which was published on the 18th May, is an attempt to put right certain weaknesses of the present Trade Licensing Ordinance and I have discussed this with some Honourable Members of the Opposition and representatives of the Chamber of Commerce. The main changes are the following: Clause 3. A licence will be required to sell goods notwithstanding that a person may have been issued with a licence under some other Ordinance. The only exception being licences to sell liquor issued by the Magistrates Court. This is to avoid what might be the automatic issue of a licence by a Government department by-passing the requirements of the Trade Licensing Ordinance. Clause 8: Under the new Ordinance it will be necessary to advertise and hear objections to the transfer of an existing business to new premises and in this connection may I say as my own personal view that though it might not really matter if shops selling say electronic equipment or clothing are closely huddled together, it is important that certain kinds of shops such as grocers and butchers should be evenly distributed throughout the territory. Clause 16 (4) makes in my view, an important new provision and that is that whereas up to the present all development aid projects are exempt from the provisions of the Ordinance, in future the Government may or may not exempt them. Clause 19 provides for the mandatory issue of a licence where contract has been awarded in compliance with EEC requirements. Clause 20 allows for the cancellation of a licence in the case of a business which has not been carrying on for a year and in the case of a trading licence, for two years. I think that I can safely say that this provision meets with the support of at least some Hon members of the Opposition and it does meet with the support of the Chamber of Commerce, though not of the whole sector of the trading community. I think, however, that this new clause makes sense because if a number of traders, for whatever reason, stop trading in a line of goods for which they have a licence and the licensing authority issues licences to new applicants because by virtue of the non-use of existing licences the needs of the community are not being met, then if the non-users subsequently renew their licences as of right, there could be more licences in force than are necessary. But more important, this clause stimulates specialisation and discourages the jack-of-all-trades and master of none shops that so many tourists complain about. Clause 22. I would like to say something about this clause not on something which is in the clause but on something which the Chamber and Opposition would have liked to have seen inserted and that is that there should be not only the right of appeal against the refusal to issue a licence, but also against the granting of a licence, naturally, by an objector. The Government feels that this would mean that for weeks, if not months, a successful applicant would be on tenterhooks, possibly paying rent etc., until the appeal was heard, which is an unjust situation in the view of the Government. Clause 26 provides for changes in the composition of the Trade Licensing Committee. This is the most controversial of the changes which we are proposing to effect. The present

Committee is composed of 7 members, The Finance Officer in the Chair, two Chamber of Commerce representatives, two from the Gibraltar Trade Council and two independents. The Opposition representative, with whom I have discussed this matter, would like to maintain the number at 7 but with the Finance Officer as Chairman, the Consumer Protection Officer, 2 Chamber of Commerce representatives, one Gibraltar Trades Council representative, 1 housewife and 1 independent. I put their ideas to my colleagues in the Council of Ministers who did not like the changes and added 1 Gibraltar Trades Council representative and 1 independent for good measure. This is the composition reflected in the bill which is really the present Trade Licensing Committee with the addition of the Consumer Protection Officer and a housewife. The Chamber of Commerce have informed me that the present committee is working well and that with these two additions it would be too weighted in favour of the consumers in what is preponderantly a trading matter. They feel strongly about this. What they would like to see is a committee of 7 with the Finance officer, the Consumer Protection Officer, the 2 Chamber of Commerce representatives, 2 Gibraltar Trades Council representatives, 1 less independent and no housewife. I will say no more about this in this early stage of debate. Mr. Speaker, I commend the Bill to the House.

MR. SPEAKER:

Before I put the question to the House, is there any Hon member who wishes to speak on the general principles and merits of the Bill?

HON G T RESTANO:

As the Hon mover has said, when a draft Bill was introduced by the Hon Member he asked two members of the Opposition, the Hon. Mr. Peter Isola and myself; to have consultations with him in order to see whether we could arrive at an agreed draft. We had various meetings and there were proposals from either side. Some were accepted, some were not accepted. As regards those that were accepted by the Minister himself as well as Mr Peter Isola and myself, the Minister then gave instructions to the Attorney-General to have the different points that had been agreed to be inserted in a new draft Bill. Among the points agreed by the Minister himself was the right of appeal of an unsatisfied objector whose objection had been overruled by the committee. The Minister himself at the time thought it was a very good idea to have it inserted and it would have given protection to either side. I think that in law not only must justice be done, it also must be seen to be done and if a new applicant for a licence has a right to appeal to the Magistrates Court to see if the decision to refuse this application was a just decision, then we consider that certainly if an objector has his objection overruled then he also should have the right to appeal to the Magistrate. We are told now that the Government considers that this right of appeal is not accepted because it might take weeks or months. Of course that is a difficulty, however, is it not better for an applicant to wait for a few weeks and, perhaps, even a month rather than the objector not receiving the full rights that he should receive. The second point is on the formation of the committee, I think it is singularly surprising that the minister himself who instructed the Attorney-General to change his draft Bill, I think it is very wrong for the minister

to consult any members on the other side, reach an agreement, and then without any explanation at all to produce a draft Bill which is different from that which he agreed to originally, and this is what he did. There were points, of course, that the Opposition brought forward and in order to arrive at an agreed draft we dropped those suggestions. There was one particular point which I felt should be included in the Bill and that is that there should be a very close liaison between the Licensing Authority and the Revenue Department. I feel that there is no reason why anybody should be able to import in commercial quantities if he doesn't have a licence afterwards to sell those goods and I think this would be a very effective way of preventing any abuses of the Trade Licensing Ordinance. However the Minister had strong reservations about this so we decided to drop that in order to arrive at an agreed draft. We also said that all businesses should be subject to the Trade Licensing Ordinance. Again the Minister had reservations and again in order to arrive at an agreed draft we set that proposal aside. But what does the Minister do, he comes to an agreed draft after the Opposition has put aside some of their proposals, and having agreed to that draft, having instructed the Attorney-General to change the draft Ordinance, he then presumably goes to the Council of Ministers, where, obviously, he mustn't carry much weight because his proposals were not accepted. I wrote to the Minister as soon as the new draft Ordinance was produced and I said in that letter: "You will recall that you called on Mr Peter Isola and myself to have meetings with you to consider this Bill in order to find an agreed draft. We had no hesitation in complying with your request and after two meetings you yourself instructed the Attorney-General to make various amendments in accordance with what we mutually agreed to as a result of these consultations. We now find that two matters of substance to which we had previously agreed upon, have been altered by government in the final draft, namely the right of appeal by any objector has been ruled out and the composition of the committee has been radically changed from that which was agreed to. I would therefore like to give you notice that in view of these serious deviations from the agreed draft, with their implications, the Opposition will be unable to support the draft bill when it is presented before the House."

HON A P MONTEGRIFFO:

Mr Speaker, I am not going to go into the merits of the Bill though of course I support it fully. I think I must put right a point raised by the Hon Mr Restano. I accept that Ministers not only discussed, in this case with the Opposition, when they are preparing some draft legislation or with officials within their department and instruct the Attorney-General to proceed with the draft bill, but it must be obvious to anyone, and it is not unreasonable, that eventually the Bill must go before the Council of Ministers. No Bill would come to this House without the assent and approval of the Council of Ministers simply because one minister has instructed the Attorney-General to prepare a Bill and a particular minister agrees with that bill on a personal basis. Obviously, most of the points that were agreed with the Opposition are included, in the particular bill now before the House and no doubt it was arrived at on a consensus basis, but ultimately I think it is the government who must have the last say because it is the government who have got the responsibility to govern although the government also must take into consideration and give due weight to anything that the Opposition say, otherwise democracy and Government and Opposition

becomes a farce. But ultimately the principle of responsibility for better or for worse rests with the government. Having looked at the draft bill which was the result of a consensus, we tried and I think, successfully, to take into account the consensus view and good reasons have been given as to why these two amendments have been made by other Members of the Council Ministers and finally incorporated in the bill. Otherwise it would mean that a minister can go to the Opposition and to anybody else, arrive at a consensus view and that is then the end of the matter and then the government would have no power to govern in what they feel is their responsibility to govern. I think the Hon Member cannot consider it unreasonable that the Council of Ministers should have looked at it and in their own conscience, collectively, if they thought that the changes had to be made, changes were made, this doesn't mean that the consensus arrived at was completely and absolutely discarded.

HON P J ISOLA:

Mr. Speaker, I think I must reject straight away the suggestion that the discussions that were held with the minister by us were held on a personal basis, as the Minister for Medical Services has just said. If the discussions were held with him were just on a personal basis, quite frankly we wouldn't have bothered about it, it would have been a waste of time, ours and his. We were having discussions with him as the person representing the views of the government on the Trade Licensing Ordinance.

HON A P MONTEGRIFFO:

I think it must be clearly understood that although he was empowered by the government to negotiate, he was up to a point expressing personal views.

HON P J ISOLA:

Well, Mr. Speaker, all I can say is that if I gave my personal views on this it would be a very different situation, to the views that officially the Opposition, after discussion between ourselves of how far we would go or what we would do. I have some fairly decided views on Trade Licensing and it was precisely in an effort to reach some sort of compromise solution on a Bill that affects Gibraltar as a whole and affects its future development and so forth that these discussions were held. One cannot say that the amendment that has been made is just an amendment in a consensus Bill which the government has the responsibility for. The amendment that has been made is the most fundamental amendment in the whole bill because on thing is certain, you can have the most beautiful law in the world but if the authority that is going to administer that law is in the view of the people not quite the right set-up, put it that way, that is a fundamental objection. And there is a fundamental objection on the composition of the Trade Licensing authority. I can only remind the House that there was a Select Committee of the last House of Assembly that made recommendations on the Trade Licensing Ordinance and that these recommendations were accepted by this House unanimously, the only reservations coming from the Hon Mr. Bossano. The Minister for Trade accepted those recommendations and accepted the report of the Select Committee on the Trade Licensing Ordinance so it was reasonable

for us to expect that they felt bound in some way by the idea and the thought that it should be an independent committee and, indeed, the only reason why the government has gone back on that idea everybody knows, is because the representatives of the Chamber of Commerce told the minister, whose baby the Trade Licensing Ordinance is and who is always anxious to control people in this respect where trade is concerned, told the Minister that unless that particular recommendation of the Select Committee was out, on having a completely entirely independent committee to whom representations could be made by traders and unions and so forth, unless that provision was out, they would not go on sitting in the existing Trade Licensing Committee and that is well known and this was said to the minister, I understand just before the election or just after the election. I suspect it was before the election and I suspect that commitments were made in this regard. I don't know, but I suspect that was the case. We got together after the election, it has taken a bit of time I agree, to try and work out a new bill that took account of the Select Committee report, took account of the views of the government and also took account, I must say, of new views on the Opposition bench, of people who were not in the last House of Assembly and who have different views on the matter than those held by the Select Committee and of course my Hon friend, Mr. Restano, is one of those people. He was perfectly justified in bringing forward suggested amendments to the Trade Licensing Bill because he was not part of the Select Committee, he didn't spend months and months on the Select Committee making recommendations which the Minister for Trade did. So there is more excuse for my Honourable friend, Mr. Restano, making amendments to the report of the Select Committee than my Honourable Friend the Minister for Trade who was committed to it and then changed. Why is the Trade Licensing authority, why this particular section, Mr. Speaker, fundamental to the whole Bill? It is quite simple, because this Trade Licensing authority is going to have the power to give licences it is going to have the power to put people into business and to keep people out of business. It is going to have the power to keep youngsters, for example, out of starting a commercial career in Gibraltar if their interests, the interests of those in the Committee, so demand and that is the power they are going to have. I can look round the House, Mr. Speaker, and I can say that if this Trade Licensing Bill had been in existence 20 years ago or 30 years ago, there are a number of people in this House who have never been in business in Gibraltar, they wouldn't have got a licence because the Gibraltarians had a right to trade, they had a right to set up business, they had a right to chose and to carry out their own calling in Gibraltar and the fact that he was a young man who wanted to start off a little shop in Main Street or somewhere else he had a right to do that. Today, if a young man wants to start an electronic business he would be stopped because there is a Trade Licensing Committee ruling that there are no more electronic licences for Gibraltar.

HON CHIEF MINISTER:

The Hon Member obviously has not read the judgement of the Chief Justice in respect of an appeal in this connection which he expressed very clear views on that.

HON P J ISOLA:

Well, Mr. Speaker, I haven't read the judgement of the Chief

Justice, but I know what the policy of the existing Trade Licensing Committee is on electronic licences. I do not know how far the Court would be able to protect the way it is put by the Trade Licensing Committee. The fact is young people in Gibraltar who are desirous of starting off in business in Gibraltar will be prevented from doing so by the existing Trade Licensing Committee of which this is a re-hash if those young people wish to follow a trade that the interests of those represented in the Trade Licensing Committee think we have got enough of. And that is a reality and the House cannot trade behind us. Therefore that is why it is so important that the Committee that is set up should be a committee that can be expected to be reasonable and can be expected to not just look after the interests of those whom they represent. This is why in these suggestions that we made, and as far as I am concerned let me say straight away, very reluctantly, but certainly out of deference to my Honourable Friend Mr. Restano who thought this was the proper way of doing it, giving people who have interests, sitting them in the Committee as opposed to giving them the right to appear as objectors to any other committee, I also accepted the difficulties of having truly independent people in the Committee, having "Solomons" is not so easy, I'm afraid in Gibraltar. I accepted that, but then it was essential that the balance of that Committee should be raised and this is why we said two members of the Chamber of Commerce because it is a trade matter really, it affects trade. This is why we have the courage, Mr. Speaker, which the Government hasn't got, we have the courage to reduce the general trade council membership on that committee from two to one because the interests that they are representing on that Committee are not the interests of the community at large, are not the interests of the consumers but are the interests of employees, a fairly small number of employees in the retail distributive trade and therefore they needed a voice, true, but in the interests of keeping numbers to a reasonable level we thought that with one representative this was a fair balance. The other representative in this committee, we weren't taking it away from that area of social activity in Gibraltar, we proposed that a housewife, a consumer should be in that committee. That is why we said; reduce the Trade Council by one in the place of the second Trade council person put in a consumer, a housewife. People have different views about housewives. Sometimes housewives representation is good, sometimes perhaps it is weak, sometimes they seem to be a bit narrow minded, sometimes they seem to be too broad minded, depending on the housewife herself. Women, although then have been emancipated, have not really come to the forefront of Gibraltar public life as much as, perhaps, we would have liked them to have done. There was the housewife, the consumer, somebody who can sit on the committee and say "But just a moment, You from the Trade Council think he should not get a licence because you think he is not the right kind of employer you would like to be doing business with. And you in the Chamber of Commerce you that he is not the right person to come because it affects your interests, But what about the Mr. John Citizen who is going to gain from that particular trade by coming into business with his new methods, possibly cheaper prices, I don't know what it is, whatever". At least that point can be heard and that is why we suggested putting the housewife in. The most difficult problem is, of course, getting a balance for when there is a straight conflict. That is where the value of an independent

member comes in. We thought the Finance Officer should be Chairman; I know there was opposition to this idea, I think it was from the Financial and Development Secretary, not because he doesn't think the Finance Officer is an excellent chap, but because he feels he can be more usefully employed or is too busy, put it that way, to give of his time to the committee as he has other pressing matters. But we resisted that on the basis that we felt that this committee is something that affects the economy very much and it is important, in a committee of this nature, to have as Chairman a person of stature and a person who can be relied on to do things properly and to guide and advise the Committee. We thought the Finance Officer should be there. That made it five. And then, Mr. Speaker, we suggested that the Consumer Protection Officer should be in that Committee and the reasons are quite obvious. He is a professional man in the Government looking after consumer affairs, he has relationships with trade, he has relationships with the Unions and he should know what is going on in the town and we thought he would be a very useful person to have in the Committee and it was right that he should be there. And then the last person that we thought should go in will be an independent person. Mr. Speaker, as far as that person is concerned we were concerned and there is a history with regard to the independent representation on this Committee, I don't want to revive old debates in this House on the matter but all I wish to say is that having heard the criticism that we heard with regard to the independent members on the Trade Licensing Committee at the time the appointments were made - and there was debate in the House - a Select Committee of this House made recommendations. Those recommendations took into account that particular situation and that is one of the reasons for the recommendations of the Select Committee which were accepted by the House, by the present Government and members of the Opposition. What we suggested as far as the independent member was concerned, what we suggested should occur is that there should be one person appointed after consultation with the Leader of the Opposition. In other words, Mr. Speaker, although it is by no means as high office as the one you hold, we thought that rather like to the Speaker's appointment, although the Government can decide who to appoint as Speaker, if the Speaker is prepared to play on this one, usually the tradition in the House is for the Chief Minister and the Leader of the Opposition to hold consultations and agree. I am sure you will agree and I am sure all members of the House will agree that this is the right way of doing it. We thought that on the Licensing Committee the independent member should be appointed after consultations with the Leader of the Opposition. Therefore we thought that with this body of seven we would have the nearest thing you can have, I suppose, to a fair licensing authority which would appear to be fair to the public. A Chairman who was a Finance Officer, the Consumer Protection Officer, an independent consultation between the Chief Minister and the Leader of the Opposition and then two members of the Chamber of Commerce, one member from the Trade Council and one housewife. Seven reasonably compact and this is what we thought should be right. This is why we object so strongly to the new Ordinance not because we may not agree with a lot of the sections in it, but because the changes that are being made in the Trade Licensing authority seriously undermines, in our view, or completely destroys the purposes of the Ordinance and that is why we cannot support it. To have a licensing committee of 9 members and to say that 4 members constitutes a quorum, Mr. Speaker, means that

decisions will, by and large, be made possibly by only four people of which two would be the Chamber of Commerce representatives, presumably, or somebody else when it suits whoever it goes to go. It is not fair, Mr. Speaker, that the future of Gibraltar traders, that the future of those people who wish to set up business in Gibraltar, who are Gibraltarians who have got a birthright in Gibraltar and who would in normal circumstances be entitled to trade freely in Gibraltar, it is not fair that those people should be subjected to a committee that has vested interests balanced in particular ways to suit the political propensities or ideas of any particular party in Gibraltar. That is why we will be voting against the second reading of this Bill. Not because we do not agree with the principle of control but because we feel that on the trade licensing authority there has been a breach of faith on the part of the Government with the Opposition. Then there is the point that my Honourable Friend has made and that is the question of the right of appeal of objectors. I do not see why, Mr. Speaker, in the same way as a person can object if the Trade Licensing Committee refuses him a licence to trade, I do not see why a person who feels aggrieved by the grant of a licence by the trade licensing committee should not also have the right to appeal especially, Mr. Speaker with the proposed new constitution of the Committee under which people may get licences which in the view of fair minded people, or others, they ought not to have got, I do not see why it should not be possible for an objector to go to the Appeal Board and say: "The Trade Licensing Committee have acted wrongly in giving a licence and I give my reasons." I do not see why that should not be the case as well, especially with the new proposed Committee. I will not talk about any other sections of the Bill, Mr. Speaker, because there is not much point, since we are going to vote against the Bill.

HON CHIEF MINISTER:

Mr. Speaker, the position to which the last speaker has referred about the fact that everybody has a right to trade prior to the original Trade Licensing Bill is true but only just, because the difficulties that have always been met in Gibraltar have been the protection of the local trader against competition from the outside and for that we had before the aliens Trade Restriction Ordinance which has been called by other names before. But everybody knew that towards the end of that people were lending themselves as "fronts" for other people to have businesses in Gibraltar. That is a state of affairs which everybody accepted was very difficult to prove but it was obvious to many that there were people holding businesses or so-called holding businesses which any little local knowledge would indicate that they were not the real owners of the business. That was the position and it was not a very satisfactory position as at 1972. Then in 1972, we had to rush through a licensing Bill in order to comply with EEC regulations. I agree that that bill was rushed through and that not enough thought was given to it and that there were quite a number of things that were not satisfactory. I agree with that, it had to be done in a short while, it had never been done before everybody had to be licensed and therefore it took away fundamental principles which to some extent had been eroded by the fact that people were using local people to break the law. I see that the Opposition take the greatest objection to the

composition of this committee. I understood yesterday in the course of the debate on the Dock Labour Bill that Honourable Members opposite were advocating representation of consumer interests and not just leaving it to the employers and the employees. It seems a different attitude is being taken now in this respect. Mr. Speaker, this side of the House, with a big majority, with the bulk of the people behind it, always listens with interest to what people opposite say. The Leader of the Opposition is a bit of a clown and considers himself fit in any debate to start laughing and making noises, looking at the gallery, looking at his colleagues, making grimaces and so on. I do not think that befits the dignity of the House.

MR. SPEAKER:

Perhaps, I will say that as far as I am concerned Members on both sides of the House are entitled to show their disapproval at whatever anyone is saying by gestures or, perhaps, comments provided they do not interrupt or they do not cause disorder in the House. I have always held that the person holding the floor should be entitled to speak without interruption.

HON M XIBERRAS:

Mr. Speaker, I hope there is no rule that one cannot smile or show disapproval of any kind.

MR. SPEAKER:

I am prepared to say which rules exist for the purposes of calling the House to order to that extent I apply this. It is difficult enough to apply the rules without having to say which rules do not exist.

HON M XIBERRAS:

Mr. Speaker, I shall always bow to your ruling but not to the ruling of the Chief Minister in these matters.

MR. SPEAKER:

I think the Chief Minister is entitled to make comments.

HON CHIEF MINISTER:

I was not attempting to make any ruling. I was addressing you Mr. Speaker, because I wonder sometimes, with this attitude, whether it is worth saying anything for the benefit of the other side, and therefore the whole of the debate lacks reality because if they are making grimaces in order to belittle what one is saying in the course of the debate, then the whole purpose of Parliament is ridiculed and nobody does this more than the Leader of the Opposition. I think it is beneath his dignity, if he wants to be considered as Leader of the Opposition in other matters, I think it is beneath his dignity if he interrupts or attempts to interrupt discussions by making these interruptions. I am used to this, I have been at the Bar for many years and I can take that and much more but it distracts, certainly the people who want to listen, if anything of what is said here is worth listening to, and one could retaliate but we don't want to do that. We listen

for hours with respect to what is said on the other side but we do not get any reciprocity. If that is the way they are going to deal with it all I will say then is that I will certainly cut my interventions considerably, not that it matters perhaps it is just as well, I don't know, we will finish earlier. I was saying that there is no Minister in the Government who has the power to negotiate, and this again comes to the root of consultation with the other side. We do this in a spirit of co-operation in an attempt to find a consensus, but no Minister can be presumed to be committing the whole government to a policy of which the four members opposite take such strong exception, that a Minister should give way on a matter on which they take such strong exception and he should not be able to consult his Ministerial colleagues on a matter as fundamental as this. I am quite sure that the Honourable Mr. Serfaty has never given any impression to Mr. Restano or to anybody that what he was saying was what would happen. He was trying to find a consensus which he would take to his colleagues. If consultations cannot take place in that way, then we might as well stop any kind of consultation because if we do not agree at least there has been consultation if there has been bona fides but if we agree then so much the better because there has been a consensus and so much the better for the governing of the House and for the laws that are passed in Gibraltar. The Honourable Mr. Isola was referring to the fundamental objection of the report and that is an independent committee and I challenge anybody in Gibraltar to be able to create a committee which is absolutely independent in the size of this territory, absolutely independent. This is not to say that because they are not independent they are not going to carry out their functions but it is very difficult to create such a committee and what is independent in the view of some members may not appear to be independent in the view of other members. Therefore the reason for the amendments which were made after the discussion between Mr. Serfaty and the Honourable Mr. Restano were after considerable thought by the Council of Ministers who have ultimately the responsibility. The Bill, of course, has got two strong purposes. One is reasonable protection to local trade and observance of EEC commitments. These are the two fundamental rules that govern the Bill, as indeed, were intended to govern the other one which, as I said, because it was passed in a bit of a hurry had its faults and even this one, no doubt, will have its faults and we are prepared, after a trial, we are prepared to see where the faults lie because no legislation is perfect, conditions change and it may require that certain aspects of it may be reconsidered. There is one change which I am quite prepared to agree with because I think, in principle it should and that is that in a committee of nine, four should not be a quorum, at least it should be five so that there is a majority, at least, of the members present. This seems to me to be a perfectly reasonable suggestion. My attention had not been drawn to this until this matter was raised and this is something which I have just consulted my colleague, he is quite happy about it and so we will bring an amendment at the Committee Stage because if the committee is going to be representative it would not be representative if it only had a minority of people, if there is a majority it may not be as representative with all the members but at least it will have a bigger cross section of representations than if it were a minority of four when the number of members are nine. On that point we will be quite happy to carry out whatever amendment is required for this purpose. This Bill is a difficult one and has given considerable trouble to the

Select Committee. The Select Committee took so long because they tried at some stage to reconcile the irreconcilable, and this is the difficulty. The Select Committee spoke about resolutions of the House which were later held would not comply with the EEC and one aspect of it, which I myself would not have been happy about; in fact, one fell with the other, that is to say, if you did not have the resolutions set out it would be very difficult to leave it to an administrative committee of civil servants as the Select Committee recommended to be the licensing authority. Mention has been made about young people in Gibraltar being prevented from trading. From what I see of trading, and this is perhaps one of the great characteristics of this age, the main leaders of commerce today in Gibraltar are young persons and some of them have done much better than their fore fathers. I have seen no difficulty on the part of young people with initiative and with courage to do well in business in Gibraltar. I did mention a Judgement because even though there is an appeal here to the Stipendiary Magistrate that is not the end of the matter. There was a case in which the Stipendiary Magistrate - and I speak with a little authority because I was concerned with it - there was a case where the Stipendiary Magistrate went wrong in law and he was put right by the Chief Justice. The Chief Justice made certain remarks saying that the manner in which the Committee were looking at this in respect of the requirements of Gibraltar was not what, in his view, the law was so he was able to have a good look at it and this is the privilege of our courts, that they can keep a close watch on the manner on which either the Committee or even the Stipendiary Magistrate, on appeal, decides matters. I don't think anybody could claim that the Bill is a perfect Bill, the Bill is a difficult Bill, we shall give it a try and we shall see how it works; if it works well, so much the better. If we find that there are mistakes in it, that there are faults, then we shall attempt to correct it. Whether members opposite agree to some of the features of it or not, I think we are all at one, I hope this is accepted as a general proposition, that what we want though we may differ in approach is a fair Bill, a Bill in which the individual, particularly the Gibraltarians, can find protection if he wants to trade and is not hampered too much by bureaucracy and one that will equally give protection to the well established firms who have made a contribution to the economy of Gibraltar. That, of course, is the main intention of the Bill and we shall see that it works that way. If it doesn't, we will say so quite clearly and come here for amendments.

HON MAJOR R J PELIZA:

Mr. Speaker, the Honourable the Chief Minister was asking a question. How will the Bill work? Well, I have a strong feeling that it will work as all the other previous trade restriction ordinances have worked, that is, that the big fish who want to come in, who know how to come in, who can get the right advisers in Gibraltar, will come in. It is not the first time that we have a Trade Licensing Ordinance in Gibraltar, it goes back a few years as the Chief Minister himself pointed out. And what do we discover as we walk up Main Street? That the local traders are out of trade and the people from outside have come in and taken over. There is a very simple clause here, the one referring to transfers where a person who already is in business can transfer his business and quite rightly, you cannot restrict anybody from not being able to pass over his business if someone comes along and offers

the right amount of money. Are we to believe that people who think that in the future there might be more businesses in Gibraltar, are we to believe that those people if they have the right amount of money, will not attempt to come in and who can stop them? Nobody can stop them. To me it is clear that the fish that is determined to come in and take a good bite at the cherry will do that without any form of impediment. This has happened in the past and I have a feeling it is going to happen in the future. My Honourable friend, Mr. Isola I think was right when he said that the effects of this Ordinance, to a large extent, will be to discourage, I think the small beginner in Gibraltar, to get a start because it is not going to be as easy as it looks. Any person who wants to start a business has got to think of a number of things. First of all, the question of cash available to be able to start it. It is not a question of to pay fees for applications to get a licence, it is not a question of having to consult legal advisers to be able to know that they are doing it the right way. I know it can be done without a legal advisor. But it is obvious that any person who has got a little bit of common sense will want to make sure that he is going to do it the right way. So all those things are hurdles that a beginner will have to think about which was not necessary for the Gibraltarian before. This is what my Honourable friend, Mr. Peter Isola, was saying before, not the interpretation the Chief Minister gave to what he said. It is quite true that there are a lot of young people in Gibraltar who are doing very well but they started business before this Ordinance came into effect so that is no proof that in the future it will not be more difficult. I believe in free trade altogether. I go with the Ordinance because it is the wish of my colleagues that we should go with it and I suppose it is the wish of the majority of the traders in Gibraltar that this should be so. But I think that, if anything, it rather encourages people to come in rather than keep them out. Because the selected few who know how to go about it have the right contacts in Gibraltar and the right advisers in Gibraltar. Those who know how to go about it know that if they are getting a protection which they wouldn't have if this Ordinance did not exist and it would not be in their interests then to come into Gibraltar. In a way, in the attempt to protect, we are encouraging those people who can come in and once they are established they are here for good. If we look at the history of trade in Gibraltar and one analyses the different cases, you will find that this is what is happening. Those who objected to trade restrictions before, once they get in, are those who want the restrictions. That is protectionism and this is something that I personally would like to see did not happen. Unfortunately, this is not the wish, I think, of this House and not the wish of the traders of Gibraltar and therefore I go with my colleagues, but in going with my colleagues I would like to see a system that whilst protecting, is not unfair to anybody and not only not unfair to anybody but in some respect will be able to be more selective as to who is really entitled to come and trade without affecting the local traders, and at the same time ensuring there is absolutely fair play. This is why I go one hundred percent with my colleagues on the question of the constitution of the authority which will grant the trade licences. No matter how fair it is, unless it appears to be absolutely fair the feeling of those who have the licences rejected will be that of those sitting in that authority are biased. And if one looks at the composition of the authority as was suggested by us, I think there is a very clear difference. It is certainly much nearer to impartiality than the one approved by the Council of

Ministers. The Minister for Trade, I think, saw our point but under pressure from his colleagues, we don't know who they were, he changed his mind. There is laughter on the other side and if I were the Chief Minister, Mr. Speaker, I would be objecting to you that there are smiles on the other side of the House.

MR. SPEAKER:

I think, in fairness to the Chief Minister, you would be doing the same as you are doing, you are making a remark on it.

HON MAJOR R J FELIZA:

And so, Mr. Speaker, we find now that the Minister for Trade who is responsible for that department is not quite a free agent and entirely responsible for this department. I don't know whether he resigned as Minister of Tourism or whether he was thrown out, but the fact is that he doesn't carry that department any more and, perhaps, I am partly responsible for what happened. Although I know that the Chief Minister doesn't usually listen to what I have to say it seems to me that on this occasion, with his reshuffle, I think I have played a part. I only hope that the changes prove a little bit more satisfactory. I still have my doubts but we will see as time goes by, time will prove it. Mr. Speaker, therefore I find that the Minister, obviously, was made to change his mind, I think it is bad that a person who is responsible for a particular department who has been entrusted with that responsibility, should have been made to change his mind on a matter that was thoroughly discussed in a Select Committee. It is bad to come along and say the consultation with the Opposition is a question of "Heads we win and tails you lose" which is the attitude, I am afraid, in this House., because every time there has been consultation and something goes wrong they point the finger at us and say; "But you agreed, we consulted you." I accept that the Government is the Government and the Government is responsible but I think it is equally responsible that if you enter consultations with the other side that at least you end that consultation in an honourable manner which I don't think happened in this case because the matter was not referred back to the Opposition. I think it was very wrong and it rather does away with the spirit of consultation which is so important in good Government. Mr. Speaker, there are two fundamental points. The first one is the composition of the Board and in this case I have no doubt in my mind that the authority that was suggested by the Opposition appears to be a much better one. I agree that it is difficult in Gibraltar not to point a finger at somebody and say "He has got this connection, he has got the other connection, therefore he is biased." But at least let us reduce that to a minimum, to what is humanly possible and this is what we are trying to do. On the question of appeals, I understand there was a right of appeal not only to the applicant for the licence, but also to the objectors. If it is just as important to protect one as it is to protect the other because otherwise it can be open to people who should not come in, coming in without the objector having a right of appeal to the court. If we have got to have an Ordinance which is supposed to give some protection let us do it in such a way that it affords maximum protection in a fair way. I do not believe this Bill does that, certainly not as well as it would have done if the suggestions of the Opposition had been adopted and therefore, Mr. Speaker, I vote against.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, the Honourable and Learned Mr. Isola singled me out as the source of the objection to having the Finance Officer as Chairman of the Licensing Authority. It is, I think, Mr. Speaker quite irrelevant if there was any objection because the clause as it stands in the Bill is the clause agreed upon and decided by the Government. However, since the Hon and Learned Member did in fact single me out and referred to me by my official title, I have no hesitation at all in confirming that I did raise my voice in the consultations within Government that it was wrong; in my view, on two counts to designate the Finance Officer as the Chairman of this authority. In the first place, the Bill is a matter which is expressly and explicitly, and this has been confirmed in everything we have heard this morning, concerned with trade and trading. Trade and trading is not a subject for which the department of finance is concerned. The second reason stems from that and it is a matter of principle and that is that it is administratively, in my view, unwise to designate by official title an officer of the Government who is not directly concerned with the subject matter for which he is designated the appointee and, finally, perhaps one might say, it is certainly not a matter of principle but it is a point, that the Finance Officers job in Government happens to be an extremely heavily loaded schedule and therefore it is quite understandable, I think that the Financial and Development Secretary who heads the Department of Finance, should at least express some concern that his principal officer is being charged with duties for which the department in which he serves is not responsible and as the House will see from the way in which this particular clause has been worded, I was able to persuade my colleagues in the Government to accept that point of view and leave the Government free in relation to the Chairman because it is one of those appointed by the Governor. The point is that the Government can advise the Governor as to who should be the Chairman but the Government is not tying its hand so that whatever appointment is made in the first place cannot be altered without a fresh approach to this House and an amendment to a piece of substantive legislation.

HON M XIBERRAS:

Mr. Speaker, I think it is obvious from what Hon members have said in a serious manner in the House, leaving aside for a moment what the Chief Minister had to say in part of his intervention, that there are genuine doubts as to what principles are really in play in this legislation. I would like to add my doubts to this on the basis, first of all, that I think that Gibraltar traders deserve protection because the trading community of Gibraltar compared to that which it might become in competition, EEC and particularly if Spain or when Spain joins the EEC there is the need for the greatest amount of protection which is possible within the EEC. However, I am not satisfied with the philosophical basis of the legislation, either the original Bill or the present Bill which is really an improvement but no more than an improvement along the same lines as the first, I feel that it should be possible for a small community to draw a distinction not as between its own citizens, that is, as between Gibraltarians, but as between Gibraltarians and others within the broader community on the grounds of dislocation of economic standards of those in Gibraltar when faced with tremendous competition potentially from outside and practically when Spain joins the EEC. However, I appreciate that

neither the Select Committee nor the Government nor, indeed, I say this with due respect and humility, my colleague, nor the Attorney-General, may I say, have been able to find *modus vivendi* between the rules of the community and the interest of all Gibraltarians not just those who at present have a licence to trade. Faced with this dilemma, I think that Gibraltarians should no doubt, as Hon Members on this side of the House have done, should be prepared to support the Bill before the House were it not for other considerations which have been brought to light by both the Hon Mr. Restano and the Hon Mr. Isola and, indeed, my Hon and Gallant friend Major Feliza and those are that there has been undoubtedly a breach of faith on the part of the Government in the consultations which were initiated by the Government itself. For instance, the Chief Minister should know, because he has come to the Opposition on quite a number of occasions seeking consultations, seeking the views, seeking advice and seeking support in these matters which affected in his view the interest of Gibraltar, he has come too often to the Opposition to know that once there is an approach of this kind it does bind the Government or its representative to some form of working relationship which cannot be broken as easily as has been done on this particular occasion, on a matter of principle on which there has been not only an exchange of views but on which there had been agreement and trust embodying that agreement had been shown and further agreed by both sides in the consultation, and indeed, by other members, the non-elected members in this House. It is ludicrous for the Chief Minister to say or the Minister for Medical Services to say that it is the view of the Government that is paramount in the end. Surely, Mr. Serfaty, with all his years in politics knows that he should not get himself in a position where he, representing the Government in a matter of his competence in the Government goes to the point of agreeing not one but two drafts, I believe, with the Opposition followed by a good number of letters or notes and papers that my Hon friend has here in his briefcase and then be faced with the ignominy of going back on matters of substance to the Government and being told that his views in a matter of his competence, I repeat, are not the collective views of the Government, and then having to come to this House and tell Hon members "It is not I, it is my colleagues who decide." I would suggest to the House that the proper way of proceeding in this is that the Hon Mr. Serfaty, whatever his personal views, should not have agreed to anything my Hon colleagues had to say unless he was sure he could carry it with the Government and if he could not carry it with the Government, he should not have led Hon colleagues into the supposition that the consultation would be fruitful and that this Bill would come to the House as a consensus Bill. I think this is absolutely elementary in the process of consultation but what is more, Mr. Speaker, there is one aspect of this which has not come to light yet and which I would like to bring to the notice of the Chief Minister in case he was not aware of it. In the course of these consultations, and I feel now absolutely free to say so bearing in mind the scant regard that Hon members opposite have shown for the process of consultation in good faith, it was put to me that certain modifications could be carried out in the composition of the Board such as the Opposition Members in consultations with the Governments would have liked, provided that I agreed to a particular person being named as an independent member for a limited period of time. The Chief Minister can shake his head, but my colleagues, both the Hon Mr. Restano and the Hon Mr. Isola know about this, a suggestion which I turned down as

improper. If that was the suggestion of the Minister for Trade then it is up to him to say why he made it and to withdraw it or to apologise for it if he thinks this is so. It so happened, Mr. Speaker, that this particular member that was suggested was in fact one ex-member in the last Trade Licensing Committee which Hon members in this House had reason to question, not for any personal reason but because of his particular involvement in trade, I refer to Mr. Momy Levy. That suggestion was made to me and I turned it down. I turned it down and there was no deal on that particular issue, I think it was even before, I am not too sure, even before the Government had reached a final conclusion on the form of the Bill. Therefore, if the Government is so collective in its attitude to these matters, so collective to the extent that the Hon Mr. Serfaty is led up the creek, as it were, with his proposals to my colleague and whole idea of consultation almost in tatters, if that is the collectivity of the Government then Hon members on the other side of the House should know that this opposition was made. Mr. Speaker, as regards the composition of the Board itself, I still don't know after the intervention of the Hon the Financial and Development Secretary, who is going to be the Chairman of this quasi judicial body. I think, Mr. Speaker, the least that Hon members could hope to say in this House is who they intend should be Chairman. We know from the Financial and Development Secretary in an intervention which I welcomed and with which I agree, that it is difficult for him for the Finance Officer to be the Chairman of the Board, my Colleagues, I know, said that the Finance Officer should be the Chairman of the Board. I think it should be the Director of Trade but we haven't got any Director of Trade, we do not have in the Government a Director of Trade, we do not have a Department of Trade in the Government. The Minister for Trade is completely on his own in these matters, apparently surrounded by colleagues. I can see that the Hon the Chief Minister forgets his own rules very quickly. He starts smiling and making comments, Mr. Speaker. I am sure that not having a legal training I might get annoyed with him and I might be put out of my stride and I might retaliate. But Mr. Speaker, with the respect of the people of Gibraltar, if not of the Chief Minister, I have spent some years here in this House, Mr. Speaker, we still do not know, in fact, who is going to be Chairman and the least thing we should hear from the Government is that. Is it going to be the Consumer Protection Officer?

HON A J CANEPA:

No

HON M XIBERRAS:

I am very glad of that Mr. Speaker. I think it would be unconstitutional. I think the Hon Minister for Labour is, in fact, learning something about consumer protection, its functions and limitations, and also about the limitations imposed by the Constitution. Thus, Mr. Speaker, it is not going to be the Finance Officer, it is not going to be the Consumer Protection officer, is it to be either of the two members who were in the old Trade Licencing Committee, namely Mr. Levy or Mr. Cardona? This is a process of elimination Mr. Speaker. If it is not to be the Consumer Protection Officer or the Finance Officer, exactly who is it going to be because it is very important, according to the Ordinance, who is the Chairman and

even if we agreed to the composition as proposed by the Government, we are not going to agree to giving the Government a blank cheque to put in any independents of their choice because we have already had experience of what independents the government intends to choose. Mr. Speaker, on those grounds because they are important, because we are dealing with the actual body that is going to almost administer the Ordinance, we must have clarification from the Government even to vote in favour of this particular clause at Committee Stage. Next, Mr. Speaker, on the question of the right of the objector to appeal, I entirely agree with my colleagues. I think that the Government is making a mountain out of a molehill in saying that a man would be on tenterhooks for a period of a month or so, I think that this is the kind of business risk that is normal and certainly I agree with my Honourable colleagues that because a man that would set up in business has to go through a month's wait, I think that nevertheless the important point of principle that both objector and petitioner should have the right to appeal is a matter of importance and the Minister for Trade apparently agreed that it was at one stage a matter of importance but was forced to change his mind by his colleagues. Mr. Speaker, the vote of the four members of the Opposition, those four members who still remain to express another point of view along with the Honourable Mr. Bossano in this House despite the majority of the Government, is going to be against the Bill, against the second reading of the Bill because we think that in fact the process of consultations as carried out really stinks. It has been done in a most dishonourable manner to my way of thinking and we wish to show that we will not be party to this kind of consultation whether we are four or three in this House or two or, speaking for myself, whether I am alone in this House. We are not going to be party to this form of consultation and, secondly, Mr. Speaker, because we are not clear about the composition of the Board because we would like to see consumer interests represented and not necessary consumer interests as represented by the Gibraltar Trades Council which itself might have an interest in the question of the adjudication of licences and for these reasons we are voting against, but we are voting against because we disagree that trade in Gibraltar needs no protection. We urge the Government, in fact, to look on their own at the philosophical basis of the law to see if they can find some way in which all Gibraltarians would come on one side of the fence whilst those who are not Gibraltarians will come on the other. My final remark, Mr. Speaker, is that the Honourable and Learned the Chief Minister completely misinterpreted what Mr. Isola had to say. Mr. Isola said that before a Gibraltarian had a chance of going forward in business and launching a business. The Chief Minister said that that was true but only just true and then he referred to the formation of brass plate companies.

HON CHIEF MINISTER:

I did not mention brass plate companies at all. I only said "fronts".

HON M XIBERRAS:

Oh, I see, "fronts". The Honourable and Learned Member is more conversant with the difference between a "front" and a brass plate company. Mr. Speaker what I am trying to point out is that my Honourable and Learned Friend was not talking about brass plate companies, he was talking about all Gibraltarians, as Gibraltarians,

having the right to trade if it were possible to protect all those Gibraltarians from outside competition and that was the twist that the Honourable and Learned the Chief Minister wanted to give.

HON CHIEF MINISTER:

If the Honourable Member will give way. Certainly there was no element of twist in what I said at all. I am sure the Honourable Member who mentioned this will understand it. When he said that before this the Gibraltarians had an absolute right to trade, I said that that had been rightly eroded just before the Bill because of "fronts" which some Gibraltarians used in order that other people should trade. There was no suggestion of anything other than the fact that the absolute right to trade of the Gibraltarian had been eroded by "fronts".

MR. SPEAKER:

I think I must make clear one thing and that is that a brass plate company could never be involved because one of the conditions of brass plate companies is that they will not function in Gibraltar.

HON M XIBERRAS:

Mr. Speaker, the absolute right to trade as propounded by my Honourable and Learned Friend was, in fact, within Gibraltar as I understood him.

HON CHIEF MINISTER:

That is what I said.

HON M XIBERRAS:

Yes, and the erosion of those rights to my mind is ...

HON CHIEF MINISTER:

No, the erosion was in Gibraltar.

HON M XIBERRAS:

I have given way to the Honourable and Learned the Chief Minister on a number of occasions.

HON CHIEF MINISTER:

If he doesn't understand at least I must explain.

HON M XIBERRAS:

Well, Mr. Speaker, I have been more polite to him than he has been to me, I can assure him. The point about this, Mr. Speaker, and I will end up on this: is the Attorney-General really satisfied that we can do nothing as regards EEC towards the protection of all Gibraltarians, as Gibraltarians, as opposed to other community nationals? That is the point; I know he has made his enquiries, I know how difficult it is to get some sort of ruling from the EEC, I know how difficult it is even to get Her Majesty's

Government to defend opposition in certain respects with EEC. We have had this in respect of direct elections and so forth, but I think it is essential for Gibraltar, once Spain goes into the Common Market, that we should have this distinction on the basis of Gibraltarians as people from outside. I think that there should be some way - I already have some indication - of getting the Community to accept that this distinction can be drawn on the grounds, for instance, of dislocation of living standards rather than trying to create a huge wave of legislation which is going to cut out some of the people who are more deserving in Gibraltar on technicalities, on minor things, but not really making an effective difference to the position of the trader in Gibraltar.

HON J BOSSANO:

As far as the Ordinance is concerned, Mr. Speaker, as a whole, on the general principles, I believe that even if it is not for a question of controlling the number of businesses it is important from the point of view of economic management, anyway that the Government should have accurate and up-to-date information as to the way that trade is developing and what is expanding and what is contracting so there is a primary function that is central to the role of economic management that I think is not in fact in any way interference any more than in any modern society we all accept that there has to be some curtailment of private rights in the interests of social rights which we all enjoy. As regards the specific change in the composition of the Trade Licensing Committee, I believe that the representation of the Trade Union movement and the representations of the Chamber of Commerce should be greater than is proposed in that section and I believe that the Trade Union movement will be making representations in this respect to the Minister. I would also like, if it was possible, to see introduced in the Bill something that I was pressing for when we had the Select Committee and this is that it should be possible to object to the renewal of a licence on that grounds that the licence holder has not been paying wages and applying conditions of service to his employees which are prevalent in the industry in which he is operating. I believe that it should be possible for someone to object to somebody being allowed to trade in competition with other traders and to be allowed to do so whilst underpaying his employees and being able to undercut other people by virtue of the fact that he is paying less or not giving the same protection to his workers than the people already established in the trade. This would be in the interest of good employers so that as well as protecting the workers in the particular enterprise it would, in fact, protect good employers from unfair competition by bad employers.

MR. SPEAKER:

I will then call on the mover to reply.

HON A W SERFATY:

Sir, first of all I would like to refer to the scurrilous accusations of the Honourable Leader of the Opposition when he said that what amounted to, as I take it, blackmail that I had suggested that if a certain name was put by the Chief Minister to him, the Opposition would agree on that independent member.

It was the Opposition representative who suggested this to me and the fact that I never put it to the Chief Minister, I never put that suggestion to the Chief Minister, proves that it was not I who made that suggestion.

HON G T RESTANO:

If the Honourable Member will give way, He may recall that Mr. Peter Isola and myself didn't want any independents at all, not one, and it was the Honourable Member himself who said that there should be an independent member.

HON A W SERFATY:

That may be so, that there might be independents in the Trade Licensing Committee, but that is one thing and another is to try and blackmail the Chief Minister who is completely ignorant of this because I wrote to him on the matter on the 26th March and I never made any such suggestion. If I had been a party to it I would have either written or spoken to the Chief Minister about it. So let me make that clear.

HON M XIBERRAS:

If the Honourable Member will give way. The position is, as I understand it, that the Honourable Member approached my colleague, Mr. Restano, and Mr. Isola with the proposition that if we agreed to one independent member who should be named by the Chief Minister in consultation with myself, the Government would agree that the person mentioned occupied the post for a period, I believe, of one year or two years.

HON A W SERFATY:

The suggestion came from the gentlemen opposite and I never put it to the Chief Minister. If they had come to me and I had agreed, I would certainly have gone to the Chief Minister with the suggestion. I never put it to him. The Honourable Leader of the Opposition can react as he likes to this but I say so here most solemnly that I never put the suggestion to the Honourable Mr. Restano or the Honourable Mr. Isola. I don't think the Opposition has served, if I may put it this way, the cause of consultation this morning. I, in my electoral addresses and in my articles, was all out for consultation with the Opposition and with other people but I am convinced that with some of the gentlemen that we have opposite, this is impossible. I had a very difficult conversation with Mr. Restano when he received my letter and this he has not mentioned.

MR SPEAKER:

On reply one must be very careful not to bring new matters in because members have not got the opportunity to answer.

HON A W SERFATY:

Yes, Mr. Speaker, but I would like to say that on the 6th of May I wrote to the Honourable Mr. Restano and the Honourable Mr. Isola calling their attention to the decisions taken by the Council of Ministers and calling their attention to the fact that the composition of the Trade Licensing Committee as suggested by

them and taken by me to the Council of Ministers, had not been agreed to. I called their attention because one can be a politician but one should also be a gentleman. I wrote to them calling their attention to the alterations in the clauses as they had it before I went to the Council of Ministers. I think I have the right to say that, Mr. Speaker,

MR. SPEAKER:

If you had not had the right I would have stopped you.

HON A W SERFATY:

I am rather disappointed that when one consults the Opposition and the Opposition do not get away with all their suggestions, then one is accused of breaking faith with the Opposition. From the very beginning as the Honourable Minister for Medical Services has said, the Opposition knew only too well that my talks with them had to be without commitment even though I am Minister for Trade, and that the last word had to be with the Council of Ministers but I have learned my lesson for the future, I must say. The Honourable Mr. Restano brought this question of the imports of goods by importers who didn't have a licence to deal in those goods. Mr. Restano must be a very hard man sometimes to take no for an answer because this had been aired in this House months ago and his answer had to be no because it is not practical. The Honourable and Learned Mr. Isola and the Honourable and Gallant Major Feliza both have said that youngsters and newcomers would find it difficult to start a business in Gibraltar with the Trade Licensing Committee which is envisaged in the Bill, I fail to see why one more representative, which is the only difference, one more representative of the Gibraltar Trades Council and one more independent, is going to make it any more difficult for a prospective trader to join the trading community of Gibraltar. They have not convinced me with any of their arguments that by adding one more independent and one more representative of the Gibraltar Trades Council that is going to make it more difficult, I would have thought it would be easier for a newcomer to join the club. In fact, when all is said and done, the differences between the Government and the Opposition today are the composition of the Trade Licensing Committee and the right of objectors to appeal so consultation, in a way, has served a purpose in narrowing the differences to these two main points. The only other thing I would like to add is that from this debate it is quite clear that the Trade Licensing Ordinance which I had the privilege to bring to the House in 1972 just before we joined the EEC, has been vindicated. With all the Select Committees and all the consultations and all the debates, still nobody has come except for minor details with anything better than the Trade Licensing Committee which was passed here in 1972.

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 Bssano
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 J K Havers
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 Bill was read a second time.

HON A W SERFATY:

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

THE ENTERTAINMENTS (AMENDMENT) ORDINANCE 1978

HON ATTORNEY-GENERAL:

Mr. Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Entertainments Ordinance (Chapter 51) by making further provision for the control of cinematograph entertainment be read a first time.

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

HON ATTORNEY-GENERAL:

Mr. Speaker, I beg to move that the Bill be read a second time. At the moment there is virtually no control over the films which are shown in Gibraltar. There are an ad hoc body of "censors" who do a very good job and who are shown certain films which are to be exhibited but they have no control over these films whatsoever. If they are to recommend that a film be not shown, the exhibitor can say, "I am sorry. You have no jurisdiction to stop me, I propose to show this film." The only provision which does exist is a provision of the present Ordinance, which is Section 5, which allows the Governor "Whenever he shall be of the opinion that it is fitting for the preservation of good manners, decorum, or the public peace so to do, to forbid the public - I miss out certain words here - cinematograph entertainment". But, of course, before he can make such Order he must have something to go on and, in fact, if a person were to bring a film here and to show it without showing the censors first, as he is not bound to do so, the Governor would not be able to make any Order banning the film. And even if he did, supposing as happened earlier this year, the censors advised that a film be not shown, the exhibitors as I understand it, were not prepared to accept their advice and they formed a club, which that being so the provisions of section 5 did not apply, it was not public entertainment and of course the law was circumvented and there was nothing that could be done. Therefore this

particular Bill does make provision for censorship. What it does is this, I imagine that most members - the Bill has been printed for some 2½ months - have had ample time to consider the provisions. We start off by setting up a Board of Censors which shall consist of up to 11 persons. If I might say here that it is not proposed that all the Board should sit on every application for permission to show, that would of course would impose an intolerable burden on the censors and so we provide that when it is necessary to decide whether a film should be shown, that the Board - and this is section 5c - there should be at least 3 members who consider the application. In so far as films with a certificate from the British Board of Film Censors, anybody may show a U film, an A film, or an AA film. An X film certificate, if it is to be shown to the public, must be approved by the censors. It is not necessary for them to examine every film, there may be a film which from the knowledge they have they reckon can be approved. They can give approval without necessarily seeing a film, what they can't do is they cannot disapprove without having seen the film. In so far as clubs are concerned, and there is provision for the setting up of cinema clubs, a club may show without the approval of the Board any film which has a certificate of the British Board of Film Censors, be it U, A, AA, or X, but they can't, of course, show a film which hasn't got a certificate of the British Board of Film Censors without the approval of our censors. That prevents films which have not been presented to the British Board of Film Censors being brought in and shown to a club. There is one other provision to which I would draw attention, perhaps two or three more, The provisions of this Bill do not apply to the showing of a film in a private house. If a private person wishes to bring in and show any film he can do so provided it is done in his house. These are the legal provisions of the Bill. I would like to express some views, not on the legal aspect but on what I might call the moral aspect. There has been a considerable amount of publicity in the form of letters to the press, suggesting that there should be no censorship and that if a person wants to go and see a film depicting sex or violence he should be allowed to do so, that it is the free choice of the individual. I gave an opposite view. I must admit I have never seen an X-film in my life. I must also admit attempting to break the law as a small boy of 10 and wishing to go and see an H-film, I think it was "Frankenstein", you couldn't get in under 16 - borrowing a) a hat of my father's and b) a false moustache in order to get into this film. I was stopped, I have had to read over the past two or three years a certain number of magazines which have been detained as being obscene or indecent and I have advised my Hon friend the Financial and Development Secretary where so but, of course, the importer has always had the chance to challenge this in court. But it seems to me that these magazines, and I think the same can apply to a film, they advocate a breakdown of the standards of decency. I am not prepared to go into detail, they advocate complete promiscuity, breakdown of family relations, unnatural relations, and I am absolutely certain that people reading these magazines could be influenced by them, not all, but a great many people will be influenced. "What is wrong", they say, "with group sex, what is wrong?" I feel that the same applies to the cinema. If you show gross violence, and I understand that many of these films do show quite intolerable violence, if you show films advocating free sex, put it that way, it is bound to have an influence on people who see it. In the United Kingdom

to my shame, the standards of decency and morality seem to be dropping, it is the permissive society, but is there any need why we in Gibraltar should lower our standards? It seems to me at the moment we have very reasonable standards and I am very worried that unless we introduce some form of censorship we will find ourselves in the position of our standards being broken down by this pernicious media and therefore I commend this Bill to this House purely on decency grounds. I think it would be an affront to Gibraltar unless we have some form of censorship which could prevent really foul, if I might use the word, films being shown in our society.

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

HON M XIBERRAS:

Mr. Speaker, I think the first proposition, perhaps the only one the House can be agreed on, is that on this occasion Hon Members should vote according to their consciences. I believe that the issues raised by this Bill are very complicated and issues which deserve the attention of each individual member of this House.

HON CHIEF MINISTER:

May I interrupt the Hon Member by saying that as far as we are concerned it is a completely free vote.

HON M XIBERRAS:

I say that the issues are complicated because the morality of this age is, if I may say so with the greatest respect and I have the greatest admiration for what the Honourable and Learned Attorney-General has said and the manner in which he has put forward so passionately the case, is also if I may say so, in my view, something of an over simplification. I think I might draw attention to this over simplification by the use of this word 'permissive society' for instance. It is a phrase which was used, to my certain knowledge a good 16 years ago, a phrase that is used all over Europe. It reflects an attitude which many of us, including if I may say, myself, disagree with but an attitude nevertheless which has pervaded the whole of the western world and I see that there are dangers in setting up by laws of this House isolated pockets of decency which do not accord with the other prevailing in the rest of the contingent world and setting up, as it were, a sand castle against the waves which we all know does not stand a chance of remaining standing. I do not agree thereby that standards of Gibraltar should be changed to match those of the contingent world, but we have seen in a neighbouring country how the attempts at restricting to an unprecedented degree in Europe the standards of the individual have led, since the death of the Head of the State, to a complete swing of the pendulum to another extent and to the disclosure of a society that in itself is quite incapable of dealing with the challenges of a so-called permissive society and therefore whatever I myself do with this Bill, I hope that the Hon Members will realise that it is not fundamentally a question of legislation, it is a question of morals and morals do not always equate with law. I think Mr. Speaker, there could be also the sin of prudence. I think there could also be a sin in saying "Gibraltar is so much a cut above everybody else that we have not exposed

our children, our young people, to the vices as they are called, which are in the whole of Europe." But let us take away from our minds any idea that we can ask our children to live in an ivory tower or our young people not to be exposed to the vices of Soho, to be exposed to the Calle Echegaray of Madrid or to any of the other places which are well known as local points of the dissolute life, Mr. Speaker I think this House has an obligation in saying "yes" or "no" to this Bill and determining also what the level, or trying to establish what the general level of those values are and what the Hon and Learned Attorney-General has said with respect to his attitude to this Bill does not conform with mine. I must confess to having attended a good number of X-films. I think that there is a good artistic content in many of them. These films are categorised as filth and so forth by a minority. The majority doesn't go to see them, to my mind, the majority does not pay as much attention as we are forced to attach ourselves in this House when presented with the problem and therefore we should keep, I think, a sense of proportion as to what we say and not say about the morals of others. It is not a primordial for most people most of the time - I am referring to sex and I am referring to violence. There is obviously, a positive aspect in the generation of the correct attitude to these things, there is a Governmental responsibility in these things, I agree, there is a responsibility in saying that we need to persuade, especially in the situation of Gibraltar, exhibitors and suppliers, especially exhibitors here, that they do have a social obligation to the community and that this social obligation stems from a knowledge of the morals of the community. Also there must be an understanding on our part that the exhibitors do have a financial problem. I think it was Mr. Bassadone speaking on the television who put this point forward, that they do get supplied with a certain kind of film and unless they take one they cannot take another. I would like to hear more of the financial side from Hon Members opposite to see whether, in fact, the supplier here is being called upon to make Hobson's choice I think there is an element of this. No doubt, there is also an element of unfair competition, unfair in the sense that if one supplier starts exhibiting

MR. SPEAKER:

With due respect to the speaker, we must not get involved in this aspect. What we are trying to do is pass a Bill where a Board of Censorship is going to be established for the purpose of deciding whether a film should be allowed or not.

HON M XIBERRAS:

I think one of the interested parties in this legislation is in fact the exhibitors and I think that their point of view should be expressed.

MR. SPEAKER:

There is not a prohibition, that is what I am trying to say, in the showing of the films.

HON M XIBERRAS:

No, but there is a change on the conditions under which films

can be exhibited. There is a strengthening of censorship, to my mind.

MR. SPEAKER:

Yes, to that extent I do not want to be misunderstood.

HON M XIBERRAS:

I just thought that the Government should tell us whether it has had any talks with the exhibitors and what their problems are in this respect. Also, Mr. Speaker, something which the Attorney-General did not refer to is the difference between young people and older people. I think most people in Gibraltar the way Gibraltar thinks now, would be in agreement with not exposing young people publicly to things like posters and so on advertising films. I think in that respect the Hon the Attorney-General should say something, as opposed to allowing a young person to go into a cinema, paying his money with or without the consent of his parents and so forth. I think this is a problem that needs touching on. Mr. Speaker, I would also like to know from the Government side, only because they happen to be in the position of that responsibility, who in fact the censors have been up to now because I think it is important in all questions of censorship that responsibility for the setting up or for the exercise of censorship should be absolutely clear-cut and obviously that it should not lend itself to any kind of political censorship. I know that Hon Members have not excised films on the basis of political views but at the same time if Ministers have been doing the job up to now, I wonder if they are going to continue to do this because if they are one must make sure that there is no chance that political censorship is going to be exercised under the cover of censorship of sex or violence. I think this is an eventuality which we must look at in safeguarding our free society. Mr. Speaker, as regards the question of clubs, I think that clubs exist all over Europe this is a fact of life. It is known that people make this one of the high points of certain visits. They go to see a film, a sex film or something of the kind, they think it is something out of the ordinary. I don't think people come back perverted. I do not think that they come saying we are different people, we will dismiss our wives, we are going to be cruel to our children, I think the effect of the film is a more cumulative one rather than a personal one on the individual and only in a very small number of cases does one get an individual that is perverted in the widest sense of the word by attendance at these films. I agree that with young people those in authority must exercise, by that I mean teachers and parents and so forth, not exercise judgement on the situation and one must presume that a young person of 13 or 14 needs the guidance and eventually as a last resort the judgement of parents, teachers, those in authority and I would go further, of society itself, to my mind does have a right to exercise censorship but it should exercise it very sparingly, it should encourage the positive tendencies within society. Mr. Speaker I would like to hear very much more on the Government side about the problem facing the community now, about what positive things they are doing in this respect, how they intend that this censorship board should work, at what level, if it is going to be composed of churchmen, if it is going to be composed of politicians, exactly what kind of censorship, what general level of censorship are we going to

have, because the last thing we want to do is to let out children grow up in an atmosphere which is far removed from the world that surrounds them. My inclination at the present moment, on evidence, is to vote against the bill though not against the principle of censorship in extremis and I would like to hear more from the Government benches.

MR. SPEAKER:

Perhaps this might be a good time to recess until this afternoon until 3.15 p.m. when we will continue with the second reading of this Bill.

The House recessed at 1.00 p.m.

The House resumed at 3.15 p.m.

MR. SPEAKER;

May I remind the House that we are debating the Second Reading of the Entertainments (Amendment) Ordinance 1978.

HON A P MONTEGRIFFO:

Mr. Speaker, I don't think we can look at the problem we are discussing before the House in isolation of the context of the society we are living in and the pressures that arise from that society which in a way is undermining the very freedom we are trying to protect because there is freedom for a few to manipulate things in such a way that the freedom of the individual is lost and they are conditioned to accept standards which in normal circumstances of real freedom they would not accept. I will deal first of all with two or three points raised by the Hon Leader of the Opposition. I think he said we are trying to set levels of morals. Certainly this Bill is not trying to do that but it gives the opportunity to those who want to carry on enjoying what some call pornography and others call it by another name, but it also in the name freedom protects those who consider this sort of thing obnoxious to them and I think they are equally entitled to their own freedom. Thirdly, financial considerations. Frankly, I don't think financial considerations should come into this otherwise if we are to take financial considerations to its logical conclusion it would mean that we would be able to sell food which is not of the standard that we would like in the name of freedom and financial consideration. As regards the back lash in Spain, I don't think it is a good example because here, thankfully, we have not been living in a dictatorship and never theless and gradually we have been conditioned to accept standards that we would have never dreamt of accepting 10 or 15 years ago. Because I said that you cannot judge this particular Bill in isolation of the context of the society we are living in and the ramifications that such pressures and the abuse of freedom can bring about, I hope the House will excuse if I indulge in a little bit of philosophical exercise. I said we were not setting levels of morals as far as the Bill is concerned but I am not frightened as an individual, to make public what I consider are the minimum set of moral standards that I would accept and that I would like to see without trying to impose it on anybody else. Democracy works, I feel, more smoothly when individuals exercise a certain amount of discipline, restraint and sense of community and by

sense of community I don't mean just togetherness but bearing with one another and doing what is best in helping to uphold a consensus of basic values which will be conducive at a minimum to strengthen such fundamental institutions and principles as the family, the rule of law and the dignity of the human being. But today license is mistaken for liberty and hence the very concept of democracy is being slowly but surely eroded. Democracy is being used nowadays to cover a multitude of sins and one of the greatest sins is an unbridled consumerism which is sweeping every human and decent value in the name of what sometimes we call economic growth. Other people call it the ugly face of capitalism. Economic growth, Mr. Speaker when not properly controlled, does away with all human values. Everything today is commercialised and there are people using freedom, as I said before, to manipulate the few and condition them not only to buy what is superfluous but also to see what they wouldn't have dared to see years ago. It is the profit motive going haywire, it is money and as far as I am concerned I can see that everything is commercialised from literature to religion, from sex to the family. Sir, there are three powerful elements of the mass media and those are the cinema, literature and television. These are three powerful means which could be used for the benefit of mankind and of its education. But what has been happening in those three media? Gradually and slowly the standards have been lowered in a very subtle manner, in a way that appeals, perhaps, to the more basic instincts of man and gradually people have been conditioned to accept, one day a little bit here, one day a little bit there. My colleagues will be able to say better than I, because they were present only a few days ago at a preview of the most shocking film that I am sure anybody has ever come across in Gibraltar. And so, having been conditioned throughout those years to accept slowly this degradation of values, people are now demanding their daily dose of poison. It is happening not only with films, not only with literature, it is happening throughout in this age of consumerism. We are being subjected and conditioned and manipulated, of that there is no doubt, so we must be careful that we preserve freedom and we do not allow freedom to enslave ourselves. These few are the people who I would describe as the "pushers", the people who probably are rolling in money and riding in Rolls Royces but the "pushed" are probably the youngsters who are rotting away in jail as a result of their minds being conditioned to accept these standards. This is what I myself consider is happening nowadays because there is no point in saying that the cinema or the mass media is a means of education and then not accepting that if the sort of education they are getting is not the right one that people are not being influenced by it. This would be a complete contradiction. The Honourable Leader of the Opposition said that he believed that rather than legislate, parents and teachers should set moral standards for the children. But how can this be done. How can it if anybody wants to teach their children a certain minimum liberal set of values. How can they be taught a minimum set of values at school, when they go out or go into their own homes and watch television or read certain literature or go to the cinema? How can they have a proper set of values, when they are pressurised in a very forceful manner into accepting other sorts of standards. That is why we have not got a generation gap. It is not true to say we have a generation gap. A generation gap exists by the normal process of life. It has always existed. What we have got is a credibility gap, a credibility gap because the adults

are trying to teach children a certain set of values and then those children go out and see something else. There shouldn't be any doubt or any surprise if they consider we adults to be a bunch of hypocrites. I accept that in a democracy censorship is a very difficult thing to impose and we are not trying to impose censorship through this piece of legislation, though let me say that in Britain not only have you got the general Board of Film Censors but every municipality has got the right to ban a film passed by the British Board of Censors. We are not asking with this particular legislation to do that. All we are doing, Sir, is to do what we do with smoking. There are people like myself who absorb the poison. I am allowed to do that. But there are people who consider it obnoxious and do not want to have anything to do with it and they are allowed in trains and other places, to have non-smoking areas.

HON M XIRERRAS:

If the Hon Member will give way. Could he extend the logic of his attitude towards banning the advertisement on cigarette smoking on television?

HON A P MONTEGRIFFO:

If I had my way, yes. Therefore, Sir, the most that we are doing with this particular law is no more than we do with smoking. Because in the name of freedom, as I mentioned before, it is only fair that people should be free to object. To me it is obnoxious to go around and see books of pornography or certain particular posters or certain particular literature. Those who want to enjoy it, by all means let him go to a cinema club. What I feel is wrong is that a cinema should show "Red Riding Hood" or "Snow White" or "The Sound of Music", one day and then "Emmanuelle" the next. That, Sir, is what this law intends to prevent. If anybody wants to enjoy the pleasure of a cinema club, he can have all the pleasure he likes if he derives any pleasure out of those things, but I don't think it is fair that a normal cinema should be used for anything other than normal films. The Chief Minister said before, that there is no whip on this matter but I certainly will vote in favour of the Bill.

HON A W SERFATY:

Mr. Speaker, as the Honourable the Chief Minister has said on many occasions there are many kinds of grades, some of us are more liberal than others, and these differences of opinion have given rise to considerable discussions in the Council of Ministers on these matters. The Chief Minister very wisely did not apply a whip to those of us who are on the same side of the House. I am not going to say that my children, or grandchildren, for that matter, are not to see shocking films, no, but I would not like and I have never liked them to be brought up in a glass cage so that they do not become immune to the "Sohos" of this world. I take a more liberal attitude on this matter than my Honourable Colleague who has just spoken. This Bill, in its present form, is not too bad, I will put it that way, subject to certain conditions. It does safeguard the context of liberty which I think all of us, with different shades of grades, have very much at heart because it does allow people to see X-films. Of course what it does allow is for people to see X-films in cinema clubs.

I took a more liberal attitude originally. May I say, in passing, that I normally like to see films of wild-life, I have seen very few X-films, I think the only X-films I have seen in the last 10 years are "Emmanuelle 1" and "Emmanuelle 2" in London out of sheer curiosity. I took originally the view that if people are allowed to see X-films in London why should they not be allowed to see X-films in Gibraltar? Some of my Honourable colleagues explained, as Mr. Montegriffo has just said, that local authorities have a second chance to censor X-films which here we do not have, unfortunately, so it was just a question of setting open the X-films for everybody to see or to allow people to see them in cinema clubs. If there isn't a big demand, then, of course, these cinema clubs are not going to be economically viable and perhaps some of my less liberal colleagues are hoping that it is not economically viable to run a cinema club. I am hoping that it is as a fight for individual freedom. What I sincerely hope now that we have got to this stage, is that the censorship is not too bigoted because, of course, we are talking of sex, we are talking of vice, we are talking of violence. You can see all kinds of sex not only in "Playboy" magazines as I am tired of telling some of my colleagues you can see sex in any ordinary magazine, in any Sunday papers you can see all kinds of sex to a certain degree, so why all this worry? One thing I will say in favour of the legislation because I like to be fair, and that is that because most of the films that are produced are X-films, it happens that many young children under 18 do not have a chance to see an A-film or a U-film because you have X-films all over the place in Gibraltar. This is one of the achievements of this legislation but, as I said before, I do hope that the system of censorship is not too bigoted. One final thing, I think that the owners of the cinemas can help if they really abide by the law that persons under 18 years of age are not allowed to go into an ordinary cinema. I am of two minds on whether I vote against, I vote in favour or I abstain and I am waiting to see how other people tend towards the vote.

HON H J ZAMMITT:

Mr. Speaker, this Bill has come about for a number of reasons and I think it is well known, certainly in the House, that it has been my responsibility over the last six years to have the doubtful pleasure of seeing and having to preview some of the films that have come our way. Mr. Speaker, I think that the films that have been banned could be counted on one or two hands. We have been quite liberal apart from one or two which left a lot to be desired, not necessarily on sex grounds, but on violence in particular or on religious grounds. There have been some films which I do not intend to go into detail here which to any person, irrespective of one's religious scruples or religious ideas, left a lot to be desired. Religion has been vilified, blasphemed and I think that irrespective of religion it could well be offensive to a tremendous amount of people. Mr. Speaker, I am quite liberal on this issue, in fact, I say so because we have allowed the immense majority of films to go through. On the other hand, I think that what my Colleague the Minister for Medical Services, Mr. Montegriffo, mentioned and in particular what my Colleague the Honourable Mr. Serfaty mentioned later on, it is because of our uniqueness that I take a particular view. The uniqueness is that we only have four cinemas in Gibraltar. In the past the committee has received

a lot of co-operation from the film exhibitors in allowing previews and abiding by our judgement. The fact that we have four cinemas in Gibraltar, the fact that we know that the greatest receipts are received by exhibitors showing X-films, has brought about a number of letters to me and a number of direct approaches to me by different organisation and individuals that their children are unable to go to the cinema, when all cinemas have been showing X-films. Therefore the youngsters and the not so young have been deprived from going to the cinema. There is another aspect which requires consideration. First and foremost and without in any way trying to criticise any group of persons or creed, we have an unaccompanied labour force in Gibraltar of 3,000 men, who can be easily influenced by what they see. Last Thursday we previewed the X-film "Private Vices and Public Virtues", and this film was nothing short of being absolutely disgusting. When my colleague, the Honourable Mr. Serfaty, mentioned that sex was being seen in the national newspapers I disagree because they might show pin-ups, but not the kind of sex that one is objecting to and may I say that no one in the committee which I chair has ever censored normal sexual relationships. What one finds objectionable in these X-films is the unnatural sex acts that are screened and over the past six years it has been going from bad to worse.

MR. SPEAKER:

I am beginning to get concerned. I am supposed to be the censor of this House. I really wonder whether I should bring any powers to bear.

HON H J ZAMMITT:

It is quite appalling Mr. Speaker. I know people can complain of certain things but normal sexual relationships has never been condemned or banned by the committee. Mr. Speaker, what we have tried to do in the Bill is to ensure the right of the individual to go along and see a film and they can do so in a cine club. Whether Gibraltar is big enough to have a cine club we shall have to wait and see. What Gibraltar cannot have is a free for all without any form of control by those people who are elected to control and to impose certain standards. Somebody must be responsible and the Government is the body that had to bring legislation to ensure that there is an element of control.

HON M XIBERRAS:

If the Hon Member will give way. I think he has suggested an answer to a question which I asked in my intervention and that was, who, actually is going to compose the Board? The Hon Member has said by those who are elected to control.

HON H J ZAMMITT:

No, I said to legislate. It is the duty of the Government to legislate. Mr. Speaker, having said that and not wanting to be repetitive about these issues, let us be quite sensible about this and that is that censorship, much as we criticise it here, exists in the country to which we have wanted to align ourselves for so long and that is Great Britain. The X-film "Emmanuelle" was banned in the local Borough Council of Colchester. "The

Exorcist" was banned in Liverpool. Mr. Speaker, I think the only way we can be liberal about the situation is to protect those who do not want to go and have to see an X-film and those who want to see an X-film should be allowed to do so in a Cinema club which is used exclusively as a cinema club. We are a small community with only four cinemas and we have to cater for Gibraltar as a whole and therefore, Mr. Speaker, I will certainly support this Bill because I feel that we will succeed in allowing the persons who want to see these X-films to go and see them by becoming a member of a cinema club, but I also think we have a duty to protect the person who equally wants to take his son and daughter or his wife and family to see an A or U film. Mr. Speaker, I think the Attorney-General did mention that the Cinema Club could of course show X-films without being censored. That, of course, is so but there are other films that have not obtained the X-certificate from the British Board of Film Censors and therefore those will not be allowed to be shown, those will have to be viewed by the Censorship Committee.

MR. SPEAKER:

I see what you mean. In other words the films which have not been given a British Board of Film Censors Certificate will have to be previewed.

HON A W SERFATY:

May I ask the Hon Member for showing in what cinema?

HON H J ZAMMITT:

In the cinema club, Mr. Speaker. That does not mean to say of course, that an X-film will not be allowed to be shown in an ordinary cinema. An X-film will be shown in an ordinary cinema provided the Board accept that that is a film which can be shown or they think in their judgement ought to be shown or allowed to be shown in an ordinary cinema. There has been correspondence in the press about this, and there are views and one must respect views of whatever inclination but I think that this piece of legislation which will protect the person who wants to go to see the X-films and the person who does not want to go and therefore, Mr. Speaker, I will support this Bill.

HON J BOSSANO:

I am not going to sell hard porn, Mr. Speaker. The Bill before the House fails completely to do any of the things that its advocates say they would like to see done, and therefore, Mr. Speaker, I would like to deal with the subject matter, firstly, by pointing out the logical inconsistencies of the arguments that have been presented by those who support censorship and, secondly, by pointing out that, in fact, the Bill fails to do any of the things that they claim it can do. If we start by the strongest defence of censorship we have had, that of the Hon and Learned Attorney-General, I think the first rational question that one has to ask oneself is, how anyone can argue that there is such an inherent danger in being exposed to seeing films that deal with sex or violence and it is suggested, implicitly, in the argument that is put that this should be restricted, that there are people presumably who are not tempted by seeing these films and that the people who are not tempted think that they

are somehow either beyond temptation or else that everyone else is incapable of resisting the temptation or, presumably, those who say that these films that carry an X certificate are capable of corrupting are, in fact, talking from personal experience of having been corrupted themselves, I wouldn't know, but I would put it to the House, Mr. Speaker, that if one is saying, as I think the Hon Mr. Zammit said on television, that if you had people seeing all sorts of unusual forms of sex, and I wouldn't put it any other way because this is probably an area where I would be rather conservative, but I would not presume to impose my ideas as to what is normal sexual behaviour or normal any other sort of behaviour on anybody else, I don't think that any of us are elected, in fact, to either control or impose standards on the private sexual behaviour of anybody and consequently I don't think anybody has got the right in this House, or outside this House, to say people how they should conduct their private lives. The Hon Mr. Zammit, I think, said originally when he was taking a much stronger line on this matter, that there was a danger of people rushing out of the cinema club and raping everybody because of the effect of the film. Well, it seems to me that by ensuring that a cinema club operates as a cinema club 365 days a year, all he is ensuring is that the rape, instead of occurring once a week occurs every day of the week, if there is a real danger that this might happen, but it doesn't do away with the danger. Secondly, I would put it to those who put forward that argument, that how does the Hon Mr. Zammit or the Hon and Learned the Attorney-General expect the censors to control themselves and not rush out and rape everybody after they have decided that nobody else can see the film. I don't know whether one is going to test the sexuality of the censors before one allows them to become censors to ensure that they are not tempted. I think also, when the Hon and Learned the Attorney-General was talking about a complete breakdown of the values of our society he has to accept that, in fact, one of the distressing features of western society is that there aren't any such things as values in our society, there are a multiplicity of different values, this is one of the features of our society. Part of the confusion that exists in society is because there are different standards accepted by different groups of people and not everybody can agree on what is right and what is wrong. If we go along the road of saying that we mustn't have anything that undermines the value of our society, that, Mr. Speaker, is a very dangerous road along which to travel because today we are talking about not undermining the values in question of sex and tomorrow we might be talking about not undermining the values in the question of private enterprise, and of course, not everybody would agree on whether it is desirable to undermine those values or not to undermine those values. So, I think the point made by the Leader of the Opposition as to political censorship is a valid one. Once you start talking about censorship it is very difficult to know how right one is in stopping any move in a society for change which might be completely unpalatable for those of us who like society as it is today but in fact if one stifles change completely then we would still be living in caves and we have to accept that if society is changing, as it is changing, a great deal of the changes that are taking place are going to be incomprehensible to a lot of us and understandable only to those who will follow us but we have got no right to try and stem the tide of change and try to impose our own values on other people except that in any society there must be the limitation of the

of the freedom of individuals when that freedom, if exercised, imposes a limitation on somebody else. Nobody has the right, other than a Robinson Crusoe living on a desert island, to do what he likes with his life if by being allowed to do what he likes he is preventing somebody else from exercising a similar freedom, that is the fundamental criteria that has to be applied. I would put it to the House, Mr. Speaker, that if what we want is to ensure that the society in which we live subscribes to certain standards, the way to go about it is not to prevent people from seeing what they want to see or from reading what they want to read but to educate our people so that they don't want to see those things and they don't want to read them, because I don't feel any particular inclination to go and see X-films and nobody has got to prevent me from going because I don't want to go. If, in fact, the people who bring the films and exhibit them are interested in doing it, it must be because that is what people are prepared to pay money to see otherwise the films wouldn't be exhibited. It may well be that these films are so disgusting that once you have seen one of them you don't go twice. Alternatively, I have heard some reports from those who have gone to see them that they are so mild that they don't think they have had good value for money because the posters led them to believe they were getting much more than what they got once they had been inside. The important thing, surely, Mr. Speaker, in this area is that what we should be looking at is, is there really a danger in allowing people to see certain films that the result of seeing those films would be that people's way of life, not personally and privately but publicly and in their attitude to others, in their behaviour to others, will be altered to such an extent that our society, our community, will suffer. If that is a real and a genuine danger then we have got a political obligation to do whatever is in our power to prevent that danger from materialising. But if that is a real and genuine danger I cannot see how we are doing anything to prevent it by insisting that if all the cinemas in Gibraltar want to exhibit this type of film they have all got to do it all the year round which is effectively what we are saying. If all the cinemas decide to become cinema clubs then nobody will have any choice but see every day of the year this type of film. I believe that we have got to control the films that are put on in the cinemas to the extent that the Hon Mr. Zammit mentioned to protect those who want to see other films and therefore I don't think this does it either, this makes it, perhaps, more expensive to exhibit this type of film by making it less feasible to have this type of film because the premises cannot be shared for showing other types of films. I would have much preferred to have in the legislation a clause that says that anybody who wants to use premises as a cinema club cannot do so for seven days a week and must show films that cannot be shown in the cinema club on some other days so that, in fact, people have got the opportunity to go and see other films. Or a clause that says that there must be an arrangement within Gibraltar that people who are licensed, say, to be cinematograph operators cannot all be showing the same type of film on the same day so that people who don't like this type of film can go to another picture house. These are the sort of things that I think we have got a duty to provide. We don't have to restrict the choice of people, effectively, what we should do is we should not allow those who are exhibiting films for profit to exclude the minority from seeing the type of film they want to see whether, the minority happens to be the one who wants to see the U films or the ones who want to see the X-films. On the question of

censorship itself this law apparently not only permits the type of uncensored films that carries an X certificate, rather, uncensored by us, censored in the United Kingdom already, to be shown in a cine club but goes further and allows any type of films regardless of whether it is the Emm that Honourable Mr. Zammit was talking about or anything else to be shown in a private house or in a place which is not showing the film for profit. Again one must question whether this is consistent with the fear of the disruption of our values that is going to take place in our society because it appears that we do not mind our society being corrupted so long as nobody makes a profit out of it. If it is done privately then there is no censorship. I don't know but I imagine there are other areas where there is a type of film that one is not allowed to exhibit at all so it appears to me that the fundamental case that has been made for the need for censorship is not reflected in what the Bill effectively seeks to do. To this extent it appears to be a far less stringent measure that seems to be envisaged by the Government originally when the case of censorship was being defended on the first occasion in the House of Assembly and when there was all this business about the magazine. The fundamental principle itself of certain individuals having the right to decide what other individuals are allowed to see and who is going to choose the individuals that have to do it, Mr. Speaker, is something that has not been defended. It is all very well for the Honourable and Learned Attorney-General to say that his personal views in this are that one shouldn't expose society to abnormal sex which I presume that if he had to define this in an Ordinance he would have great difficulty in doing so. Or that one should in fact not allow violence in films when we have constant violence in real life through finding what terrorists are doing in different parts of the world to innocent citizens. We are getting that in the news and that we cannot censor and we shouldn't censor because, in fact, what we would hope that would produce would be a revulsion against terrorism, and I think it has happened in a lot of places. I think that any sensible person seeing the damage that terrorists have done to innocent women and children in different parts of the world are more likely to revolt against the terrorists and not want to become terrorists themselves. In the case of Gibraltar, of course, we cannot prevent people from watching Spanish television and they, presumably, will have their own standards of censorship and as the Honourable the Leader of the Opposition has mentioned, it would appear that their standards of censorship after having been repressed for a very long time, are bound to be very mild standards of censorship. Their standards are very mild because in fact restriction can become repression and repression can lead to an explosion in the opposite direction as he very rightly pointed out. I would question that there is a consistency in saying, as the Honourable Mr. Zammit said, that in Colchester they banned this or the other and on the other hand we have a Bill here that says that if the Board of film censors in the United Kingdom considers that the United Kingdom public can safely see a film, we consider in Gibraltar that either we Gibraltarians are more passionate presumably, or more inclined to violence or less mature or less civilised because we consider, as the representatives of the community that what in Britain people can go to see

HON CHIEF MINISTER:

If the Honourable Member will give way. I think he is on the wrong track because the Board of Film Censors is not a board of censorship, it is a Board of classification of what they produce. It is produced by the industry itself so that people have a pre-knowledge of what kind of film they are going to see. Local authorities in every borough in the United Kingdom have got the power to ban X films on their own. The fact that they are X are only for the purposes of classification and not because they have been passed. They have been passed by the trade to warn exhibitors and people who attend places of public entertainment what kind of film they are going to see but it is not a censorship at all. It is something done for the trade to regulate within the trade so that the people know what kind of film they are programming, what kind of film they are contracting. It is not a censorship in itself, it is a classification.

HON J ROSSANO:

Yes, Mr. Speaker, but I assume that there are films that cannot be exhibited. In modern society where this is a very common phenomenon one hears that there are hard pornographic films and soft pornographic films. Presumably the fact that there are no hard pornographic films available for general exhibition in the United Kingdom suggests that somebody somewhere must be preventing them from being exhibited and therefore that type of film would not be out for general exhibition with an X certificate. We are talking about a distinction in the type of film of this nature. I imagine, if the type of film that is given an X certificate actually went to the extent of this type of film that is known as hard pornography, it would not in fact be allowed in the United Kingdom and it would not come out to Gibraltar with an X certificate.

HON M XIBERRAS:

If the Honourable Member will give way. This is a very interesting point that has been raised and with the Chair's permission, I would like to ask whether the speaker knows under what powers, precisely, the local authorities ban a film. Whether it is a power of censorship or is it a power in relation to some other function.

HON ATTORNEY-GENERAL:

I believe it is under the Cinematograph Act.

MR. SPEAKER:

I believe that the certificate that is granted is headed the "British Board of Censors".

HON ATTORNEY-GENERAL:

Yes, but it is not a statutory board and it is purely as the Honourable the Chief Minister said, a classification board.

HON M XIBERRAS:

Mr. Speaker, I am sorry about this but I think it is important because ...

MR. SPEAKER:

What are you asking?

HON M XIBERRAS:

I am asking the same question again and that is, under what powers does the local authority act? I think we should be sure about this.

HON CHIEF MINISTER:

Municipal Bye-Laws

HON J BOSSANO:

Therefore, Mr. Speaker, I would say that if it is possible for Gibraltarians on holiday to go and see this type of film which is available for general exhibition and come back untainted, I would not assume that if he saw it in his own home town the risk would be greater. As to the point about the number of immigrant workers that we have in Gibraltar who are single, I think that if we wanted to see who was going to go and see these films I think it would be quite easy to establish by standing outside the cinema that in fact the overwhelming majority of the people who see these films today are not the immigrant workers.

HON CHIEF MINISTER:

Why?

HON J BOSSANO:

I think, Mr. Speaker, that quite a lot of the immigrant workers come from a different culture where this particular type of phenomenon has not yet taken the same hold that it has taken on western societies. I would put it, Mr. Speaker, that in fact if that were the basis of the argument then are we saying that what we don't want is a break-up of the traditional values of Morocco because I am not sure that what is abnormal sex in the eyes of the Honourable and Learned the Attorney-General would necessarily be ones that would coincide with the values in Morocco. I think, Mr. Speaker, the fact that people have reacted adversely suggests that most people in Gibraltar would not consider an affront to Gibraltar, as the Honourable and Learned the Attorney-General says, that we should prevent them from seeing films. I think most people in Gibraltar would consider it an affront that we should have the bigotry to think ourselves in this House of Assembly better judges of what people can see or cannot see than the people themselves. I believe that if we are concerned about the vulnerable and the young, then we must insist that if we have got a law that says that you cannot see a film with an X certificate under the age of 18, we make the penalty so heavy that the owners of the establishments will make sure that nobody under 18 gets in because it is not good passing laws and then allowing them to be ignored. I think that something should also be done, as I said, to ensure that we do not have on a particular day of the week the same type of film in every cinema so that people have no choice. There is clearly a need to introduce some measure of control in this industry. But it is the industry that needs controlling and not the individual citizen. I think the

individual adult citizen in the vast majority of cases is quite capable and quite adult and quite civilised enough in Gibraltar to be able to exercise his own judgement in what is in his own good and what it is not in his own good and in fact if we allow people to drink unlimited quantities of alcohol regardless of what they might do to their liver, regardless of how wild that may make them, regardless of whether they become alcoholic, regardless of how anti-social that might be, the House will not presume to introduce legislation saying that anybody who drinks above a certain amount should be penalised for it. We don't stop people drinking just in case they should become anti-socialists. We punish them for not being able to control themselves in their exercise of drink so that they don't become drunk and disorderly. If somebody went to see an X film and came out and raped somebody he would be charged with rape because he was incapable of controlling himself after seeing the 'X' film. Mr. Speaker, I think that the Government should give much more thought to this measure. I think it is a good thing that it should be a free vote because I think it should not be a party political thing. I feel this should be something that we should all give serious thought so that we produce a piece of legislation that is good for Gibraltar and that is something that is not seen as a retrogressive step in the context of making Gibraltar the backwater of Europe. I am glad that this should be done on that basis and that it should be a free vote but I believe that we need to give much more thought so that we produce a good piece of legislation that we can all be proud of.

HON A J CANEFA:

Mr. Speaker, I think that the intervention of the Honourable Mr. Bossano has highlighted, perhaps in a better way than with any other previous intervention, the difficulty of debating and dealing with a matter such as this one, a matter about which people feel so differently about. It is not something that, I think, one can be entirely objective about. You cannot be objective about a matter such as this one, you have to be subjective and hence the difficulty in trying to produce a piece of legislation which in our case, I think attempts up to a point, to be a consensus of the very many hours of debate which we have had within Council of Ministers and outside Council of Ministers amongst members on this side of the House, a debate which has been influenced and coloured by letters in the press and by recent events. One thing that we have that has not so far been mentioned has been exactly what has led to this piece of legislation having to be brought to the House very very many years after an ad hoc system of censorship, if you want to call it that, has been in operation, a system which I think was working well. A system which was based on a Gentleman's agreement between film exhibitors and the Government or previously the City Council, whereby I think that it was only through the licence that we were able to impose certain conditions or if recourse was to be had to the law, I think that it was through the importation of obscene literature materials, and so on which could be very draconian. But the system has worked well. I was invited to join the panel of Ministers who see films, a duty which one doesn't particularly enjoy, which means giving up, perhaps, a couple of hours at 9 o'clock in the morning, going along to a cinema and then coming back to your office a couple of hours later and finding that all sorts of people have been looking for you, wanting to talk to you wanting to discuss business with you whilst you have been

seeing a film. It has been most unsatisfactory. I have been involved for the last three years and I think that it has been working alright until about five or six months ago. The reason why it hasn't worked hasn't been I don't think because we have become less liberal or that we have become more conservative in our approach. Very few films have been banned, perhaps 10%. Two that particularly stick in one's mind were because of extreme sadistic violence. As I say the system has been working quite well until a few months ago when one of the film exhibitors for some reason of his own, perhaps he could not accept the decision of the Board, perhaps there were financial considerations. One does accept that a very high percentage of films are X-films, perhaps, close on 50% I imagine, they do have difficulties, they do have to accept packages and in the competition that exists in Gibraltar between two owners of cinemas only, perhaps he was getting the short end of the stick and two of these films which were not allowed perhaps could have added up to him not accepting the decision of the Board in the way that they have been accepted previously. Let me say that the majority of X-films that are shown in Gibraltar are shown without being previewed. It is only the Secretary of the Board, the Clerk of the House, and the Honourable Mr. Zammit, who consider the list of films which are classified as X and which film exhibitors would like to show, and very often it is on the basis of reputable material provided by reputable magazines in the cinema world, press cuttings and on the basis of the synopsis that it is possible to allow a film. Sometimes it is on the basis of the synopsis that you may have certain doubts or about something that has been read in the press about it, and then, perhaps, it is felt that there should be a preview of it, but the vast majority, I would say 80% of X-films that have been shown in Gibraltar in the last six or seven years if not longer, have been shown without being previewed, and the vast majority of those have been allowed; but as I say, you had a situation five or six months ago where one of the film exhibitors decided not to accept the decisions of the Board and set up a Cine club whereupon the other exhibitor also did the same. Not only did you then have a cinema club set up at which 3 or 4 films that had been previously banned were shown but they went to town and they used the fact that the Board of Censors had banned films in order to try and advertise films and make it sensational and get the public to come along to find out why was this film banned. We had an instance where a film was shown without approval; one of us happened to go and see it in the evening in the normal course of events, we then asked for a preview, it was banned, the film exhibitor wanted to show it at 11 o'clock at night and advertised accordingly. That sort of thing could be used by him, he could take advantage of the fact that a film had been banned to make business. These are the series of events that has led to the need to put the matter on some regular basis, to regularise what has not in the last five or six months been shown to be a system that perhaps won't work any longer if there is no gentleman's agreement, and an arrangement which perhaps has been exploited, though I am told that the cinema clubs are not being as financially successful as they were five or six months ago, human nature being what it is.

HON J BOSSANO:

If the Hon Member will give way. Doesn't this suggest that banning films in itself seems to provide an incentive for people to go and want to see them to find out why they are being banned?

HON A J CANEPA:

For some people, I don't doubt that that is the case, yes. What we have therefore tried to do, faced with the situation where a vacuum exists, if you like, and faced with a need to regularise the position, we have tried to bring ourselves in line, as far as is possible, with the set-up in the United Kingdom where you have got a local authority ultimately responsible for deciding that because of any special peculiarity of their area or for any particular sensitivity in the area over which they have authority a film should not be allowed. We have tried to approximate that through a piece of legislation which I would certainly not pretend is perfect, I don't think that it is perfect. It is, as I said, the consensus of a great deal of discussion amongst ministers and I have no doubt that the intervention of Honourable Members opposite will highlight certain deficiencies and, perhaps, suggestions can be made as to how these deficiencies can be improved. From a subjective point of view, because I subscribe to certain moral principles, I believe that there is a need for some censorship of cinematograph entertainment. I make no apologies for it and I admire and respect people who may have rather more liberal views to the extent that they feel that there should be no censorship at all. I say that, based on the experience of three years of seeing a number of these films. It is no good writing letters in the press, standing up and pontificating which, perhaps, I am doing now. It is no good doing that if you do not know what you are talking about, if you haven't seen some of the films that are being shown. We are not talking of films like a programme that there was on television a week or 10 days ago which gave rise to some letters in the press, we are not talking of relatively mild bedroom scenes. One is seeing over the years gradually the dividing line being pushed further and further and further back. I was writing a few notes about a couple of weeks ago when I was getting together all my papers to bring to the house about this debate and I was going to say then that what really worried me was extreme sadistic violence and not films depicting sex in a sensational way in what one could describe as pandering to prurient interest. That didn't worry me on the basis of a great number of films that I have seen, and I would have said that 10 days ago except for the film that the Honourable Mr. Zammit has referred to and if we carry on giving it publicity if it is shown in a cinema club I think it will have half of Gibraltar flocking to see it. I think a lot of people should go to see that film, a lot of members of this House should go and then we will know what we are really talking about. It was one long orgy, there is no other way of describing it, and that is what now, today, makes me feel a little bit more cautious about sex films as well. Compared to this film "Emmanuelle", in all its various forms, was kindergarten stuff. I would like to mention briefly two films that depicted extreme sadistic violence. There was one called "Andy Warhol's Bad". In this film one saw a negro being crushed to death by a hydraulic lift whereupon the person responsible for murdering him snipped off one of his fingers, took it back to the flat where he lived and dipped it into a bottle of tomato ketchup just to add a bit of spice. This is the kind of sick mind that one is dealing with. In this same film one saw a dog being knifed because an old dear hated the guts of the owner. There was a particularly revolting scene involving a woman who was on the phone trying to make herself understood with somebody and

she had a baby in a cradle hollering its head off and making it very difficult for her to make herself understood whereupon the lady seized the baby and chucked it out of the window of a five or six storey block. Also one has in this film a mother making arrangements for someone to come at night in order to kill a handicapped child that they had. If this kind of film is let loose, I cannot but doubt that it must have some effect on moral standards in the widest sense of the word and when I talk about morality here I am talking about good and evil. It is bound, I think, to undermine normal standards of decency, of human behaviour and human sentiments. Another film which we saw based on a true life incident, something that happened in America, called "The Texas Chain Saw Massacre" and I am very glad to see that it hasn't been shown in a cinema club in Gibraltar. I think even the film exhibitors realised that it went too far. It is unimaginable what this film dealt with. I can tell you one thing and that is that all of us who saw it were affected in the physical sense. I couldn't compose myself for about one hour afterwards, my emotions were very badly affected. I have no doubt at all for instance that someone suffering from heart disease could seriously have been affected by a film such as this one. There was a scene in which a young girl was seized and hung from a meat hook. This is the kind of thing that we are talking about. If one speaks about these things I do not know whether one is regarded as a crank or as a puritan but you have to see it and it is no good, as I said earlier, pontificating it is no good writing letters to the press if you really do not know what you are talking about, if you think you are talking about the kind of X-film that was being shown 10 or 20 years ago such as "Adorable Creatures". I also attempted to see "Adorable Creatures" with a dirty meckintosh when I was 15 years old. But we are not talking about that and hence the need, I think, for some steps to be taken for something to be done which will regularise the position in so far as extreme sadistic violence is concerned and in so far as hard pornography is concerned. If there is restraint on sex matters and if there is restraint on extreme violence, does it follow that the next step is going to be political censorship? I don't think it need follow in a western democratic society. I agree that political censorship very often in dictatorships in totalitarian states, in communist and fascist states, I agree that it goes hand in hand with other forms of censorship, it does happen to be the case. In the communist countries, for instance, pornography is not allowed. They do not allow it to be shown but they export it because the film that we saw last thursday was made in Yugoslavia and I am sure that that film is not shown in Yugoslavia. Why do the communist countries do this? I have read articles to the effect that there is evidence that communist states also finance the making of pornographic films in the western world and that is because they have the inkling that it can bring about a more decadent western society which they are out to destroy. I was reading the other day that measures are being taken recently in Cuba to crack down on permissiveness because now that Cuba is about to come out of their isolation of their last two decades, I think Senor Fidel Castro is worried that they may come into very widespread contact with foreign temptations and some steps are being taken in this respect. Coming back to what I said initially, a piece of legislation such as this one cannot adequately deal with the whole problem of as the Leader of the Opposition put it in a society, and we cannot

pretend that it does so but there has been an unfortunate vacuum in the question of cinematographic exhibitions. You have had the situation where films without a certificate could be shown without reference to anybody. Some of the Spanish films that have been shown are fairly mild but there is no reason that why some of the worst examples of "el Gestape" across the way should not be imported into Gibraltar, and at the moment the Government has no power to do anything about it unless it seizes that as obscene material under the Imports and Exports Ordinance which I think is a very unsatisfactory business. The Bill has been put down for all readings, it was published about three months ago precisely in order to give an opportunity to those affected, film exhibitors and so on, to make suggestions as to how it can be improved and, for people to react. The only reaction that there has been has been a letter by Messrs. Triay and Triay on behalf of one of the film exhibitors complaining about the restrictions with regard to a cinema club, once it is licensed as such having to remain as a cinema club for a year. Other than that there has been no reaction. I do agree that various shades of opinion can get together and, perhaps, improve on what is an attempt to deal with the matter precisely because of the events that I have outlined in the last five months.

HON P J ISOLA:

Mr. Speaker, there is a lot of what the last speaker has said with which I would entirely agree. This debate, of course, can only take place in a democratic society and he has really taken a leaf out of what I was going to say that I suppose there are three kinds of societies, there is the democratic society, there is the fascist society in which you include military dictatorships and there is the communist society of which he has talked at great lengths. In the communist society and in the fascist society censorship doesn't present a problem because no one worries about whether they can see a film or not because they cannot do half a dozen other things far more important for the enjoyment of life in a normal society. They cannot decide where they go for their holidays, hundreds of decisions they cannot make as they are all restricted and controlled and therefore this sort of problem is not a problem in that sort of society. The problem of censorship only arises, really, in a democratic society because what is basic in a democratic society is the freedom of the individual, the liberty of the subject and then government by consent through the elected representatives. Therefore when you talk of censorship you are going into a sensitive area where people feel that individual liberties are involved and, in fact, in a democratic society there are a lot of pieces of legislation in which individual liberties are involved. One of the things that we stand by mostly in a democratic society is the freedom of the press, for example. But even then there are limitations. A newspaper cannot just publish what it likes, it is subject to the law of libel and subject to the law of criminal libel. We do accept constraints in a democratic society. There is one example, I think, that is a problem that has not yet been determined in a democratic society of which the Honourable Mr. Bossano knows a lot about for example, the closed shop problem. In some places it is accepted and in other places it isn't. That is considered by some a necessary incursions into the liberty of the subject and by others an entirely unjustified incursion into the liberty

of the subject. Mr. Speaker, this sort of problem arises all the time and I do not think that this House should spend hours deciding whether there should or should not be censorship, certainly not of the kind envisaged in this Bill. Censorship of films and censorship of publications is accepted in all democratic societies, in some more than others, for example, obscenity is something that is a criminal offence in I think, the most democratic country in the world, the United Kingdom. In the United Kingdom, authorities have power to ban films and they have banned films and the people who do this job are local authorities, people who are subject to the electorate and if the electorate didn't want it they would throw them out, but it is recognised as an unpleasant or undesirable necessity, but as a necessity. What does this Bill do? As I see it, what this Bill does principally, is to give somebody a final say as to whether a film can or cannot be shown in Gibraltar and the sort of films that is clearly in mind in the legislation is purely the X film, not the A film or the U film or the AA film which are completely unrestricted. It doesn't mean that no X film would be shown in Gibraltar, it can be shown and I am sure many X films would be shown, but what I think the intention of the legislature in this case is, is to prohibit the exhibition of hard porn in public entertainment in the same was as hard porn in publications is prohibited by law, that is the main intention. I agree with the Hon Mr. Bossano that there is a bit of illogicality in allowing hard porn to be shown in a cinema club and I think this is a concession which the Government is giving to the liberalism of the Hon Mr. Serfaty, although I prefer to regard liberalism as something else Mr. Speaker, because if liberalism means that we all have to be subjected to hard porn and so forth I might even become a communist, it might be preferable to being that sort of extreme liberal. I think it is a concession, it is intended by the Government as a concession to liberalism, in other words, they are going to allow people who want to see real hard porn to go to a cinema club and take the trouble of enrolling 48 hours before and so forth and going to one particular place. But, of course, Mr. Speaker, if the cinema operators or the distributors use the cinema club and start putting up whole cinemas as cinema clubs and it becomes clear that it has really become another cinema, I am sure that if it becomes a matter of public scandal and of public offence I think the Government will have to look at it again. In a democratic society the main unit for its stability and its health, I think, is the family and this is the main institution that has to be protected. I think this is one way of doing it, this is a move towards it. I think if the Board of Censors show themselves to be extremely prudish and narrow minded in their approach, well, people will complain. I think no one is suggesting that we cannot have X films in Gibraltar. Suggestions have been made, the Hon Mr Bossano made suggestions that there should be laws under which cinemas had to put an A in one cinema or U in the other and an AA in the other but of course that doesn't work. You are talking of the commercial side of the cinema industry and I think it is difficult to work any system like that. In England, you go to London, you have got your Soho, you have got all your porn there, hard soft, all kinds, sometimes it gets so hard that the police do raid occasionally and take them all in and you get heavy fines, unless there has been a bit of bribery you have got your hard porn cinemas and so forth. But that is not the case in the provinces. In normal towns of the size of

Gibraltar you don't get the hard porn that you get in cinema clubs in London or even in a lot of these cinemas in London that show, I don't call it hard porn, just sheer sex and, in fact, if you go into one of those cinemas - and I must confess to have gone on occasions, Mr. Speaker - one is surprised by the few number of people that actually go. But that is London, one of the big centres of international vice like Paris, Hamburg and Amsterdam, but is that the sort of place we want in Gibraltar? I would have thought the great mass of the Gibraltar population would not want that and do not want that just in the fight for some principle of liberty which some people write about but are not prepared to apply in other spheres of our life. Some people want everybody to have a right to see anything they want and then the next day they are asking the Government to control that, to control the prices of this or to have a closed shop or stop a monopoly or anything like that. In a democratic society I think somehow or other we have to try and find a fair system which is fair to everybody at large and does not prohibit or stop people from reading what they want or seeing what they want in a way that doesn't offend the public. Mr. Speaker, I noticed something by a religious affairs correspondent which I think most of us would subscribe to. Let me quote from this report from the Social Welfare Commission of the Roman Catholic Bishop's Conference, Mr. Speaker, who happen to agree with the Hon and Learned Attorney-General. This report argues "that some legal limits on published material is necessary to defend basic values such as monogamous and stable marriage and the healthy and happy upbringing of children. An ultra tolerant permissive attitude towards pornography is incompatible with such basic values." I think I would agree with that. Then it talks about the obscenity tests of material which in the opinion of a jury would tend to deprave or corrupt should be changed because of the difficulty of proving these tendencies. It goes on to say "In its place the commission suggests that material should be regarded as obscene if its effect, taken as a whole, is to outrage contemporary standards of humanity accepted by the public at large". That is the test, to outrage contemporary standards of humanity accepted by the public at large. Then it goes on to end that the president of the commission the Right Reverend Augustine Harris said they felt it right to trust the judgement of the jury as to what should and should not be permissible. They are saying that a jury should decide whether this outrages contemporary standards of humanity accepted by the public at large. That, of course, is mainly for written material and so forth but I would have thought, Mr. Speaker, that this should be the function of a Board of Film Censors. One should aim at having something like a jury somethink like that, aim at having obviously some people in authority and one or two members of the public - I notice there is a provision of up to eleven - to see and test the film against this background. I cannot see how our democracy can be seriously affected because we impose some control as to the right of people to exhibit for profit just what they want and what they like. If we impose restrictions on the right of people to make profit in many fields of life and human endeavour if we impose restrictions on the rights of people as to what they can do and what they cannot do in a democratic society, frankly, as a matter of principle, I do not see how we can object to some restriction on what is shown for public entertainment in Gibraltar. I think we are all grown up people, we are all fairly aware of our democratic values and what should or should not be allowed in a democratic society and I think that the intention of the Bill

seems to be clear especially by allowing a cinema club to have effect, that the intention of this Bill is to allow those who want to see sheer porn to see it but in the privacy of a cinema club and not in a manner to outrage the public at large. I suppose all those people who want to see these films can do so in that situation, Mr. Speaker, until if it should become also a matter of public scandal the way that is run then I think there would have to be control in the interest of a democratic and stable society.

HON CHIEF MINISTER:

Mr. Speaker, the government has discussed this matter amongst itself for a long time bearing in mind many of the observations that have been made on both sides of the House and all the consequences that this brings. I think sometimes one tends to overrate, as Mr. Canepa has said, sending letters to the press about censorship without really knowing what the thing is about. The two most important aspects, are first of all, that if people want to see hard porn, well, they can see it but what we want the legislation to do is not to fish for the unaware, that is to say, if you have been to one cinema seeing decent films and suddenly you go one night thinking that you are going to see an ordinary film and you are told that tonight it is a members night and all you have to do is fill the form, give your age - and you must be over eighteen - and you can go in, and then the next night there is the "Sound of Music" and then you think you can bring your child with you and then the next night there is another porn film, that tends to bring into this area of film exhibition people who would not otherwise do so. That is why we have devised this scheme of not allowing the same place to be used for a club as for the others. If people want to go to a club, well, they know where they are going, they have got to become members for 48 hours before. The next point is the question of the age of people. This was mentioned by the Honourable Mr. Isola last time and it was mentioned by the Honourable Mr. Bossano this time. It may well require an amendment to the penalty clause. I share the view very strongly that in X films which are authorised, if people under eighteen are allowed into the cinema the exhibitors should be heavily fined because this is the area from which mainly they gather the unaware people and I think we ought to look at that. The matters the Hon Mr. Isola has mentioned are important from many aspects and though the order paper says that the Bill is down for all readings I will certainly not proceed with it to the Committee Stage and third reading at this session. If only because I think the contributions of members deserves being considered and also take up any suggestions that may have been made in the course of the debate if we can better the bill for what we want it. Let there be no mistake, in so far as the exhibitors are concerned they have asked us not to proceed and we have told them that we are proceeding, so let there not be any misunderstanding that the fact that we are leaving the Committee Stage and third reading for another meeting should be taken as any indication that we do not propose to go ahead because we do. We propose to carry on with it but perhaps time will also show whether it is on our side because the recent film to which the Hon. Mr. Canepa was referring which has been banned and they were invited to see it, it may well be that it is shown as sensational and that will indicate much clearer in the Committee Stage the state of mind. It is a pity we have reached this stage, the

Minister for Labour has mentioned the origins of it and I would just like to say a few more words because in fact it all started many many years ago in the City Council when the powers were given to the City Council and the powers were delegated when I was Mayor and I in turn delegated it to somebody else and we needed three reputable reports of papers, we also saw the posters which sometimes try to give a different impression of the film to what it is and, in fact, in some cases films have been allowed but not the posters because the posters reflected much more sensationalism than was in the film and this is something that has been done and continues to be done. Sometimes the films are not censored but the posters are censored because the posters are the attraction for the film. Sometimes the film is allowed to be shown provided certain posters have not been shown. This is how it has been done, because, in fact, sometimes, the posters belie the film.

HON M XIBERRAS:

If the Hon Member will give way. Is it in fact the case, because there has been a recrudescence of posters that might be regarded as obscene by the majority of the population. Are there powers and what powers are exercised at present in respect of posters?

HON CHIEF MINISTER:

This has been because there has been no censorship at all ever since this problem started, and therefore you are seeing the result of the lack of control in that respect. If we haven't got any powers to prohibit certain posters and allow the film then we shall make an amendment to cover that, because sometimes the film is perfectly proper and perhaps disappointing to people who have been misled by the posters. That is one of the aspects which is important. I agree entirely that perhaps because of the situation, a free for all in a cinema club subject to this restriction could become abusive. I don't think so. My view is that with an element of reasonable control, I won't call it censorship, and co-operation of the film exhibitors the law itself need not be enforced. However, the recent formation of these cinema clubs has outraged a number of people, it has broken a tradition which had worked well with all denominations who are mainly concerned, and the government, but that was not to be unfortunately and that is the reason why the government has been brought into this situation. Therefore any amendment that can be made on this to improve the Bill as it is conceived now, will be welcomed so long as it is understood, because I do not want any misunderstanding, that the Bill will have its run with or without amendments. But if there are amendments that makes it less unacceptable to those who do not like it, then we will look at them with great determination and see what we can do. One point made by Mr. Bossano is one which has been working by co-operation but you couldn't work it be legislation particularly when you are not dealing with one film exhibitor, and that is that there should at no time be four cinemas all showing X films. That is very difficult to implement by legislation having regard to the fact that we are not dealing with one person and that there has to be co-operation. In fairness, and I think Mr. Canepa mentioned it, it is true to say that because of demands elsewhere in the world the exhibitors are sometimes compelled to contract films in packages which includes both good films and bad X films. I have a letter here that of 242 full length films in a package feature films certified by the British Board of Film Censors

during the period 1st June to 31st December, 1977, only 21 received U classification; 55 A classification; 51 AA classification; and 115 X certificates. We do know that there is a difficulty on the part of the exhibitors but if it has worked well in the past and they want to co-operate we can still have legislation which could, we hope, become a dead letter because of the restraint and control exercised by the exhibitors themselves as has been the case in the past.

HON MAJOR FELIZA:

Mr. Speaker, I think that the Minister for Labour said that one could not be objective with this kind of law. I tend to disagree.

HON A J CANEPA:

Not with the legislation, with the subject that we are dealing with because it involves morality and so one cannot be objective about it, one must be subjective.

HON MAJOR FELIZA:

I disagree. I think one can be objective and in fact one should be objective because unless one is objective, in accordance with one's views, it is very difficult to aim as to what the legislation should do. I personally believe, like my Honourable Friend on my right, that it is the family unit that makes a happy society and gives strength in that society and that in our moral thinking we should always bear in mind that anything that weakens that unit is going to harm the society in which we live and anything that strengthens this unit is going to make better society for us to be living in. It is in that light that I have looked at this piece of legislation which I do not entirely disagree with but with which I have a lot of reservations in the sense that in trying to do some good you may be counter productive and produce the exact opposite. I think one has to accept the standard of morality not only in Gibraltar, and one has to look at the rest of the world because the world has shrunk, and the attitude of people, particularly the young people, when thinking of any measures which are going to restrict their freedom of thinking and their freedom of acting. I do not believe that one is going to help in sustaining the family unit as we would like to see it. At the same time we must never forget that this battle has been going on all the time and that what we today think is quite a normal X film which does not scandalise us, it certainly would have scandalised our grandfathers, if not our fathers. Everything is relative and we must try and not create a dam which eventually will break and cause more harm as in fact we see in a society which is very near to us - Spain - where they have gone to extreme opposites to what it used to be before because they had put a lid over it and of course it has not blown out. I think we are not going to do anything which is going to be constructive and lasting by imposing a standard that we think is right today when, perhaps, the younger generation think it is out of fashion and out of date. Having said that, if one looks at the particular films that one believes are harmful, I think all of us find them repugnant and repulsive. I would have thought that that is the attitude of 99.5% of the people in Gibraltar. Therefore, if this is going to be, and I think it is today, the general attitude of the people of Gibraltar, why should we try and in fact make it

to some extent enticing to them by saying that you cannot see these films. I accept of course that there must be some form of control but it is the form of control, in my view, that is important and it is with some of the controls that I see in the Bill that I personally do not agree. I am not for one moment suggesting that there should not be some form of control or, better still, pressure. In fact, this has been the attitude up to now. The Minister for Labour pointed out that in the past, through co-operation, it was possible to maintain the standards that we thought would not scandalise anybody in Gibraltar. This is the way it was operating until now. Let us not use more force than is absolutely necessary because otherwise we are going to get the sort of reaction which is in my view the opposite of what we want to achieve. I think a very good example is the cinema club. As I see it, before, when X films were allowed to be shown in cinemas, with perhaps one or two exceptions, and I don't disagree with the manner in which it was done before, and perhaps, in another manner which could be found for the future without the need of having to have the sort of censorship that we are somehow beginning to introduce which can become the thin edge of the wedge which is what I don't like. I think it could be done for instance by threatening to suspend the licence of a particular film if over a period of time they do not co-operate with the Board of Censorship. It could be done then without the need of creating the cinema club which I personally disagree with. According to the Minister, the cinema clubs are not proving to be particularly successful but they could be resuscitated if, in fact, a lot of X films were passed on to the cinema club and then people who never bothered to go to an X film and who may want to see a particular X film have to become members and having become members they are hooked, you might say. There is nothing to stop the cinema club from keeping their members informed of all the films, no need for posters any more, it becomes a personal contact, you might say, between the exhibitor and the filmgoer. I believe in maintaining the standards of morality we have been brought up with but I think that indirectly you can undermine that in trying to achieve the aim that all Members of the House are trying to achieve. This is why I welcome very much the Chief Ministers decision to postpone the Committee Stage of this Bill until the next meeting of the House. I think there might be a number of things that could be done to the Bill which would improve it. I know that we have had this Bill for some time but it is only when we get together like we have done today and we hear the views of other members of the House, that this interchange of ideas begins to take place and we will come out finally with a decision which I think will have the consensus of the House and possibly to a large extent carry the views of the people of Gibraltar. I do not believe that the people of Gibraltar would like to see the sort of film that the Honourable Minister has mentioned. But, on the other hand, they would just as strongly object to having a form of censorship that whether it is going to be mild or not we do not know but the fact is that it need not be mild and this is what I think the people of Gibraltar would strongly object to. Furthermore people are moving abroad all the time. Some of them will go on holiday and see some of the films they cannot see here and I honestly believe that it is the wrong process. So long as the film is not something that is absolutely outrageous, I do not believe it will attract so many people as to deprave Gibraltar in the sense that some people fear it would do. It hasn't done so up to now and it appears,

from what the Minister has said, that it is only a question of one or two or three films. Therefore, is it necessary to act so drastically just now? I do not think there is any objection whatsoever basically to protecting our society from undue pressures of commercialism. I think we do not want to live in a glass cage or an ivory tower in Gibraltar. The world is too small for that now. X films are all basically the same and once you see one you do not want to see another. In London the cinemas are empty. They just do not know what to do to attract people because basically man knows that happiness is found in his home and all these other things can be attractive for a little while in your salad days, perhaps, but after that you come back to what in reality nature wants you to be and what is natural in mankind. What we mustn't do is, by going to the other extreme, make it seem that there is an attraction, when, in fact, we all know it isn't all that attractive and we all know that the cinema clubs are not being particularly successful. I think a good film brings in many more people in Gibraltar than any of these X films. We want to encourage our cinemas to show good films and I think that by trying to draw a dividing line what we are doing is literally pushing people into these cinema clubs. Let us therefore try and control without the need of the kind of censorship that I think we are trying to introduce through this kind of legislation. Let us keep it as much as possible as it was up to now. Let us build on what has been working on up to now without jumping too far and within that I think if there is a way of controlling the cinema owners through the licensing side, it would be much more effective and I think much more agreeable to the public, generally than the effect that this legislation will have.

HON M K FEATHERSTONE:

Sir, unlike the Honourable Attorney-General, I have been to hundreds of X films and I would not like this House to think that every time a film is an X it is pornographic or extremely violent. It would seem that today where, according to the figures given to us by the Honourable the Chief Minister, some 50% of all films offered are X certificates, it is perhaps the British Board of Film Censors who in many instances take the line of least resistance and where they are not quite sure where a film should turn out to be, they put it on the X certificate because there are a whole series of X films going around at the moment which are cowboy films in which quite a lot of people get shot and I suppose that is the violence that makes the X film and yet, in the Cowboy films of the past, I think one famous film "Destry Rides Again", one chap managed to shoot seven people one after the other from a revolver which was a six shooter, so there was ample violence even in those days. I agree, Sir, that we do live in the permissive society. This is a great tragedy and I do accept that the standards have been severely eroded. I saw an instance of this the other day. It has always been one of the things said about the British, that they don't hit a man when he is down, and yet there was a fight in the street the other day in which one man was not only knocked down and hit while he was down but three others came up and kicked him. This sort of behaviour shows a lowering of moral standards but it can to some extent be attributed to what is seen on the cinema screen today because it is not uncommon to see people kicked when they are down in free for alls that go

on in some of these films. Certain people in the newspapers have advocated that the individual should have free choice. If that were taken to the extreme, and according to the Honourable Mr. Possano who evinced that as long as nobody else suffers then the individual should be allowed to do what he likes, why shouldn't a person smoke pot if he wishes to do so, why shouldn't he be allowed to commit suicide if he wishes to do so, if he does try he is afterwards prosecuted. This is the sort of decadence that occurred to the Romans when they had their empire. Little by little they fell into decadence, they fell into unbridled license and their society suffered in the long run and there is the possibility of something of which I think is not beyond the desires of the communist world, to see the western world fall into decadence and especially as the Honourable Mr. Canepa has said, when they produce pornographic films like the one that was seen the other day produced in Yugoslavia for the benefit, if the word is benefit, of the west. There are two types of films that this legislation wishes to deal with. One is the X film and amongst the X films does come a very small percentage, I will agree, I have been on this board of censorship and there are only a few films that do warrant being banned. For those films we have gone far enough to say "if you want to sink into the gutter, if you want to go into the sewer, then you can have a place set aside where you can go and see them but they should not be in the normal cinema entertainment." The other type of film, of course, is the one that is coming in and may come in in greater quantities especially now that the situation seems to be improving with Spain, the films have no certificate whatsoever. What is one to do with these films? They don't have a British Board of Censorship certificate they have no certificate whatsoever, sometimes, I believe the Spanish films do have some statement to the effect that the film is not suitable for people under eighteen but sometimes films come in with no certificate whatsoever, and here, of course, must be the case where some authority has got to decide is this film going to be for general showing, is it going to be restricted showing, is it going to be permitted in a club where you can show any type of film you wish. We are not trying to be in any way draconian in this legislation and though there may be some people of the opinion that certain films should not be shown even in a club, we have accepted that clubs may be there for people who wish to see these films. What we cannot accept is that a cinema which today is for the general public, should tomorrow be for a club and the day after again for the general public. You must set aside a specific place for the showing of these rather undesirable films and that is the intention of the bill. Personally, I cannot see any difficulty whatsoever in having a censorship committee to look into this situation on the condition that the censorship committee do have as their terms of reference basically what the Hon. Mr. Isola has read out and I think that no harm will come to the community by this censorship which is not repressive in the slightest. Thank you Sir.

MR. SPEAKER:

I now call on the mover to reply, though I think he stands in splendid isolation in that he has not seen an X-film.

HON ATTORNEY-GENERAL:

Mr. Speaker. A very few points. I think it was the Honourable Mr. Bossano who said that if one watched outside a cinema club one might be surprised at the people going in and this reminded me of the story of Mark Twain who said: "When I was a young boy my father told me that I shouldn't go to a burlesque show. I asked him why not. He said I should see something that I shouldn't. I disregarded my father's advice. I went to a burlesque show and he was right, I did see something I shouldn't. My father." I think it is suggested that if people want to go and see pornographic films they will. I entirely agree with this. If you have X-films, bad films, which people can go and see casually and they do so, that does tend to have a bad effect and the person who doesn't want to see that kind of film may see it whereas he wouldn't do if it was in a cinema club which he wouldn't bother to join. Casually, for something to do, it is quite possible that he would go to see these films which we feel we should censor. The position in England, as I understand, is this; the Board of Film Censors merely categorises films and it is the local authority who decides whether or not a film may be shown. It was reasonably recently that the indomitable Mr. Raymond Blackburn, a former Labour member of Parliament, successfully brought an action against the Greater London Council because he said they were licencing films which should not be licenced, they were probably in breach of the law of the land in that they were obscene. Mr. Raymond Blackburn was successful and the Greater London Council were told to pull up their socks and decide, sensibly, as a licencing authority, what could or could not be shown.

HON M XIBERRAS:

If the Hon Member will give way. I am grateful for that because I sent him a note about it as I think it is absolutely essential to the debate. As regards the local authority, could the Attorney-General tell us under what powers do they enforce their decisions. I have been asking this question throughout the debate because, Mr. Speaker, it seems to me that there is no law of censorship as such but there is a question of redress by appeal to the court which is rather different from the present proposition.

HON ATTORNEY-GENERAL:

As I understand it, and if I am wrong on this I will undertake to notify the Hon Leader of the Opposition in writing, I understand that under local legislation the local authority has power to licence what films should be shown in a cinema. The last point I would make is that it has been said that many people here under the age of eighteen are allowed into cinemas showing X films. In fact, surprisingly, the age here is sixteen under the subsidiary legislation the Entertainment Ordinance, not eighteen. I, having been told that this was happening, instructed the Commissioner of Police quite recently to keep a watch-out for this but it is not an easy one to enforce, because if a child of fifteen or fourteen is in a cinema, if you bring a prosecution you could, perhaps, compel the child to come and say what his age is but it is highly unsatisfactory and if the policeman merely sees the child going away and asks him his name and the child won't tell him, then the policeman has got no evidence to support the breach of the conditions of the licence by the cinema exhibitor. But it is a

matter on which the police are being asked to keep a watchful eye.

Mr. Speaker then put the question and on a division 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 P. J. Isola
The Hon A. F. Montegriffo
The Hon Major R. J. Peliza
The Hon J. B. Perez
The Hon G. T. Restano
The Hon Dr. R. G. Valarino
The Hon H. J. Zammit
The Hon J. K. Havers
The Hon A. Collings

The following Hon Members voted against:

The Hon J. Bossano
The Hon M. Xiberras

The following Hon Member abstained:

The Hon A. W. Serfaty

The following Hon Member was absent from the Chamber:

The Hon Major F. J. Dellipiani

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

The House recessed at 5.30 p.m.

The House resumed at 5.50 p.m.

THE CIVIL LAW AMENDMENT ORDINANCE, 1978

HON ATTORNEY-GENERAL:

Mr. Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Civil Law relating to the making of Wills and Legal assignment of things in action 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:

Mr. Speaker, I beg to move that this bill be now read a second time. The law of wills in Gibraltar follows very closely that

in the United Kingdom, but they did introduce a change in England in 1925 which has not been introduced in Gibraltar and which we are proposing to introduce now. There was a basic rule that every will became void and of no effect when the person making it got married. In 1925 they changed the law in England and provided that a will which was made specifically in the light of marriage about to take place should not become void when that marriage did take place. It meant that a young man about to get married, wishing to leave his property to his bride to be, could do so and when he married her it no longer had the effect that the will became void and if he didn't make another will he died intestate. That is all we are doing here, we are bringing our laws into line with that in England. It seems common sense, there seems very little justification for the rule that if you make it specifically for the purpose of the marriage it should become void if you get married. So we are reversing that and saying you can make your will if you are getting married and then the will does not become void. The second amendment affected by the will relates to things, sometimes called choses, in action. A chose in action is a legal expression used to describe all personal rights of property which can only be claimed or enforced by action and not by taking physical possession, for example, a debt, a bill of exchange or a share in a partnership. In England until 1875, the common law was that you could not legally assign a chose in action which you had to another person. In other words, if somebody owed me money, I have a debt due to me, I could not legally assign it to somebody else. If I did so and they wanted to sue on it then they had to join me in the action against the debtor. It was changed in England in 1875 and the change was repeated in 1925 in the Law of Property Act of that year. All we are doing now is again bringing our law into line with that in England, so if I have a debt owed to me by Mr. Y. and I want to assign it to somebody else, I can do so provided certain formalities set out in the bill are observed and the person to whom I assign it can sue Mr. Y. in his own name. We are following the law which has existed for a hundred and three years now in the United Kingdom. These two amendments were both considered by the Law Revision Committee here which consists of the Chief Justice, the Attorney-General and Mr. Benady. We all agreed that this was desirable and hence the Bill before the House. Mr. Speaker, 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 put the question which was resolved in the affirmative and the Bill was read a second time.

HON ATTORNEY-GENERAL:

Mr. Speaker, I wish to give notice that the Committee Stage and the Third Reading of this Bill be taken at a later stage of this meeting and, if we should reach it and this House so agrees, today.

This was agreed to.

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, Sir, I beg to move that a Bill for an Ordinance to amend the Public Health Ordinance (Chapter 131) by making certain premises formerly belonging to the City Council liable to rates, 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:

Mr. Speaker, Sir, I beg to move that the Bill be now read a second time. The legislative authority for the levying of the rates on property in Gibraltar is the Public Health Ordinance. In pre-merger days it was the City Council which administered the ordinance and which provided those amenity services which traditionally are a charge on, and are financed from, rate revenue. And although it may be slightly odd today when there is no longer any direct financial relationship between the cost of providing the traditional rate finance services and the amount of the rates levied, that it is the Public Health Ordinance which is still the legislative authority for levying a property rate, it was not so then. Nor was it odd or illogical then that the City Council did not, in fact, levy a rate on any of its own properties including, of course, those properties occupied by its own officers. What is odd is that property of this latter kind should have continued to be exempted from rating after the merger but be that as it may that is the effect of paragraph (h) of Section 298 of the principal Ordinance. As a corollary, Mr. Speaker, of the government's policy decision to increase public sector housing rents with effect from the first of July, the government has also decided that as from the same date officers in occupation of the Government's own quarters will be charged, in addition to increased rent, the full GSF and salt water rates thereon. Hitherto they have not paid rates. If, therefore, there is to be uniformity of treatment between all government officers occupying official quarters, it follows that the exemption from rates in respect of ex City Council quarters must be removed. It will be a wholly unacceptable situation if officers who happen to be in occupation of these quarters were not liable for rates while their colleagues in occupation of other government quarters were obliged to pay. The purpose of this Bill, therefore, is to bring ex-City Council quarters into line with the rest of the government official quarters by terminating the exemption from rating which the former has continued to enjoy by virtue of their pre-merger status. Mr. Speaker, Sir, I commend the Bill to the House.

MR. SPEAKER:

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

HON M XIBERRAS:

Mr. Speaker, if I may, I simply stand up to ask a certain point of clarification in respect of this Bill which, perhaps, the

SECOND READING

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Hon Financial and Development Secretary will be good enough to answer. First of all, am I right in saying that this affects purely ex-City Council quarters and has nothing to do with another dispute in the Civil Service whereby certain officers who do not have quarters available for them to occupy, have been refusing to pay rates in ordinary Government dwellings which may or may not have been classified as quarters for this purpose. I want to make sure that this is, in fact, the case. Secondly, Mr. Speaker, I would like to know since the government is taking action in respect of ex-City Council dwellings, will the other dispute which apparently is going on for instance I have the case of a neighbour of mine who died and claims in respect of rates which he had in his lifetime refused to pay, it was demanded should be met out of his gratuity money. What I am asking the Financial and Development Secretary is, since it appears this applies only to ex-City Council dwellings, what is the position in respect of other category of persons which I have mentioned?

MR. SPEAKER:

If there is no one else who wishes to contribute I call on the Mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, the Hon Leader of the Opposition has posed two questions. I can certainly answer the first question and that is that this Bill has nothing whatsoever to do with any one or more individual cases irrespective of what those cases are. As to his last question which is a different question i.e. what is happening to those individuals in question, I am afraid that I have not come briefed with the situation as it exists but I do confirm his first question and I think, possibly, he turned it around in speaking, for the second. Mr. Speaker 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 beg to give notice that the Committee Stage and Third Reading of the Bill will be taken at a later stage of this meeting, and if it is the wish of the House, tonight should we reach that stage.

This was agreed to.

THE PENSIONS (AMENDMENT) ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, I beg to move that a Bill for an Ordinance to amend the Pensions Ordinance (Chapter 121) 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.

Mr. Speaker, I beg to move that this Bill be now read a second time. The objects of and the reasons for this Bill are set out precisely and concisely in the explanatory memorandum attached thereto. I cannot improve on this. However, since the explanatory memorandum is not automatically reproduced in the Hansard, I shall with your permission read the first two paragraphs of it. In 1954 an amendment to the Pensions Ordinance established the principle that for the purposes of the payment of a death gratuity, officers who died in service would be treated in exactly the same manner as officers who are retired on medical grounds. In the case of the latter there is specific provision in the Ordinance that when an officer who retires from the public service at an age of less than 55 years has completed more than 10 but less than 20 years pensionable service, he may be granted a pension and a gratuity based on 20 years service or, if he would not have completed 20 years pensionable service by the time he attains 55 years, such number of years pensionable service as he would have completed on reaching that age. In 1964 certain amendments effective from the 1st August, 1963, were made to the Ordinance one of which almost certainly unintentionally reversed the position achieved in 1954. Death gratuities, however, continue to be calculated on the basis of the 1954 agreement and it has only recently come to light that this was wrong and that in consequence certain gratuities have been overcalculated. That is the end of the first two paragraphs of the explanatory memorandum. I would add but one thing. The 1954 principle has established itself over the years as an equitable method of calculating the payment of death gratuities. It has been the method which, in fact, has been followed all the time right up until the Principle Auditor, quite recently, drew attention to the effect of the 1964 amendment. The Government having regard to the fact that this principle has established itself as an equitable method of calculating the payment, sees no reason to depart from it and therefore the Bill re-establishes in law this principle and seeks to validate overpayments of certain gratuities which have, because of the change of the 1960 law, been overpaid since 1963. Mr. Speaker, I beg to move.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill will be taken at a later stage of this meeting and, if the House permits, this evening, should we reach that stage.

This was agreed to

THE PUBLIC FINANCE (CONTROL AND AUDIT) (AMENDMENT) ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, I beg to move that a Bill for an Ordinance to amend the Public Finance (Control and Audit) Ordinance, 1977 (Number 9 of 1977) 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. Section 10 of the Public Finance (Control and Audit) Ordinance, 1977, prescribes the purposes for which monies may be advanced from the Consolidated Fund. Special funds established under Section 16 of the Ordinance are amongst these purposes. In general, however, any advance to a special fund is recoverable before the close of the financial year in which such advances are made. Certain special funds are specifically excluded from this limitation. These are the Improvement and Development Fund and the special funds created for the management and accounting of the public utility undertakings. The reason for this exclusion is that the modus operandi of each of these special funds may result, as the House is only too well aware, in it carrying forward an operating deficit from one financial year to the next and in such cases the amount so carried forward as a deficit represents an advance from the Consolidated Fund. Hence, as I say, these special funds which I have named are excluded from the general limitations imposed on all special funds regarding advances which are made to them. The Housing Fund was established by legal notice published in the Gazette on the 2nd March, 1976 and came into effect on the 1st April. It will be administered and accounted for in exactly the same manner as the special funds already established in respect of other public utility undertakings and it is therefore necessary that it should be similarly exempted from the general restriction as to the repayment of advances made to it from the Consolidated Fund. The Bill so provides by specifying the Housing Fund in paragraph E of subsection 1 of Section 10. Mr. Speaker the opportunity has been taken to provide by way of an amendment to Section 16 of the Public Finance (Control and Audit) Ordinance under which the Governor has power to establish special funds, that any such special funds may be specified in paragraph E of Section 10(1) thereby avoiding in future amending bills such as the one which I am now moving. I would only add that as of this moment the government is not contemplating the establishment of any other special fund of this character. Nevertheless, the occasion might arise in future when it is indeed necessary or desirable to proceed in this manner and hence, as I have said, we are taking the opportunity to avoid the necessity, in such circumstances, of having to come back to the House for what is a technical amendment, by legislating that the Governor may add to section 10 the special fund in question. I will only add one other thing and that is that this power would certainly not be used to effect in any way the generality of limiting to a special fund advances that must be repayable within the same year in which the advances are made. It would only be done where the special fund itself is so operated that it inevitably may carry forward a deficit from one year to another when that deficit in law, represents an advance from the consolidated fund. Mr. Speaker I beg to move.

MR. SPEAKER:

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

HON F J ISOLA:

We don't like the opportunity the Financial and Development Secretary has taken in Section 3 of the Bill. There is provision in Section 10 of the Public Finance (Control and Audit) Ordinance for advances to be made out of the Consolidated Fund to any specialised fund where the advances have to be paid back before the close of the financial year so that it is possible for special funds to be established, as I understand it and the Financial Secretary to make advances from the Consolidated Fund to that special fund as long as it gets the money back before the close of the financial year. We would have thought that that was sufficient for the normal special funds. It is precisely these special funds that run or are likely to run into deficit such as the electricity, the potable water, the telephone and now the housing funds, that require to be included in the Ordinance and we feel that it should come by an amending Bill because then the House would know the sort of special fund that is likely to run into deficit as opposed to a special fund where the Financial and Development Secretary can advance money from the Consolidated Fund as long as he gets it back before the end of the year. This is providing for funds to which he advances money which he doesn't get back before the end of the year and therefore we feel that the legislature should have some say as to whether a special fund becomes that kind of special fund in which deficits can be run up. I think it is not a bad thing we have come to the legislature because then we know what are the special funds that are expected to run deficits. I think that though, obviously, it is administratively easier for the Governor to just put in a Notice and add it to the legislation, I think, bearing in mind the principles of the ordinance which was brought in precisely to ensure that the House had control of public finance, we feel that Section 3 should not be pushed through by the government. Let us put the Housing Fund in as a special fund, tomorrow it may be another fund, but let the House have some control as to which funds are put in that can run up deficits because if there is not going to be a deficit, there is no need to put them in.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, while I can see the Hon and Learned Member's point I am afraid I can't concede it. I can't concede it because the setting up of a funding operation of the nature of the Housing Fund, of the Electricity Undertaking Fund, and of the Potable Water Undertaking Fund, is absolutely inseparable from the general power which this Ordinance confers upon me to manage the totality of the governments finances. I will certainly willingly, and I am quite certain that any successor of mine will also willingly assure the House that no such special fund of the character that we are dealing with will be set up without due reference to the House. You will recall, Mr. Speaker, that I dealt with the establishment of the Housing Fund not at great length but at more than a passing mention in my budget statement and, indeed, I would say that in nine cases out of ten it would be, at that time, that such a fund was established, then I do assure the House and in particular the Hon and Learned Member

that the establishment of that fund will be dealt with and will be conveyed to the House at that time. Mr. Speaker I beg to move.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in this meeting and, with the permission of the House, this evening, should we so reach that stage.

This was agreed to.

THE LOCAL LOAN (NO. 6) ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, Sir, I beg to move that a Bill for an Ordinance to make provision for raising of a loan in Gibraltar not exceeding two million five hundred thousand pounds 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, Sir, I beg to move that this Bill be now read a second time. Section 8 of the Public Finance (Control and Audit) Ordinance, 1977, prescribes the Government's borrowing powers. Except where the money to be borrowed is required for temporary liquidity purposes, the government can only borrow in accordance with the provisions of a written law. The purpose of this Bill is therefore to confer on the government the necessary authority to raise a further 2.5 million pounds by the issue of registered debenture loan. It should, I feel, gladden the heart of the Hon Mr. Bossano who has on many occasions in this House urged upon the Government to finance its capital development to the maximum extent possible by borrowing. I hope, therefore, that I shall be able to count on his support. As the House is aware, the government is faced with raising over the next three years an amount of 2.5 million pounds to meet, in part, but in part only, its contribution to the 1978/81 Development Programme. The balance which the government has on its present authority which has not been exhausted amounts to £270,000. With the raising of that by whatever means the government will therefore have exhausted the authority given to it by this House under previous local loan Ordinances. Hence it is necessary to come back to the House to ask for further authority. The approved estimates provided for the first part of this borrowing namely £630,000 and on the passing of this Bill it is proposed to issue a prospectus for this amount as soon as possible. The terms and conditions upon which the 1978 issue will be offered has yet to be decided and will largely depend on the market conditions which prevail at the moment of issue. It is no good, Mr. Speaker, deciding that you are going to offer a certain interest rate today, when the loan is not

going to be offered to the public for a month because all sorts of pleasant and unpleasant things can happen to interest the way they are going at the moment from week to week. By way of clarification, I would inform the House that none of the money raised in accordance with the authority conferred, if it is indeed conferred by this Bill, will be used to finance the projected new power station and if events make it necessary to do so, the new distiller. It is proposed, Mr. Speaker, to cover the borrowing required for one or, if events prove it necessary both these projects, by a special ordinance because the terms and conditions upon which the very large sum or sums of capital which are required to finance those projects, may very well carry certain specific conditions attached to it by the lender and it may very well also be a condition of the lender that there is some form of legislative sanction for that particular borrowing to ensure that the money loan is only and exclusively spent on the purpose for which we have gone to the market. So therefore, the authority which government is now seeking from the House is for the more general purposes of the development programme and not for those two specific large scale projects. Mr. Speaker, I beg to move.

MR. SPEAKER:

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

HON J ROSSANO:

Mr. Speaker, I won't disappoint the Hon Financial and Development Secretary. I would like to take this opportunity to ask him whether, in fact, there is anything to preclude in this type of borrowing, the borrowing taking place outside Gibraltar, whether special legislation is required to enable the government to borrow outside Gibraltar, because I remember at the budget that he mentioned the Government exploring possibilities of obtaining better interest rates if the loan could be guaranteed by Her Majesty's Government in the same way that United Kingdom Gilt Edged investments are. I would like to know whether that sort of criteria applies to this loan or applies to the other loan which he is talking about and whether, in fact, it requires special legislation to enable the government to borrow outside Gibraltar or whether any given loan or debenture can equally be sold in Gibraltar or in any other capital market.

HON P J ISOLA:

Mr. Speaker as far as the borrowing requirements of the government are concerned, it appears that we are being asked to pass this legislation to meet the government's share in the development programme. Of course, if we pass this Bill when the Government decides to issue its debentures will be a matter for the Government, but we hope that they will take very much into account the interest rates at the moment, that they appear to be going up, and could possibly be going down at the beginning of next year and that therefore the Financial and Development Secretary doesn't start borrowing money until he knows he is going to use it. We don't know the pace at which development is going and of the actual catch requirements and therefore we would hope the Financial and Development Secretary would be careful not to ask for the money until it is actually needed by

the Government and take into account current market trends and long term predictions, if there are any, in the financial world.

MR. SPEAKER:

I will now call the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, the Bill as it is framed limits the borrowing to Gibraltar. There is, as far as I know, absolutely no reason why an Ordinance should not be drawn so that it would enable the Government to borrow both inside and outside. However, in practice, in my experience, two kinds of legislative acts have normally been enacted, one, which is confined to local borrowing and the other which is to raise either specific loans or more general loans outside the country enacting the legislation. Frankly, I think this is as much a matter of drafting the legislation as anything else, but this particular loan is limited to the borrowing within Gibraltar. As to the Honourable and Learned Mr. Peter Isola's point, will the Government take account of the prevailing interest rates? Yes, Mr. Speaker, it certainly will do. Whether or not the Government is able to predict the movements of what has been certainly over the last six or nine months an extremely volatile market and get the answer right, is another matter altogether, but, certainly, the Government will take account of the prevailing market rates and I might inform the Hon Member right now that one of the points which is engaging the Government very much at the moment is how it can make a local debenture loan interesting and attractive to the large volume, or relatively large volume, of trust fund money which flows through Gibraltar. The major stumbling block is the way, and we as yet are not in the position to say where we get to our thinking on this, is of course the fact that such money attaches a very considerable premium to marketability of what it buys, and this is not an easy problem to overcome in the limited circumstances of Gibraltar. The Hon and Learned Member sincerely hopes that the Government won't in fact, borrow the money until it requires it. I am afraid, Mr. Speaker, I can't agree with him there and I can't accept that because, if the Speaker will forgive the somewhat colloquial expression, we get our hands on the money, we can close the interest gap very substantially by investing it in the Joint Consolidated Fund of the Crown Agents, for example, or in other short term investments and hence close the interest gap for such periods as we do not in fact need the cash so that the sooner we can get hands on the money, given the prevailing interest rates and the market rate at the time, the better I would be pleased. Mr. Speaker, I beg to move.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr. Speaker, Sir, I beg to give notice that the Committee Stage and Third Reading of this Bill will be taken at a later stage of this meeting and, with the consent and permission of the House, this evening, should we reach that stage.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1978-79) 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 ending 31st day of March, 1979, 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 read a second time. The purpose of this Bill is to appropriate, in accordance with section 65(3) of the Constitution, a further sum of £47,406 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 £87,811 out of the Improvement and Development Fund. The purposes for which these further sums are required are set out in detail in the schedule of supplementary estimates of expenditure which I tabled at the commencement of this meeting. Mr. Speaker, as usual, my colleagues responsible for the various services will speak in detail in relation to the amounts which are set out in the schedule but I would like to refer to the six Heads on the Schedule for which the supplementary provision sought is £1. There is a principle here which I would like to explain. When the House votes expenditure by head at the budget session or, indeed, subsequently by supplementary appropriation, but more particularly at the budget session, it not only votes a sum of money but it also, in so doing, fixes the total establishment of the department in respect of which the money is voted. It does not fix the breakdown of that total establishment but it certainly does fix the total establishment so therefore if in relation to any particular vote a department has an authorised establishment of 100 there is no authority, without coming back to the House, for the necessary approval to increase that overall establishment at all. Consequently, the six votes of expenditure against which Hon Members will see the figure 1 in the supplementary provision column shown, in every one of these cases the total establishment we are seeking to increase. The amount of the increase is set out in the brackets under Personal Emoluments in each case. In Customs there is one additional post, in the Fire Service there are two additional posts, in Income Tax two additional posts, Supreme Court one, Medical and Health sixteen, and the Secretariat eleven. That is the purpose of showing the supplementary requests in this manner. At this stage the Government is not seeking additional financial provision for the simple reason that at the present moment it is virtually impossible to compute just what that would be in relation to each department in view of the changes in salary. But at this stage in order to fill those posts the government must have the authority of the House to increase those establishments by the numbers shown. Mr. Speaker I beg to move.

MR. SPEAKER:

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

HON CHIEF MINISTER:

Mr. Speaker, following on what the Financial and Development Secretary has said I think I should make a general statement of the results of the recent staff inspection. On the commencement of the 1974/75 pay review, following the adoption of the Scamp Report, the government stated that a staff inspection would be carried out of all the grades of the civil service. Staff inspection, as the House will know, is the method used in the United Kingdom civil service for the purpose of establishing the correct numbers and gradings of posts in each department. Already before the adoption of the Scamp Report, we were beginning to introduce the method in Gibraltar. It was, however, the decision that pay in Gibraltar should be directly related to pay of corresponding grades in Britain that made it necessary to carry out a full staff inspection in order to ensure that local gradings, the duties and responsibilities of each post, were correctly aligned with those in the United Kingdom on the established criteria. This was obviously a major exercise requiring special expertise and we are grateful to Her Majesty's Government for making a number of staff inspectors available to enable us to carry it out. The great bulk of the service has now been inspected and arrangements will be made as soon as possible to deal with the relatively small remainder. One major decision which the Government took at the outset was to commit itself to accepting in full the findings of staff inspection. The reason for this was that if the government had retained to itself the freedom to reject some of the findings, all the findings would then have been thrown open to question and the ensuing discussion with the staff side could well have gone on literally for years and this would not have been in the interest of the staff, the Government or the public. At the same time the Government had made provision for dealing with particular areas of difficulty without detracting from its basic policy of implementing the findings as a whole. If, for example, management and the staff side mutually agree that a particular finding has been based on the wrong or on insufficient facts, or if the circumstances of a particular post has changed since the inspection has been carried out to such an extent as to justify a reappraisal then that finding will be referred back to the staff inspector for review. There may also be cases in which the staff side feel strongly that posts have been wrongly graded but which they are unable to convince management that the circumstances warrant a reference back to the staff inspector. The government has undertaken that such cases will be noted and will be incorporated in the management services section of the Establishment division to which I shall refer when I speak about the Secretariat later on in these proceedings in the Committee stage. Discussion on the staff inspection reports has been initiated with all the unions concerned and I am informed that these are proceeding smoothly and in a spirit of co-operation. Staff inspection will now become a regular feature in the Gibraltar civil service. The frequency, manner and scope of inspections are matters which will be considered in consultation with the staff side, when our own inspection facilities are set up. In my statement on the estimates of expenditure earlier this year, I referred to the growth of 15% in full employment in the Gibraltar Government service over the past 2½ years. The Government intends to keep a very close eye on and control over increases in staff and no such increases will be approved until a thorough investigation has been carried out by the management

services section. Regular periodic inspection of departments will also take place on a cyclical basis. Overall, the results of the staff inspections have been a reduction of 34 posts and an increase of 41 posts the net result therefore being an increase of 7 posts. However, of the total increase of 41 posts, 11 posts are required for the long overdue strengthening of the Secretariat to which I shall refer later and 16 posts are required in the Medical Department to provide, inter alia, for the re-opening of the Lewis Stagnetto geriatric ward. Twenty seven new posts are required for these two departments. If these special and inevitable increases are disregarded, the total increase for other departments is 14 against a total reduction of 34. I consider this to be a satisfactory result. At this stage the House is being asked to agree to an increase in the establishment of 6 departments so that action may be taken to create the new posts recommended by the staff inspector. The process of discussion with the staff side continues in the meantime and every effort will be made to implement the findings of the report as soon as possible. Finally, I should like to revert to my earlier remarks on the subject of the Government's prior commitment to accepting the findings of staff inspection. In the Governments view this was the only sensible policy to adopt in an exercise of such scope and magnitude. It is inevitable that some ministers, in keeping with officers and others, will have misgivings or reservations about some of the findings but it has been agreed collectively that in the interest of the overall policy the findings will be implemented nevertheless. I invite the House to approach this matter in the same spirit and to give its approval to the increases which have been recommended as well as to note with some satisfaction the reductions proposed.

HON M XIBERRAS:

Mr. Speaker, on the general principles of the Bill and specifically on what the Chief Minister and the Financial and Development Secretary have had to say on the question of staff inspection, I sense from the approach of the Chief Minister that this is a sensitive area and from my own knowledge of one or two departments that the reactions of the associations and the unions has been as was predictable, I think, in an exercise of this nature not as smooth or as co-operative as the Chief Minister has said. For our part, talking for the Parliamentary Group, we are naturally because of our interest as shown in the past in the cost to government of providing services, we are naturally anxious to avoid any unnecessary costs. Mr. Speaker, I had some experience in connection with the Productivity and Training Unit in the past to know that reductions which appear to be savings which are over compensated by accretions through the service, are very difficult to justify politically to the tax payer generally and I must say that I am not enamoured of the way in which the Government proposes to do this, namely, by asking Hon Members on this side to vote in favour of certain posts as yet unspecified, though we welcome the statement of the Chief Minister in clarification in part of the problem and in consequence, because we do not know exactly what posts are affected, it is very difficult for Hon Members of this side to give a blank cheque to the Government especially in respect of certain departments where there was already criticism of overstaffing by Hon members on this side of the House. Neither could I say, on the other hand, do we have specific views of cutting down or moving about of personnel or posts in departments which we considered at budget time as to

be overstaffed. We considered, for instance, at budget time that in the Public Works Department there was a certain degree of overstaffing and we have heard no specific news as regards this. We haven't heard either from the Financial and Development Secretary or from the Chief Minister what the net cost would be to tax payers, generally and to the government and we would like to know an order of costs of the implementation of the posts to which Hon members from the other side have referred. I think that the Chief Minister was well warned about this, that we are sensitive to increases in staff. The Honourable Financial and Development Secretary at budget time was talking about certain misgivings that he had with reference to the 15% increase which had taken place to which the Chief Minister referred. Therefore, Mr. Speaker, we are not prepared to take anything which approaches a blank statement about the necessity for increases in staff. We certainly agree that the staff situation is a fluid one, that certain departments increase in importance and others decrease at certain periods of time but we are concerned as, indeed, we thought Hon Members opposite were concerned, with the general level of employment in the Government service and with the increasing load that is being put on the tax payer which today includes people of all classes and not just the rich. Mr. Speaker, I hope that in the course of going through the Schedule in Committee Stage, the Government will be able to throw some light on their intentions since, as I understand it, there will be no further opportunity of querying government decisions on particular posts before giving the government the go-ahead for the creation of these posts and of course once these posts are created then the House will be too late to object to their creation. With that word of warning on these otherwise apparently routine supplementary estimates I think we will leave it to the Government side to argue the individual Heads of expenditure.

HON A P MONTEGRIFFO:

On the general principles judging by the statement made by the Leader of the Opposition it does not seem that they have understood what we are doing. It is not that this is being done at the government's whim. We have brought staff inspectors, they have staff inspected practically the whole of the government departments and this is the result. It is not that the Government feels that we need this staff. It is that following staff inspection and having bound ourselves to accept staff inspection here is the answer now. It may be that particular members, as the Hon Chief Minister said, would have had it otherwise but once you have staff inspection you abide by it or the process will be never ending.

HON A J CANEPA:

Mr. Speaker, since the adoption of the Scamp Report, we have been involved in the Government service in a colossal exercise, what amounts to really a social revolution in changing the pattern of grading and structures of the last quarter of a century to the system in the United Kingdom. The only way that this could be done properly, the only way that we could feel that we were getting value for money, would be by establishing through an independent exercise that people were being correctly analogued to the United Kingdom. If we were going to pay parity of wages you have to be sure that it was for the same comparable work.

You couldn't pay somebody as a Higher Executive Officer if the work he was doing was that of a Clerical Officer. This is what staff inspection is all about, about establishing correct gradings and also correct manning levels to ensure that a department does not have ten bodies too many or for that matter ten too few or that it doesn't have too many P.T.O. 1's when it ought to have more P.T.O. 2's. This is what the exercise is about and, on the whole, I don't think that the result has been unsatisfactory but what you cannot have is members opposite pressing the government to open the Stagnetto ward, to bring about segregation of patients in KGV if those two things entail extra staff. If it entails extra staff you have got to pay for the extra staff. You have to approve it in the House, you have got to vote the funds and the tax payer has to pay for that, there is no way of getting away from that. These are matters which the Opposition has been asking about and been pressing for likewise, I also seem to recall the Hon Mr. Peter Isola - and he may correct me if I am wrong - that he has been critical of Secretariat. He has been critical about the fact that you don't get replies to letters which are written to Secretariat. This is a fact, Secretariat has not been able to cope with the work load for sometime because they have been trying to set an example to other departments when other departments asked for an increase in staff and this is why it now is somewhat shocking all in one go to be creating 11 posts but that is, perhaps, because this should have been done gradually over the years and a new look has to be taken at the whole structure in Secretariat if it is not to stagnate. At the moment you have got an Administrative Secretary who is also Establishment Officer and that post is clearly overloaded. He has got the green paper on nationality to deal with, he has got the representative bodies matters to deal with, direct election, all that goes through him, and the Working Parties above all. You cannot expect that man to be dealing with establishment matters and with all these other matters which are crucial. Establishment has been getting blocked up. Things are not moving there are that has been the subject of a very wide staff inspection. I think, as the Chief Minister said if you leave out Secretariat and the Medical Department, what we are providing through the creation of these extra posts is an improved service to the community, the result is a very satisfactory one. Many of us were very cynical about staff inspection. Many of us thought that there were going to be wholesale increases in posts and that has not been the case. Overall the result is a good one, As far as Public Works is concerned, we are not seeking permission for any further posts, that is not being sought. And it is in fact one of the department in which there have been recommendations for down grading. The position, as I say, is not an unsatisfactory one and unless the government accepted those findings then you could not bind the Associations to respond in a similar manner and it would be a never ending exercise. I think we have established good ground rules as to how to proceed. Not everybody is going to be happy. Within my own department I know that there are people that have been adversely affected and I realise that this can be a blow to morale and it can mean that what is otherwise a very happy Department there can be a certain amount of dissatisfaction, but unless you take an independent view, I am not an independent person, I am certainly interested in the welfare of people in my department but therefore I am not unbiased in that sense, I am not taking an objective view but the staff inspection team have been taking a totally

unbiased view, they are people from outside and this is the result and I think we ought to congratulate ourselves that we have now established correct analogues, we know that the people are being paid in accordance with the duties of comparable grades in the United Kingdom and I think that there is a whole lot of other material in many of the staff inspection reports which will enable greater efficiency, or an improved service to be set in motion. I think we have a good basis on which to go ahead for the future.

HON P J ISOLA

Mr Speaker, of course we have not seen the staff inspection report. That is one of the handicaps we are working under. We don't know, for example, whether all the increased posts that we have been voting against in the Public Works Department were as a result of recommendations of staff inspection or not. What we do know is that quite a considerable number of new posts are coming up, we would agree entirely on what the Minister for Labour has said in the particular office that he has mentioned, the Administrative Secretary. We agree entirely that his office is entirely overloaded but we don't know whether there is overloading below him or not, we don't know.

HON CHIEF MINISTER

I will be addressing the House on that when we come to the Committee Stage.

HON P J ISOLA

What I would like at this stage, because obviously this is quite a vast subject for the Financial and Development Secretary to deal in his reply, is why in the explanation of each £1.00, in every case we get the statement, "should lead to long term saving." Because certainly we would like to know how it is that this will lead to long term saving. That is a very important factor. I notice, Mr Speaker, that the Hon Mr Canepa mentioned the fact that people didn't get replies to letters from the Secretariat. It is not entirely the Secretariat that we were thinking of, Mr Speaker, it is another department in that building which in fact doesn't seem to have any new additional posts, I refer to the Department of the Surveyor and Planning Secretary. I don't know whether it is intended to have additional staff there but that seems to be the department that rarely replies to letters and one understands it is to a great extent due to overloading of somebody there. Certainly we would like to know because there is no question about it, everybody is willing to vote increased staff but as the Honourable Leader of the Opposition has said, everybody in Gibraltar, the public as a whole, are very sensitive about government expenditure (a) because it has become so large, so almost uncontrollably large, and (b) I think a lot of people feel they are not getting the service for the return of that expenditure that they can reasonably expect to get, and they are paying a lot of tax to contribute to that expenditure. This is an objective view, I think, Mr Speaker, and therefore certainly it would be helpful if we got some indication of the savings we can expect from these provisions.

HON J BOSSANO

I think, Mr Speaker, that if we look at the additional posts in the Medical and Public Health, the remark about long term saving would not seem to be applicable there at all because, in fact, I think we need additional posts there to provide a better service and I think we have to accept that if we want to provide a better service then we have got to employ the people to provide the service, there isn't any other way to do it unless one starts from premise that people at present are not working and that all one needs in order to get a better service is to make them work, not a premise that I start from so therefore I would not share that view. I think that people are doing a good job but I think they need more bodies in the hospital if we want an improved service in that particular area. I wouldn't know exactly what the distribution of the posts in the Secretariat are but I would say, that one area where I have got personal experience which could certainly do with an increase would be the Industrial Relations Officer's office. The Industrial Relations Officer's office does a tremendous amount of work already, a tremendous volume of work is being done, but nevertheless the amount of staff they have there in my view, sometimes creates unnecessary delays and sometimes creates unnecessary industrial action because people are just fed up of waiting for a reply and not because a reply has been a negative one or is likely to be a negative one. Even if it is likely to be a positive one there is a limit to how long people can be made to wait for an answer even if they are told that the prospects of a favourable reply to whatever may be in dispute is expected. Their expectations eventually catch up with their patience and then there is nothing that one can do about it. I think it is a sound investment in that area to have more staff because even if one were not to see long term savings there, if it produces more stable industrial relations elsewhere, then although the savings may be difficult to quantify, the savings would be nonetheless real. So I think that one could assume that it is impossible to have long term savings in all cases. I have been given two examples where in one case I don't think one can expect savings and in another case I do think one can talk about increasing staff and having savings at the same time. I think in the case of all these posts, if in fact they all arise from the staff inspector who has been brought in from the United Kingdom, it would appear to me that it is difficult to quarrel with the criteria that has been applied to introduce these posts given that the people who have been applying those criteria have come from the United Kingdom and that the people who are employed in these departments are on United Kingdom wages and conditions and, therefore, I would imagine that it is natural to expect that part of the United Kingdom wages and conditions should also be the workload they are expected to carry for the wages they are getting and if it is United Kingdom standards that have been applied by the staff inspectors in these areas I would think it difficult to argue against them.

MR SPEAKER

I now call on the mover to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, may I at the outset of my reply apologise to the House for not making clear the somewhat misleading series of notes against these various increases. The note, in fact, should be against the whole lot bracketed together. It is not the fact that necessarily there will be long term savings in the Customs Department and in the Fire Service individually, but the six groups together should produce some long-term overall savings. Mr Speaker, unfortunately I have not been briefed as to the long-term effect overall on the government's financial position of the additional 16 posts in the Medical Service but, excluding that and this can have an effect, there will be significant long-term savings. I hesitate at this stage to put a figure on it because the figure must inevitably by its nature be at this stage very approximate, but it is certainly not going to be trivial and I am not prepared, as I say, to go any further than that. I do apologise for the fact that the individual notes against the £1.00 increases are misleading. It should be a block note against the whole six. Mr Speaker, I would say that it would be more appropriate for me to give the House certain overall details of reductions and the departments to which they apply and if necessary the kind of grades of staff, at the beginning of the Committee Stage. We are now talking about the general principles of the Bill which is a request to approve a supplementary estimate of a certain amount.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I beg to give notice that the Committee Stage of the third reading be taken at a later stage of this meeting and if we were to continue, perhaps, tonight.

COMMITTEE STAGE

This was agreed to.

MR SPEAKER

Before we proceed with that I would like to inform the House that the Hon Mr Bossano has given the required notice that he wishes to raise on the adjournment the question of the inadequacy of the premises for the temporary Varyl Begg primary school.

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that this House should resolve itself into committee to consider the following Bills clause by clause: The Regulation of Dock Work Bill, 1978; the Trade Licensing (Amendment) Bill, 1978; The Food and Drugs (Amendment) Bill, 1978; the Civil Law Amendment Bill, 1978; the Public Health (Amendment) Bill, 1978; the Pensions (Amendment) Bill, 1978; the Public Finance (Control and Audit) (Amendment) Bill, 1978; the Local Loan (No 6) Bill, 1978 and the Supplementary Appropriation (1978-79) Bill, 1978.

MR SPEAKER:

If we do not get through all these Bills before 7.30 I believe you would like to take the Supplementary Appropriation (1978-79) Bill first which is fresh in our minds.

HON ATTORNEY-GENERAL:

I have one request, Mr Chairman and that is regarding the Trade Licensing (Amendment) Bill. It is essential that it be published in the Gazette on Thursday and I would like to get the Third Reading out of the way so that it can go to the printer and be ready for the Governor's assent tomorrow.

MR SPEAKER:

Let us have the Trade Licensing Bill first.

THE TRADE LICENSING (AMENDMENT) BILL, 1978

MR SPEAKER:

May I explain to the Opposition that this is not the Bill which they objected to but the one which extends the life of the existing Ordinance.

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

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

THE SUPPLEMENTARY APPROPRIATION (1978-79) BILL, 1978

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

Schedule

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think this would be the appropriate moment to give the House some indication of those departments in respect of which there will be decreases in posts. There are strictly eight. First of all, the Electricity Undertaking, four posts, a reduction of four overall in the electricity undertakings establishment. These are all total reductions. Housing, one post; Labour and Social Security, 3 posts; Lands and Surveys, 2 posts; 1 post in the Police; 7 in the Port; 5 in the Post Office; 10 in the Public Works; 1 in the Telephone Department. If any Hon member wishes to know any detail about this, the chart I have in front of me is, I trust, correct and I hope that I will be able to answer any queries. Those are net total reductions because some departments have got an increase in one grade and a greater decrease in another grade, but if there is any detailed question, I will attempt to provide the answer.

CONSOLIDATED FUND

SCHEDULE OF SUPPLEMENTARY ESTIMATES NO. 1 OF 1978-79

Item 1 Head 3 - CUSTOMS

HON M XIBERRAS:

Whilst the figures given by the Financial and Development Secretary allow the Opposition to see things much more clearly, I was wondering whether in particular departments an indication might be given as to the level of these posts at top level intermediate level and so on.

HON FINANCIAL AND DEVELOPMENT SECRETARY

It is right across the board. For example, Mr Chairman, we are dealing now with Customs. I can give him what I mean and this applies to all departments.

MR SPEAKER:

Whenever a particular Head is called Hon Members may ask at what level, and if the answer is available you can give it otherwise we will never get through the supplementary estimates. When we come to the end of part one of the schedule then you will be able to ask any general questions on matters which have not been dealt with.

HON CHIEF MINISTER:

We don't have any reference where this is a reduction, we only have a reference where there is an increase.

HON M XIBERRAS:

What is happening in Customs, Mr Speaker?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, there is an increase of 4 Executive Officer posts and 1 Clerical Officer post against a reduction of 2 Assistant Revenue officers, 1 Revenue Assistant and 1 woman searcher. The net increase, therefore, being one.

On a vote being taken on Item 1 Head 3, CUSTOMS 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 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 J K Havers
The Hon A Collings

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

Item 1 Head 3 CUSTOMS was accordingly passed.

Item 2 Head 6 - Fire Service

HON M XIBERRAS:

What are the increases there?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The increases are an Assistant Divisional Officer, 1 post; a Leading Fireman, 1 post. Two additional posts.

HON M XIBERRAS:

We are trying to be as understanding as possible on this side of the House but this virtually a new structure in the manning of these departments. The Opposition is being asked to vote in favour of this new structure on the basis of questions eliciting this without any prior notice and without knowing exactly what it is being asked to vote for. We might, in fact, Mr Speaker, be in disagreement with the deductions in particular areas or in disagreement with increases. I think it is most unfair on Hon Members on this side of the House who have no indication as to how the staff inspection is affecting the service.

MR SPEAKER:

I think as Chairman I am entitled to say that what is happening now is that Government has given an undertaking that they would abide by staff inspection. They are coming now to ask the approval of the House to make token votes exclusively on posts which have been recommended by the staff inspectors.

HON M XIBERRAS:

Mr Speaker, that is perfectly correct and this may have been a reasonable thing for the Government to have done. What I am saying is whether we are going to know exactly what the position is before authority is given to the Government for the creation of these posts because if we were to say no on any particular department we might be acting quite unfairly. If we say yes, we might not have had time to appreciate exactly what the effect is going to be. For instance, the creation of the post of one Divisional Officer in the Fire Brigade is a case in point.

MR SPEAKER:

What you are basically being asked now is whether you stand by the staff inspection and if so to vote the money. It is as simple as that. It is a matter of principle you are being asked to vote on.

HON P J ISOLA:

We cannot say whether we are for or against without seeing it.

MR SPEAKER:

You have been given an undertaking by the Government that these posts are created exclusively as a result of staff inspection. I think we must be entitled to ask in each particular case whether this money is being asked for the purposes of making provision for the recommendation of the staff inspectors.

HON M XIBERRAS:

We understand the position of the government on this but we hope that the government appreciates the position of Hon Members on this side of the House. It is not a question of agreeing, in principle, to something and leaving it at that. It is a question that by giving an agreement, in principle, we are also agreeing to the particulars in each department.

MR SPEAKER:

No, the particulars you agree to now, by voting on each item.

HON M XIBERRAS:

Yes, indeed, and I would have thought that the best way of dealing with these matter would have been to have given not the staff inspection reports to Hon Members on this side of the House, but by circulating in advance the creation of the posts which are going to be effected and then the Opposition would have had a chance of studying them in combination with the estimates for the year which we have just voted at the last meeting and comparing and arriving at a rational decision. I don't think it is fair at all to ask the Opposition to vote in principle and for the particulars at the same time without knowing what the particulars are, really, or being able to assess them.

MR SPEAKER:

That is fair comment.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I think one has got to make this point, that where a total establishment is either not varied at all or is reduced, the Government, in my submission, has no necessity to come to this House. It is a management function of the government to adjust the establishment within the total authorised by parliament. I think I must make this point. We are coming to the House whenever the adjustments required by staff inspection cannot be contained within the total establishment authorised by the House and the government is therefore bringing a supplementary estimate seeking the authority of the House to create certain additional posts and I think it is perfectly fair of the other side to ask what those posts are.

MR SPEAKER:

I think we are talking at cross purposes to the extent that the bone of contention lies in the fact that the Opposition feel that in the knowledge that new posts have to be created on the recommendation of the staff inspector, it would have been right for this information to have been provided to the Opposition before so that they could consider whether they can vote for or against the necessary funds.

HON CHIEF MINISTER:

I think I went to some lengths to explain the principle in which we had approached staff inspection which was to accept it. This is what we are bringing to the House. If we have not entered into judgement on the staff inspection it would be unexpected for the Opposition to question the staff inspection which we ourselves have accepted for the purpose of the better running of the exercise, as standing and binding.

MR SPEAKER:

We must bring this argument to an end quickly. Basically what the Chief Minister is saying is that if they have decided to choose some of the recommendations of the staff inspector and not others, and they were asking you to vote for those in preference, fair enough, but since the principle involved is the fact that the staff inspectors' recommendations would be unconditionally accepted, therefore you are in no better or worse position than they are.

HON M XIBERRAS:

I entirely appreciate and I have said it twice already, that I appreciate the position of the government. I am not making any judgement as to whether the government has acted rightly or wrongly in this matter. What I am upholding is the right of the Opposition to know in advance and in the round what it is being asked to vote for and to be given notice of this. We appreciate that the government was in a position that they had to either agree beforehand to the staff inspection or the Unions would not have agreed to have the staff inspection.

MR SPEAKER:

For whatever reason, the principle was to accept the recommendations of the staff inspection.

HON CHIEF MINISTER:

There is one aspect, and I said so from the beginning, there are two major issues, an increase in the Medical and Public Health and in the Secretariat and I gave notice earlier on that I would explain at length what is happening in the Secretariat to warrant the proposed 11 additional posts and my Hon Friend will deal with the posts in the other Departments. The rest are just adjustments as have been stated by the Financial and Development Secretary.

MR SPEAKER:

In any event one has to accept what has happened and this discussion is completely and utterly academic because the Opposition may of course as a result of the way that the government has acted, opt to vote against or to abstain or to vote in favour.

HON M XIBERRAS:

I entirely agree with this but, amongst other things we had, in fact, the Chief Minister asking the House to take this in anticipation of other Bills. All that was required, if it was a case of 40 or so posts, a list divided into departments and notice of one day being given so that the Opposition would be able to judge these matters.

MR SPEAKER:

I think we are taking at cross purposes. What you are saying is that the Opposition should have been given the result of the complete recommendations of the staff inspectors to the extent of posts which have been done away with and posts which have been established so that you would have had the full picture. That is another matter and a matter which can be a subject of the debate at a later stage. As the Financial and Development Secretary quite rightly said at the beginning, if the result of the staff inspection had been the non-creation of extra posts, this would not have come to the House because no new monies would have been voted. To the extent that you are voting money now, you are entitled to ask what the money is going to be used for. To the extent that the staff inspector has recommended the elimination of other posts you are not entitled to ask about at this stage. Let us be clear on that point.

HON M XIBERRAS:

As a general comment we will say, Mr Chairman, that we would have liked to have seen everything on balance on a piece of paper before us and because of this we cannot be a party to something we have not been given notice about and therefore our vote will reflect this.

HON J BOSSANO:

I shall be voting in favour of the creation of the posts but I would like to make it quite clear that I am not voting in favour of everything that there is in the staff inspection report.

HON P J ISOLA

Are the reductions to take place at the same time as the additions are brought in? We are asked to vote for these additional posts and we want to know whether the reductions will be implemented at one and the same time.

HON CHIEF MINISTER:

Mr Speaker, I did give an account of it. I said; "overall, the result of the staff inspection has been a reduction of 34 posts and an increase of 41 posts, the result therefore being an

increase of 7 posts. However, of the total increase of 41, 11 posts are required for the long overdue servicing of the secretariat of which I will make a statement to which I will refer later, and 16 posts which are required in the Medical Department to provide, inter alia, for the re-opening of the new Stagnetto Ward.

HON P J ISOLA

What I am asking is whether the reductions have already taken place.

HON CHIEF MINISTER

No, nor have the increases taken place.

HON P J ISOLA:

I don't want the government to get me wrong. The point is, if there are to be 21 reductions, can the government tell us when these reductions will take place. Will it be when the chap in the post retires or what?

HON CHIEF MINISTER:

It is much more complicated than that because some people are promoted and there is a vacancy there which is not filled because he goes to another post. Mr Hon Friend Mr Canepa called it a virtual revolution of the service and this is what has happened and people have been re-classified.

MR SPEAKER:

I think we will leave the matter as it stands and take a vote on each Head.

HON J BOSSANO:

Would it be true to say that, effectively what the House is voting for is the creation of one additional post which will be occupied by one actual body but there is no knowing at what grade that post will be because it depends on what organisation there is what final vacancy will exist?

HON CHIEF MINISTER:

Of course.

On a vote being taken on Item 2 Head 6 FIRE SERVICE 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 A P Montegriffo
The Hon J B Perez
The Hon A W Serfaty

The Hon H J Zammitt
The Hon Dr R G Valarino
The Hon J K Havers
The Hon A Collings

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

Item 2 Head 6 FIRE SERVICE was accordingly passed.

Item 3 Head 8 - House of Assembly was agreed to and passed.

Item 4 Head 10 - Income Tax Office

HON M XIBERRAS:

Could the Financial and Development Secretary give details about the two additional posts in the Income Tax Office?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Certainly, Mr Chairman there will be one less post of Higher Executive Officer, 3 additional posts of Executive Officer, two less Clerical Officer and two additional Clerical Assistants posts.

On a vote being taken on Item 4 Head 10 INCOME TAX OFFICE 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 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 J K Havers
The Hon A Collings

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

Item 4 Head 10 INCOME TAX OFFICE was accordingly passed.

On a vote being taken on Item 5 Head 11 JUDICIAL (2) SUPREME COURT 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 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 J K Havers
The Hon A Collings

The following Hon Members abstained:

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

Item 5 Head 11 JUDICIAL (2) SUPREME COURT was accordingly passed.

Item 6 Head 15 Medical and Public Health

HON A P MONTEGRIFFO

In this Head we have 16 additions. The deductions are one clerk and a PTO who has been staff inspected under Public Works and will be taken away from our vote. We have the recommendation of one Staff Nurse for the Maternity Department, 1 extra tutor, 2 Staff Nurses and 1 Sister and nine Nurses for the Lewis Stagnetto Ward, and 4 extra Nurses which will be provided for the KGV Hospital.

On a vote being taken on Item 6 Head 15 MEDICAL AND PUBLIC HEALTH 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 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 J K Havers
The Hon A Collings

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

Item 6 Head 15 MEDICAL AND PUBLIC HEALTH was accordingly passed.

Item 7 Head 16 POLICE was agreed to and passed.

Item 8 Head 17 PORT was agreed to and passed.

Item 9 Head 23 - Secretariat

HON CHIEF MINISTER:

Mr Speaker, the House is aware that the Secretariat has two functions. One of these may be described in the broadest terms as general administration and the other one as establishment. For some years now the Secretariat as a whole has come under increasing pressure but the staff has not been increased to keep pace with the extra work. In October, 1976 shortly after his arrival in Gibraltar, Mr Beech, the staff inspector, was informed that once he had completed his inspection of the other Government Departments and begun the Secretariat inspection, he would be asked to look at the organisation as well as the gradings and numbers of the staff. Mr Beech has now reported on this and his main recommendation, which has been accepted, is that general administration and establishment should be separated. Establishment will be a self-contained division which will deal with all personnel matters. All other matters coming within the province of the Secretariat will fall to the administrative side which is to be known as the General Division. The function of the Productivity and Training Unit will be absorbed within the Establishment Division, but this will not affect the special relationship that has hitherto existed between Minister of Labour and the work of the Unit. No change is recommended in the Industrial Relations Officer's section but it is intended that, with an enlarged complement in the establishment division, he should work very closely with it. The Establishment Division will advise the Industrial Relations Officer in research, preparation of briefs, calculations, pay

scales etc, enabling him and his staff to concentrate their activities on negotiations and generally dealing with the trade unions. They will be part of the establishment. As the House knows he has to do this on many fronts and it is both desirable in the interest of the improvements which we seek in industrial relations in the future, that he should have enough assistance to enable him to deal as promptly as possible with all the problems that come his way. You heard the Hon Mr Bossano mention the fact that he was a lonely man and couldn't cope with so many problems. The Establishment Officer will have among his functions, collaboration with the Industrial Relations Officer on all aspects of industrial relations and relations with trade unions of staff association. The Establishment Officer will also be responsible for the establishment aspect of industrial relations matters. The establishment side in the Secretariat in particular has not been functioning as well as it might have for some time. This has been due to, as I have indicated, to progressively increasing pressures and considerable undermanning. Policy issues such as second jobs for civil servants and many aspects of personnel services have had to take second place to day-to-day pressures. Other work such as analyses of reports on staff and the preparation and updating of General Orders and other regulations has simply not been possible. The establishment has developed mainly on the non-industrial side. It is now proposed that it should also deal with matters affecting industrials with, of course, the Minister for Labour and Social Security continuing to retain an overall responsibility for labour in so far as the industrial relations are concerned. To set all this right, the staff inspector recommends that the establishment division should be headed by an Establishment Officer, graded at Grade 6. He would have under him, in addition to a management services section, hitherto the Productivity and Training Unit, two personnel sections which between them would deal with all aspects of personnel management for the various grades in Government employment including industrials. One major additional block of work will be the implementation of the staff inspection report produced in the exercise which has recently been completed as well as providing a regular staff inspection service for the future. A start is already being made on the implementation of reports and Mr M Cavilla and the Productivity and Training Unit are assisting in this. One personnel section will be headed by an SEO who would have two HEO's working under him and the other section will be headed by another SEO with one HEO in support. Three Supervisory Officers posts in the management services section and two in the Secretariat have been upgraded to HEO. The Administrative Secretary will no longer be known as Establishment Officer but will continue to supervise policy and major issues in establishment. On the administration side, bearing in mind the growth of work in that area over recent years, the work being taken over from the other side of the house and the volume of work that would fall on the Secretariat in connection with the Working Parties, staff inspection has recommended a Grade 7 post to head the General Division, with 2 SEO's each supported by two Higher Executive Officers, the net increase in Secretariat staff will consist of one senior post, 2 SEO's, 2 HEO's, 4 EO's and 2 secretarial grade. I would like to remind Members that as far back as December 1975 when Mr Morgan was making his original report on the members of the Federation of Senior Government Officers, he said that the Secretariat had to be strengthened and I can bear witness of the fact that, and Hon Members opposite,

perhaps the Leader of the Opposition knows this though, only partially of course but he does know, that the blockage in the work of the Administrative Secretary is fantastic and has to devote himself to matters of major issues and other matters which are equally important are left over weekends he has to work in order that papers get out otherwise the accumulation of files is terrific. I don't know what it is, probably it is the difficulties with Spain and so on, but all I can say is that whereas it was not unusual for me to be able to leave the Secretariat at 4.30 or 4.45, now it is never before 6 or 6.30 that the day's work is finished, and then it still leaves the Administrative Secretary with the rest of the work to do. Ministers have considered the staff inspector's recommendations and believe that the measures he recommends are necessary and in the public interest. The staff increases proposed may appear to be fairly substantial but this is due to the fact that this is a catching-up exercise. The officers in the Secretariat have been bearing a very heavy burden for a very long time and would not have had to do so if increases had been made at an earlier date. They have been wanting to set an example for other people and have been severely prejudiced in the process. It should be borne in mind also that the inspection has been carried out by a former Civil Service Department inspector who has applied United Kingdom standards of gradings and numbers. Each government department has its own role and so too does the Secretariat but in addition it has a co-ordinating function and if this is not properly carried out the whole government machine will feel the effect. This is true both of the Establishment and General Division function. The staff inspector's proposals are designed to correct a situation which has developed to a point where literally central government services are in a serious danger of a breakdown. In addition, it is necessary to provide services which have hitherto been lacking or have not been sufficiently catered for. Provision for staff welfare, training, career and manpower planning, discipline and other related matters are essential for maintaining the morale and efficiency of the civil service and enabling it properly to carry out its duty to the public. Staff inspectors' recommendations are designed to achieve this and I commend the necessary staff increases to the House. Because fairly radical changes as well as the relatively large increase in staff are proposed, the situation will be reviewed after the new organisation has been functioning for a year. Sir, I accordingly move that Head 23 Secretariat subhead 1 - Personal Emoluments be amended in order to increase the establishment of the Secretariat from 63 to 74. It is not possible at this stage to assess the additional financial provision that will be required but if the House approves the proposal I have put forward, action can proceed as a matter of urgency to implement the staff inspector's findings. The House will subsequently be asked to vote the necessary financial provisions.

HON M XIBERRAS:

Mr. Chairman, I think listening to a major statement such as this from the Chief Minister illustrates our difficulty - we haven't even got a copy of that statement - but in general terms, Mr Chairman, we have always known my colleague perhaps even better than myself, from his experience as Chief Minister, that the Administrative Secretary has been grossly overburdened for many years. That in itself is no recommendations for the changes that have taken place, it is not in itself, and we share the

concern for his own sake and for the work of Government.

MR SPEAKER:

If you are going to be another ten minutes I will be quite happy to accommodate the House otherwise I will ask the House's indulgence to adjourn.

HON ATTORNEY GENERAL:

Before the adjournment Mr Chairman, I would ask your indulgence for the House to resume from Committee in order to take the Third Reading of the Trade Licensing Bill.

This was agreed to and the House resumed.

HON ATTORNEY-GENERAL

Mr Speaker, Sir, I have the honour to report that the Trade Licensing (Amendment) Bill, 1978, has been considered in committee and agreed to without amendment, and I move that it be read a third time and passed.

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

The House then resolved itself into Committee once again and recessed until the following morning.

The Committee recessed at 7.45 p.m.

WEDNESDAY THE 28TH JUNE, 1978

The Committee resumed at 10.40 a.m.

MR SPEAKER:

I will remind the House that when we recessed yesterday evening we were dealing with Part 1 of the schedule to the Supplementary Appropriation (1978-79) Bill, 1978. We were dealing particularly with the last item in this part of the schedule, which is Item 9 Head 23 - Secretariat.

HON CHIEF MINISTER:

Before we proceed with the supplementary estimates and particularly as there will be one or two more which deal with the question of the result of the staff inspection, I would like to inform the House the basis on which and the extent to which staff inspection reports were made available. There were complaints from the other side of the House that they were not aware, and that, perhaps, they might have been told what it was. I have here the specimen letter which was sent by the staff inspector after the completion of each of the reports to the Establishment Officer. "I am now able to let you have 3 copies of the reports of the staff inspection of the particular departments. In accordance with the agreement on the treatment of this report, I am writing in similar terms in submitting copies of the report to the President of the particular unions. You will note that the reports are endorsed "in confidence". This is in line with

practice in the United Kingdom where staff inspection reports issued in confidence to the staff on the understanding that these are "for the eyes of the accredited or recognised staff side officials only" and to management for use on a "need to know basis". I hope you will see no difficulty in following these principles and the confidentiality of the report will be respected."

HON M XIBERRAS:

I really don't wish to reiterate the points I made yesterday about this except to say that essentially it is a question of notice. I entirely respect the feelings as expressed in that letter by the staff inspector but I must stand by the points which I made yesterday in the sense that the House should have notice of any measure which it is intended that it should approve. In relation to the letter which the Chief Minister has read out it is my information, and perhaps the Chief Minister could confirm, that the posts were already circulated on Friday and, as such there must have been some gap between the actual agreement of the unions, or the treatment of the unions, and the circulation of the posts.

HON CHIEF MINISTER:

I would like to make clear that because of the urgency in some respects those circulars were done subject to approval being obtained by the House of Assembly. The circulars were circulated on that basis. It was not in defiance of or in anticipation but subject to the approval of the House of Assembly.

HON M XIBERRAS:

Mr Speaker, the last thing I would want to do is to deprive the unions of their obvious prerogative to be consulted in matters which intimately concern them but at the same time I cannot concede the point that the House be asked to vote on this basis of token provision without having notice of the changes which are implied by the votes that are to be taken. This I say despite the fact that I am aware that, certainly, in some departments the total provision which was required in money terms may not exceed what has already been voted by the House, but, nonetheless, where there is provision of £1 increase there is a money question, a financial question, before the House and the basis on which this financial question has to be judged by members of the Opposition implies a need for notice. I think, Mr Speaker, that the point has been made over and over and I don't think we can go any further on it except to say that it has occasioned an abstention of the Opposition on grounds of protest where there might have been support of part or the whole of the propositions before the House. In respect of the Chief Minister statement, if I may, Mr Speaker, about the Secretariat, I would like to say a few words. In the first place, as I believe I started saying last night, we are entirely in agreement that the Administrative Secretary, who is regarded as much a pillar of the administrative machine by the Opposition as undoubtedly he is by the Government, we feel that the changes proposed should certainly help him to devote his undoubted talents to the more important tasks before him. At the same time, the creation of an Establishment Division, if there is a proper

demarcation of responsibility with the establishment of the Grade 6 Establishment Officer, should also give satisfaction to the service, generally, in dealing with establishment matters, and I know that there have been serious bottle-necks in this area. Therefore, we do not begrudge whatever extra staff is needed but would add the caveat that efficiency would not depend solely on the increase in the number of posts but on decisions being taken at the proper level. In other words, if all matters are still to be referred to the Administrative Secretary it little matters if there are 3 or 4 or 5 people below the Administrative Secretary according to the new arrangements. Therefore, Mr Speaker, whilst agreeing with the structure we hope that the division of responsibility will be adequate and conducive to speedy decisions in the establishment section. As regards the inclusion of the Productivity and Training Units in the establishment Section, our views have already been made clear, we think this will elevate the work of the Productivity and Training Unit, we feel that the Minister for Labour for all the assurances that the Chief Minister has given will, in fact, lose his direct interest in these matters and that the original purpose of the Productivity and Training Unit, already weakened by the hiring off of the Industrial Training Officer to the department of Labour and Social Security where he is barely performing, according to my information, any work connected with his training, he is doing more contracts for labour from abroad than any kind of industrial training, is now going to be weakened further because productivity and training unit will, to my mind, be drawn into establishment problems more and more and will cease to have the independent character which is necessary for its proper function. As regards the Industrial Relations Officer we agree with his staff being strengthened because it has been the experience of the House and of Gibraltar, generally, that industrial problems have consumed a great part of the Government's time and anything which is done to strengthen that particular sector is welcome. However, my comments in respect of establishment and the level of responsibility apply equally to the Industrial Relations Officer in the sense that if the Industrial Relations Officer is to draw full benefit from his increased staff he must also be given the kind of responsibility and power to enable him to negotiate properly and to deal with complaints or claims properly. All in all, however, the increases in staff of the Industrial Relations Officer are welcome by this side of the House. As regards the General Division we do not know very much about the work. I suppose this is the conglomerate of the various activities of government such as passports and so forth, and on this one we await results. Talking of results, Mr Chairman, it is obviously by results that the changes in the system will be judged. We do, in the interest of good administration, hope that the changes are productive of good results.

On a vote being taken on Item 9 Head 23 SECRETARIAT 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 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 J K Havers
The Hon A Collings

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

Item 9 Head 23 - SECRETARIAT was accordingly passed.

Schedule of Supplementary Estimates No. 1 of 1978-79 was passed.

Schedule of Supplementary Estimates Improvement and Development Fund No. 1 of 1978-79

Item 1 Head 107 - GOVERNMENT OFFICES AND BUILDINGS was agreed to and passed.

Item 2 Head 111 - ELECTRICITY SERVICE was agreed to and passed.

Item 3 Head 114 - POLICE was agreed to and passed.

Schedule of Supplementary Estimates Improvement and Development Fund No. 1 of 1978-79 was agreed to and passed.

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

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

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

Clause 4 was agreed to and stood part of the Bill.

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

HON M XIBERRAS:

Mr Speaker, just to refresh my own memory, on the question of virements the House does not debate them at all. Am I right in saying that one would have to bring a resolution to the House or a motion to the House to discuss virements?

MR SPEAKER:

That is correct. On a particular point but not generally.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I have got a fairly full brief on the item that may have sparked off the question, ie, reallocations under the Electricity Billing. If the Hon Member wishes to ask any particular question in relation to this particular supplementary I think, by my brief I am in a position to answer it.

HON M XIBERRAS:

I am very grateful to the Hon Financial and Development Secretary but my interest was more one of procedure rather than an interest in any specific matter but, certainly, I am grateful to the Financial and Development Secretary.

HON FINANCIAL AND DEVELOPMENT SECRETARY

The answer to the principal question, Mr Chairman, if of course that the House empowers me to make the virements and if in relation to any particular virement in respect of which I have exercised those powers the House wishes further information, then there is the ordinary procedure of the House in order to obtain that information either by way of question or motion.

THE REGULATION OF DOCK WORK BILL, 1978

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

Clause 4

HON P J ISOLA

Mr Chairman, I would like to make an amendment as follows:

That Clause 4(1) of the Bill be amended by the addition of new sub-paragraphs (d) and (e) as follows:

(d) one member representative of the interests of consumers.

(e) one member representative of the interests of trade not involved in the actual operation of the port.

I don't think I have to say very much in favour of it. I did speak in the general debate on this point, the idea being that the voice of the consumer and the voice of trade not connected with the actual operation of the port should be heard in the Dock Labour Board and this would be likely, Mr Speaker, to bring decision in the Dock Labour Board that took regard of outside interests. As at present constituted it will only take regard of the interests of the actual employers on the Board and of the interests of the actual workers in the port but not outside interests and in the event of a clash between the employers of dock labour and the employees of dock labour, a decision would be entirely in the hands of the chairman whom I assume would be a civil servant or an ex-civil servant and I would have thought the pressure on him would be quite intolerable. I don't think I have to say any more at this stage.

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

HON MAJOR R J PELIZA:

I would like to identify myself with the views expressed by my Hon Friend, Mr Peter Isola on this. I did not speak on the general principles of the Bill yesterday as I thought it would be a waste of time to reiterate what my Hon Friends have said already, but I think on this particular aspect of the amendment which I think is a basic thing, the basic difference I think

between the Government and the Opposition, I would like to stress the importance of having other interests represented in this particular Board because whatever the Minister for Labour may say I have little doubt that the power of the union and the power of the employer will have considerable say in any other matter concerning the port, whether or not it is directly concerned with the changes in the running of the port since obviously their views will carry a lot of weight in any other body where the decisions of the general running of the port are concerned. I therefore believe that other interests should be represented. It is not in any way my view to reduce the power of the union and employers there because numerically they are well above and in any decisions which has got to be by majority I have little doubt that the unions and the employers will carry the day, but at least there will be an outside voice which will represent other interests ie, transporters for instance. I think they obviously are very much concerned with that. The general trader in Gibraltar is also very much concerned about the handling of these matters. I know of course that the union is very interested in being there because we have got to do away with casual labour and we have got to give some continuity of employment to those who are there so that suddenly people do not find themselves sacked overnight. No-one wants that I think there should be other people representing other interests in Gibraltar and I really cannot understand the attitude of the Government in being so narrow minded on this matter, in fact, I wonder whether they are acting under pressure of whether they are using their own common sense and acting with logic. I do hope that the Government can give some consideration to this amendment.

HON A J CANEFA:

Mr Speaker, I hope that the Hon Gentleman opposite gives me some credit for logical thinking. I pride myself that I do attempt to approach matters logically. I am a mathematician by profession and that training does help to approach matters in a logical way. This is a purely labour piece of legislation, I repeat for the third or fourth time. It doesn't deal with other matters in the port, it deals with labour matters, it deals with matters much more closely involving the direct interest of employers and employees than the interest of the community important as those undoubtedly are. We have made it clear that this is not the end of the road. We have made it clear that there is going to be another Board set up, a Port Operations Board, which will deal with other aspects, other matters in the port, which are properly the concern not just of employers and employees but other interests, consumer interests and the interests of the trading community. The composition proposed for the Dock Labour Board is the composition that you had in the 1969 Ordinance and it is the composition that has been recommended by the Dock Labour Board after very exhaustive study of the problem. I think that it should be given a chance to see how it works. After all, if we have had a piece of legislation which has been a dead letter for nearly 20 years, why cannot we give this piece of legislation a chance to see how it works over a period of a year or so. If we find that the Dock Labour Board is not conducting its business bearing in mind the overall and overriding interest of Gibraltar because the port is possibly the most sensitive area that we have, the most crucial area that we have, then we can think again and we can

come back to this House and we can tell the employers and employees that they are being too self seeking, perhaps, that they are being too narrow in the manner in which they are approaching problems in the port. I think that this should be given an opportunity to work. I don't think that the House should do anything at this stage that could jeopardise the very good work that has been done in the last couple of months by the Dock Labour Board. The chairman at the moment, an ex-civil servant, is, I take it, an independent person. I don't think the fact that a person is an ex-civil servant means that he no longer independent. He is an independent person and I very much hope that Sir Howard Davis can be persuaded to take up the Chairmanship of the new Dock Labour Board because I think that few people in Gibraltar have the qualifications and the qualities that are necessary for this very difficult task. His whole background, having been a Director of Labour and Social Security as well for a number of years, is ideally suited to taking on a job such as this one, a task for which outwardly there are very few kudos attached. No one will give him of the Dock Labour Board a great deal of credit if matters remain quiet and peaceful in the port. It will be good work being done behind the scenes. There is nothing terribly sensational or attractive about this kind of work but Sir Howard Davis has done excellent work and I very much hope that he takes it on again. He has the authority that is required, he carries the weight that is necessary to knock the heads together of employers and employees if need be and from a reading of the minutes he has more than once done that, more than once. He has got them round to what needed to be done sensibly and I think that he can do it again. If there is a deadlock then, obviously, that is what the Chairman is for. If the Chairman has to come to the Minister for Labour and consult the Minister for Labour and the Government as to Government's attitude to certain problems, that is right and proper, there is nothing wrong. To pretend that you can have a representative of the trade or a representative of consumer interests to have a say is useful but, make no mistake about it, if you have a situation where the four representatives of employers are the four representatives of employees are agreed on a certain matter, I think that a representative of trade or a representative of consumer interests is going to achieve very little other than, perhaps, get people out on strike immediately with the approval of employers. That is all it is going to achieve. We don't want a situation such as we had in the Price Control Committee where, effectively, an individual or two very often an independent member, not the chairman of the Committee, was very often in the invidious position of having to decide between one side and the other. I think the approach must be in the Dock Labour Board what we have seen in the last two months, a chairman of authority who virtually compels, who virtually brings the representatives of employers and representative of employees round to agreeing on what is in the best of interest of all concerned. I think he has done that very well with a common sense approach. The Hon Mr Bossano is a member of this Board and he has more first-hand knowledge of what has gone on. I have kept very closely in touch with matters and though I agree he does not present an unbiased view because he is a representative of employees, I am sure he will bear out what I am saying. My message to this House is, lets us give this a try, let us set up a separate body that can look at the wider aspects of

the port and if we are not satisfied, if things are happening in the port in a manner which we consider to be detrimental to the interests of Gibraltar then by all means let us look at the matter again and let us bring if necessary new legislation to the House in order to change the composition of the Board if need be.

HON J BOSSANO:

Mr Speaker, I think it might be of use to the House if I share my experience - my recollection does not include getting my head knocked by anybody - if I share my experience with the House of what went on in the Board and how it has been working and why, in fact, it is important that the Board should consist of equally balanced representation from employers and employees. The primary objective, I would say 99% of the objective of the Ordinance, is to regulate the employment of workers in the docks. In this context the only way the Board can work effectively is not by majority decisions but by arriving at a consensus of opinion and every decision that has been taken in the existing Board has been taken not by one side outvoting the other side because I am sure nobody in the House nowadays can be in any doubt that certainly one side cannot be outvoted. As far as the trade union side is concerned it might be outvoted in the House and then it will take recourse to industrial action. So that if there was a representative of trade there and the representative of trade sided with the port employers and the consumer representative abstained and you had 5 votes to 4 in a measure that the representatives of the employees saw as being detrimental to their members, they would go back and tell their members to come out on strike. It is as simple as that. The object of the Board is not to create a situation that predisposes towards conflict but to create a situation that avoids conflict and a situation that avoids conflict is that if you have a stalemate in the Board where one side wants black and the other side wants grey and if you have to meet like we have been doing, twice a day for six hours, you meet twice a day for 6 hours until you come up with a solution that is neither black or white, a solution that everybody accepts. If one side can muster sufficient voting strength to over-rule the other you have a situation that does tend to endanger a conflict situation and, in fact, a great deal of what was done in the Board reflected some of the things that the employers thought were necessary, some of the things that the Government thought were necessary and some of the things the Union thought were necessary and which previously one couldn't get because there didn't exist a forum where statements that were being made in different contexts, which is a thing which happens far too frequently in Gibraltar regrettably, are not in fact made with the same conviction when one is confronted by another party that has also got intimate knowledge of the situation. We had situations in the Board, for example, Mr Speaker, where, previous to the reconstitution of the Board, almost every employer in the Board accused every other employer of using casual labour but denied that they were using it themselves. When you had the situation where all the employers were there it was a different kettle of fish. They are quite happy to accuse each other behind each other's backs but when we were all sitting in the same Board the situation was different. Secondly, I think it is important to realise that as far as the employers are concerned it is 4 members

representative of the interests of registered employers. I can tell the House that when we had representations from the Chamber of Commerce and representations from the Transport contractors to the Board, we questioned, in fact, how it was that the employers could be members of the Chamber of Commerce and could expect to have representation in their own right and then representation through the organisations to which they belonged because I would have thought then that the logic of that should be that you should then have an independent member from the trade side who should be a member of the Chamber of Commerce and then, of course, an independent member from the employees side who should be a member of the Gibraltar Trade Council because surely the Gibraltar Trade Council is in relation to the TGWU the same as the Chamber of Commerce is in relation to the traders in the port. I don't see how the traders can say that their organisation where they belong and they pay a fee, is independent of them. Therefore the representative of the employers can be somebody in the Chamber if the employers want to have somebody there. Secondly, the representative of the registered employers can include a transport contractor if a transport contractor registers as an employer which was certainly the intention of the Board should be something open to those transport contractors who have been doing dock work and whom the Board never had any intention of depriving them from doing what they had traditionally been doing of which I shall be saying something more when we come to clause 7 of the Bill dealing with registration. This Bill is intended to give the same protection to dock workers in Gibraltar as dock workers elsewhere in the world enjoy. It is not intended to be a Trade Restriction Ordinance, it is not intended to keep employers out of the port. As far as the position of the representative of employees, the more employers there are the more jobs there are. The only thing is that the representatives of the employees have taken a cautious approach in saying that we welcome new employers provided the new employers are going to provide long term employment. What we don't want is a fly-by-night employer coming in offering 20 jobs, we register 20 new workers, he lasts 3 months, he goes bust and then we have 20 registered unemployed dock workers and a problem of how we deal with that situation. Whilst we would welcome more employers coming in and creating more jobs, we don't want that to be done if the effect of that is going to be that we produce more jobs now only to create more problems for the future. Apparently, employers have been concerned. I can say that the employers that have been represented there have in fact said that they don't fear competition, so in this respect there has been no attempt to keep people out. All of the people who have been there, whatever they may say outside, have said in the Board that they don't fear competition.

HON P J ISOLA

If the Hon Member will give way. Does the Hon Member anticipate no difficulty at all in relation to new persons who wish to become port employers under the new regulations?

HON J BOSSANO:

No problem at all, if anybody can come along and make a case to show that there is a good chance that he will be able to offer fairly long-term employment. I think there is certainly little

prospect of somebody coming up and making out a case that he is going to provide a lot of employment and that case is full of holes and one can see that in fact if he is allowed to start operations he might employ somebody for a week and then have to shut shop, because then the position of the interests of the representatives of dock workers has been made quite clear, we asked specifically that it should be recorded in minutes, that we are not closing the door to new entrants but once they come in we will protect them as we will insist that they should not be made redundant. So if anybody wants to take the responsibility for offering continuity of employment, then there will be no opposition at all from the employees side, so that will be 4 definite votes in favour. So far, when challenged on this point, all employers have said that they feel that they are sufficiently well organised to cope with any competition. I don't know how the Bill can hurt the interests of anybody other than the employers and employees who are the only people who really are affected by this Ordinance, because the Ordinance, as I said before, Mr Speaker, doesn't say what employers have to charge for the service that they provide to the community and, therefore, if it was a Board that had to fix the rates for handling cargo then there might be a need to ask the voice of the consumer in that sort of Board but the Board only decides who is entitled to employ dock labour and who is entitled to be employed as a dock labourer and it introduces very clear restrictions that a dock worker must be employed full time as a dock worker. Members of the House may think that by insisting on dock workers being employed full time on dock work and exclusively on dock work, we are acting against the best interests of Gibraltar. This is very relevant, because to me there is an argument there that one might put. The Ordinance said that if a ship comes in once a week, you employ people in the port for five days a week to do nothing for four days. It could be argued that that is not efficient, it could be argued that that is going to put up prices, it could be argued that that is against the interests of the consumers but that will not be changed by having a consumer representative there because that is a part of the Ordinance that everybody apparently agrees with. We all agree we should have people idle for 4 days. It not let Members come up with an amendment saying that they shouldn't be full time on dock work but I can tell the House that in fact this was something that the employees asked for and it was something that is enjoyed by people in this particular type of work in most other places in the world. It has certainly been the case in the United Kingdom for the last 20 years and it was the intention of the Ordinance that was passed 20 years ago that dock workers should be full time dock workers. Given that, Mr Speaker, I think that to attempt to change the composition of the Board particularly given that the Government here is following the recommendations of the existing Board which was appointed by the Government to deal with the immediate problem arising from the redundancy and also to make recommendations on what should replace the Dock Labour Ordinance as it is at the moment is, I think unfair to the people who have been doing the work on the Board, quite frankly, because it is all very well to appoint a Board to look at this problem, to have that Board having 14 meetings and God knows how many hours, and then to say that what the Board is recommending is going to be operated against consumers or against businessmen other than those who are represented on that Board. I think that there is no evidence as far as what

happened since the Board was constituted that this is the case, I think that there is no evidence in anything the Ordinance says that this is the case and, of course, I believe that it will not happen after the Ordinance is passed. I agree with the Minister for Labour that if, in fact, it can be shown to be happening, then it is up to those who have got the information that this is the case, to bring it to the notice of the House. I think that if the Hon and Learned Mr Isola has got evidence that the Board as constituted now has been acting in a way that is detrimental to other interests because the Board is constituted now in exactly the same way as it is intended it should be constituted for the future, under the old Ordinance, which in fact, is virtually the same as the new one.

HON P J ISOLA:

Could the Hon Member explain what they have been doing in their long meetings and so forth?

HON J BOSSANO:

Yes, I can explain, Mr Speaker. The most important difference between the old Ordinance and the new Ordinance, the most important adjustment that has been made was that the old Ordinance allocated individual workers to individual employers. There was a pool of labour which effectively, to all intents and purposes, was employed by the Dock Labour Board. The Dock Labour Board was responsible for the employment of those people, and effectively an employer would come in and say: "Today I need two hands to discharge a ship", and they would say: "You take these people", and provide him with a list. In that situation to some extent one could say there was a more efficient use of labour than in the present situation because the pool of labour shared by five employers theoretically should be smaller than five employers duplicating certain services and having to employ more people to do it but, in fact, all the employers felt very strongly that because of the cost of keeping a ship in port it was less expensive to have people idle for one or two days a week than to have ships queueing up. They would rather have the workers queueing up than the ships queueing up and it was for this reason that the Board had to spend a lot of time in thinking, given that there are 5 employers in the port and given that the 5 employers employed different people, how does one allow for a competitive situation where one employer expands and another employer contracts. This was the most difficult problem to overcome and the thing that required most time on the part of the Board, and it is a fundamental difference between this Ordinance and the previous Ordinance. In the previous Ordinance it is a straight forward exercise. You have got something like 85 worker today in the port. The 85 workers would form a pool employed by the Dock Labour Board and today you might allocate 50 of those workers to the Stevedoring Company and 20 to Ramagge and 10 to somebody else and so on and tomorrow it might be the other way round because the Stevedoring Company has got no ships in so they do not need anybody so you don't allocate anybody at all to Stevedoring. In a situation where the 45 are employed permanently by Stevedoring, Ramagge might be short of people and Stevedoring have people idle but Ramagge cannot use the people at Stevedoring because they are Stevedoring employees. Following that situation, if Ramagge obtains more

business through the normal competitive situation where each employer is free to charge what he likes, then Ramagge is constrained by having to employ people who are registered dock workers, and Stevedoring has not yet decided to reduce its own labour force, so the difficulty arises, not out of the operation of the Dock Labour Board as such but out of the insistence of the employers that they each wanted to have control directly of their own labour force and in that situation there was a problem of marrying the requirements of an expanding business with the needs to shed labour over a contracting business. The way this has been done, in fact, is because the employers that have been affected by this situation had the good sense to say: "Well, I will try and make do with the labour that I have got today and although I need labour today I will not push to bring in new workers into the docks because I recognise that in two week's time another employer, if I am successful in taking some of his business away might need to dismiss some people and then I don't want to find myself in a situation where somebody who has been working in the docks for 20 years is out of work and somebody who has been working in the docks for two weeks is in employment". The employers have exercised a common sense approach of saying: "In a changing situation in the port, before there are new entrants coming in, we will wait and allow the situation to stabilize." It has been this approach that has been mainly responsible for producing a solution which may not be a permanent and long term solution. The problem of the redundancy might not have been solved for ever but, certainly, it has been solved with very little disruption and it has been this approach and the fact that there have been employers and employees in the same Board thrashing out the problem, that has produced the results. I feel that if we had had outside interests there, the solution would not have come about.

HON MAJOR R J PELIZA

I would just like to make one or two points. The first is that I never suggested in any way that there should be a change of the chairman of the Board. I think the Minister for Labour might have thought that by the way he stressed the independence of the Chairman, the ability of the Chairman, the good work that the Chairman has done and will carry on doing, and I have no doubt that he will. That is not the point I made, he is independent and he is literally there to carry out what the members of the Board decide. We must have continuity of employment in the docks and I am not for a moment suggesting that there should be a return to casual labour which of course I am dead against. I still believe that it is in the interests of Gibraltar as a whole to have the interest of the people who pay. The employers don't pay for any agreement that may take place on the Board. There will always be a consensus because the employers don't want a strike and the employers will give way immediately knowing perfectly well that it is the rest of Gibraltar who will have to pay.

HON J BOSSANO:

In the Hon Member would give way. I would like to ask the Hon and Gallant Member on what sort of issue is it that the employers will give way. The Board does not negotiate wages, the individual employers negotiates wages. That is something that people

will have to pay, the wages. All that the Board does is that it registers people or it refuses to register people. Where is it there that the employers will give way?

HON MAJOR R J FELIZA:

It is obvious to me that the whole organisation of the docks will depend on how many people are going to be employed and, indirectly the ordinary consumer who will have to pay. It is very easy to come to a consensus in the port, it is no problem as long as somebody else is going to pay and it is the whole of Gibraltar who is going to pay for it, it is a lot of members of the TGWU who are going to pay for it. I think it is just as much in the interests of the members of the Union to have a representative of the consumers there as it is of anybody else. I would suggest to the representative of the union who happens to be also an elected member, to give some thought to that. If it comes to the final decision, it is clear to me that there will be pact very quickly between employers and employees. I think it is in the interest of everybody that there should be at least a representative of the consumers and a representative of trade and then we would all know what is happening and I think it would be better for everybody in Gibraltar that this should be so.

HON M XIBERRAS:

Mr Chairman, I support the amendment of my Hon and Learned Friend Mr Isola, and I would like to inform the House that one crane in the docks is called Mighty Mac and the other one is Minny Mouse and I think much of what Mr Bossano has said is as relevant to the composition of the Board as that fact about which I have informed the House. He has gone through registration, he has gone through a good number of things, but he has ignored the basic issues in the clause under discussion and in the motion under discussion. First of all, I will make the point that the Dock Labour Board has perpetuated itself in this Ordinance, and has perpetuated itself in this Ordinance because the people who have decided, really, what the composition of Board should be, are the people who in fact were the powerful people in the Board when the present Ordinance, not the Bill, was functioning. It is the major people, the Stevedores, it is the Transport and General Workers Union, and there is no outside interest and I happen to work for Ramagge, as Hon Members know, and I am quite conversant with the workings of the port now. I wasn't when I was Minister for Labour considering the same bill or a possibility of changing the Ordinance as it stood. Mr Speaker, surely such self-perpetuation indicates that in this case and in the past there has been, even to the point to the non-functioning of the Board, an alliance of interests between the employers in the Board and the Union in the Board and I would say, Mr Speaker, that this alliance can, in fact, be continued even at the expense of the interests of the general public. I would go further, I think it can be continued at the expense of the proper interests of other operators of the port, not unloaders, not stevedores. The Hon Mr Bossano gave the impression to the House, when he was speaking about registration, that he would be able to get somehow representation from the transporters into the Board. Clause 4, which deals with the composition of the Board says that there will be a chairman and there will be 4 members

representatives of the interests of registered employers and 4 members representative of the interests of dock workers. In the Board itself I take it there will be no direct representation of transporters or people who might achieve a "B" licence. I just referred to "B" licences because the Hon Mr Bossano has, in fact, given one impression and the Hon Mr Canepa has given another impression of what has occurred in the meetings of the Board. We have heard the Minister for Labour talk about knocking heads together. I have some knowledge of what has transpired in the meetings of the Board and the Hon Mr Bossano said that heads were not knocked together.

HON A J CANEPA:

If the Hon Member will give way. The phrase that I used about knocking heads together, what it really meant was that the Chairman used his best offices to get all concerned to arrive at a consensus.

HON M XIBERRAS:

I am very conscious of this, Mr Chairman. I know to what extent the Chairman had to go in order to get a consensus. I know about this. My point is, however, that there are 4 members representative of employers and 4 of dock workers. The Minister for Trade, in the debate on the general principles of the Bill, and in respect of the composition of the Board, said that he was hopeful that 5 licences would be granted. Already we have there one over the four on the employers' side. Somebody, I would imagine, would have to stay out or be represented by somebody else. Equally, Mr Speaker, according to what Mr. Bossano has said appears to be the general approach of the union on this matter, there could be a further extension of the numbers, there could be 6 or 7 or 8. I rather hesitate to try to understand how this would work if there is not enough work for say, four companies, how there could be work for five, and there is no work for five, how there could be work for 6. Therefore, that is one difficulty which I see and no doubt the Hon Mr Bossano will explain how those people of whom it was said would have a "B" licence given to them and was recommended in the Board. The Hon Mr Bossano shakes his head but the matter was discussed as the phrase "B" licence appeared, I think this is quite clear. I will give way to the Hon Member on this specific point.

HON J BOSSANO:

I think it would have been preferable, Mr Speaker, if the minutes of all the meetings of the Board would have been made available to all the Members of the House and then perhaps we would be talking from such factual information. I think if one person on the Dock Labour Board made a suggestion for an "A" and "B" licence and the matter if further discussed and it is decided that, in fact, all that needs to be licenced is the stevedoring work, which is the loading and unloading of ships, and that for those people who are not engaged in unloading and loading ships there should be no need for a licence, what is needed is registration and that is what every body agrees, then, surely, the Hon Member must appreciate that even the person who made the original suggestion was convinced that there was no need for a B licence.

HON M XIBERRAS:

Mr Speaker, the person who made the original suggestion, no doubt, within the board, but I have certain knowledge that the transporters were after some sort of licencing in the port, and, therefore because of the composition of the Board, obviously people would not accept somebody else having a licence of sorts in the port, an A licence or a B licence, the nomenclature is, I think, immaterial. This is why I am arguing, in fact, in favour of my Hon Friend's amendment that if other employers and other workers in the port are not going to have representation by virtue of the employment that they carry out in the port exactly the same as Stevedoring, Ramagge and so on, all workers who work for Asquez Transport, who work for Monti Transport, who work for all the people in the Transport Association, if those people are not going to have any direct say on the Board, and I agree that their interests cannot be put on a par with those of the unloading companies, at least they should have a chance on the question of wages, on the question of conditions in the port, on the question of the sharing out of work, on the question of unstuffing containers, they should have some sort of a say through a representative who is not Stevedoring company.

MR SPEAKER:

I think the answer you have been given to that one is that the Board in any event has no authority to deal with the matters you suggest.

HON J BOSSANO:

If the Hon Member will read the clause that his colleague is trying to amend he will find that there are no representatives of stevedores on the Board, that all the representatives are the representatives of registered port employers and if Monti Transport employs people on unstuffing containers as it does, the people who are unstuffing containers, under the definition of the Ordinance, will be dock workers. The workers of Monti will be represented by their union which happens to be the same union and Monti can be a representative of a registered employer because Monti will be a registered employer, so there is no need for a "B" licence because there will be registration of all employers who employ dock workers and a dock worker includes a worker that is unstuffing containers.

HON M XIBERRAS:

May I say that in answer to that the fact is that I doubt very much whether any of the major stevedores who are at present nominated to the Board are, in fact, going to have representation in that Board and the interests of stevedores as such is not the same as that of transporters. Therefore the proposal of my Hon and Learned Friend to allow the transporters a voice indirectly through a representative of commerce, other than the stevedores, is a sensible one and nothing which the Hon Mr Bossano has said to cloud the issue, in my judgement, has deviated me from that position. Mr. Speaker, I do not think that the work of the consumer is alien to the situation. There are many decisions which I know for a fact are taken in the port and have been argued

MR SPEAKER:

I have got to decide at any given moment the question of relevancy. I called the attention of Mr Bossano earlier on after he had been speaking for some considerable time, as you have been speaking for a considerable time, I have to come to the conclusion as to whether something useful is being done for the purposes of furthering the question before the House, and the question before the House is the addition of two clauses to add two further members to the Board. To that extent you are completely free to continue but let us not at this stage speak on the general principles of the Bill.

HON M XIBERRAS:

Mr. Speaker, I was speaking, in fact, about subclause (d) in my Hon and Learned Friend's amendment.

MR SPEAKER:

Fair enough.

HON M XIBERRAS:

One member, representative of the interests of consumers, which I think is relevant to the motion. That person, as My Hon and Learned Friend has said, could keep an overall eye and contribute and put the point of view of consumers generally who are the people who pay for the conditions in the port. Whether Mr Bossano is right about fulltime labour in the port, and decasualisation in economic terms, whether he is wrong, whether a pool would be more economic, any of these decisions is going to ultimately effect the consumer. We realise that he would not be the main figure in that Board but we think that the point of view of consumers, generally, should be expressed because it is very easy in the port, Mr Speaker for two people to get together, do a deal, and that is it. Even we Members of the House don't know what is happening in the Dock Labour Board today. We have heard one version and another version, at least.

HON A J CANEPA:

If the Hon Member will give way. I am not giving a different version. I get copies of the minutes.

MR SPEAKER:

What the Hon Member has said is that the version that you have given does not coincide with the version that Mr Bossano has given, not that your two versions have been different.

HON M XIBERRAS:

I could say there is a different version even if Mr Canepa's and Mr Bossano's were to coincide, in my mind, I can say in certain respects there is another version.

HON A J CANEPA

I am sure that the Hon Member does have all sort of versions because he just happens to manage to get his hands on all sorts of minutes of all sorts of Government Committees, in some cases from his employer and in other cases, well, I won't say it.

MR SPEAKER:

Order.
Please continue and you will not give way to anyone. If anyone has anything to contribute to the debate he will do so when his turn to speak comes.

HON M XIBERRAS:

I made the point earlier on that we are discussing this on the basis of discussions which nobody knows about and which interests everybody in Gibraltar. It is a Board, fine, but supposing there were something in these discussions which did interest consumers, which interested the Minister for Trade, for instance, and his department. Why cannot there be a representative of consumers whose duty it would be to look after the interests of consumers and why could there not be a representative of trade who might say to the ship owners, who might say to the unions; "Well, certainly there is something here which might benefit you people but does not benefit the rest of trade". So, Mr Speaker, to my mind much of what has been said by the Hon Mr Bossano has been irrelevant, all this about casual labour and so forth. It is irrelevant, to this particular aspect of it. The Chief Minister is breaking his own rule again, he is not only smiling, he is laughing. Mr Speaker therefore, I do support the amendment of my Honourable Friend and I do not think the purpose of getting the stevedoring companies, the employers and the unions together is going to be thwarted in any way by the amendment of my Honourable and Learned Friend.

HON CHIEF MINISTER:

Mr Speaker, the only thing I would like to say is that I don't know how people can have such different views on matters which are so near. Yesterday we had a big debate about the composition of the Trade Licensing Board because we wanted independents and we wanted people, generally. That was fundamental. There was almost a duel between Mr Bossano and my Honourable colleague about the composition because members of the Council of Ministers did not agree with the suggestion which Mr Serfaty brought as a possible solution. I think that if we had not taken very great care to make sure that the operations of this Board, is only related to labour and the functions of the port in respect of loading and the unloading of ships and the ancillary services that are connected therewith, then of course all that is being said here would have been valid but because it happened to be the people who employ and the people who have to be employed who have to get together, we think, as it is quite clear from the report and from the minutes of the report, that this has a good chance of bringing industrial peace in the port. That does not necessarily mean that it will bring all the other benefits what we want in the port for the general use but industrial peace, certainly, time alone will tell.

HON M XIBERRAS:

May I ask, Mr Speaker, is it right to refer constantly to these minutes if the minutes are not available to Hon Members of this House?

MR SPEAKER

Members can certainly make use of any knowledge or information they have. The only time when we have to be careful and decide whether they are entitled to it when they quote, and if any Member quotes from many minutes I will most certainly ask him to lay it on the table but not otherwise.

HON P J ISOLA

Mr Speaker, I didn't expect such a furore when I suggested what I thought was a comparatively innocent amendment and a perfectly right amendment, I didn't expect such a furore. On the other hand, Mr Speaker, I am most grateful for the contributions from the two Hon Members who have the conduct of the passage of this Bill because, I got the impression that the conduct of this Bill is in the hands of the Hon Minister for Labour and the Hon Mr Bossano, there is no question about it. I think I got better explanations of what is really behind this Bill from the Hon Mr Bossano than I got from the other person having the conduct of the Bill, the Hon Mr Canepa. Mr Speaker, first of all may I say I agree with everything my Honourable and Gallant Friend has said in reply to the Hon Mr Bossano, I think he is absolutely right, and I would pick up the last sentence he said and that is, "Let people know what is going on so that people may know". I think those were his words. There should be this outside representation on the Board so that people should know what is going on and I think that is very important because the port is almost the most vital part of Gibraltar as far as the economy is concerned and it is quite surprising, Mr Speaker, to hear that about 85 dock workers and 4 registered employers are to decide in the future what has to be done in the port for the rapid and economic turnround of ships, speedy transit of goods and all the other things put in section 6 and those same people are to decide whether it is necessary to have any more employers in the port or any more workers. Those people and nobody else. That is the crucial thing. I would agree entirely with what the Hon Minister for Labour and The Hon Mr Bossano have said in their debate if the Dock Labour Board functions were purely and entirely that of regulating their own relationships and the day-to-day humdrum affairs, that would be something, but that is not their job, Mr Speaker, and this is why we are putting this amendment. We are not saying that the representative of consumers is the people who will pay whatever these employers and employees decide, and the trade who are the people who have to receive stuff from the dock and who are affected and so forth and, in fact, the whole community of Gibraltar, we are not asking that they should have in that Board strong representation, we are just asking for one representative of trade and one representative of consumers so that people may know. So that they may ask in the Dock Labour Board where the only people represented are those with vested interests in the port, not in Gibraltar, not in the economy of Gibraltar, not in the efficient and rapid and economic turnround of ships except as

far as it may concern them, but who have vested interests in the Port and nowhere else. All we are asking is that there should be somebody from outside representative of other people who can say: "Wait a minute, why are you refusing so and so to become a port operator? Because you the union and you the employer have done a deal and the employer says alright, you agree not to allow Johnny Smith to come into the Port and I will agree to give you a new set of overalls, or something like that which you are claiming." No-one on this side of the House is suggesting that there should not be industrial peace in the port but as the Government has found out through experience, you do not get industrial peace by continually giving way on matters of principle, all you do is buy time, but we are not concerned about that aspect, anything that gets industrial peace we agree with but we have heard the Hon Mr Bossano say quite frankly and I admire him for his frankness because he talks straight from the chin, as it were, sometimes it is not very nice hearing him saying these things, but I admire him for his frankness. He says: "If the employers do not agree with us and it is fundamental, we will go on strike".

HON CHIEF MINISTER:

And what will the consumer representative be able to do?

HON P J ISOLA:

Mr Speaker, the consumer representative and the representative of trade at least will be able to tell the people: "You are paying so much for this service or this is happening in the port". That is important. Mr Speaker, I don't think there is a single Government Committee that deals with matters that affect or can affect the economy, other sectors of the community, Gibraltar as a whole, that has not got wider representation, there is not a single one except this one. This one, I hate to use these words but it seems to me a bit of empire building. You tell 4 registered employers and 4 representatives of the unions: "Well, there you are, there is the port. Get on with it, you do what you like". Let the Hon Members on the other side of the House read carefully section 6 of the Bill.

MR SPEAKER:

We will come to Section 6 in due course.

HON P J ISOLA:

I am not going to start telling the Hon Members what section 6 says because it is there and they can read. I am not going to tell Hon Members what Section 7 says, especially Section 7(3). Hon Members aren't going to tell me that the Dock Labour Board is just going to deal with relationship between employers and employees in the port. Their responsibilities go much further and if the Government tries to interfere in the port because it thinks it should do, they are going to be reminded of these sections and not to step in people's shoes and not to step in domains where they have expressly excluded themselves from. Mr Speaker, as I said when I started, I didn't think there would be such furore about an amendment that only seeks not to regulate the port or to run the port by anybody else other than the

employees as the price of industrial peace, just an amendment that seeks to allow the consumer to be able to say to his fellow citizen; " Good lord, look what's happening here. Do you know why it costs you 10p or 50p to buy a tin of milk? It is because this is happening". It may never be necessary and one would hope it would never be necessary. And allow the Chamber of Commerce or the trade not connected with the actual working of the port to turn to its members and say: "You have got to pay this, this and this, because of this that etc." That is what we are asking. We are not asking that the trade or the consumer should run the port, they couldn't under these provisions. We are trying to introduce into the Dock Labour Board what the Government has introduced into most committees, rightly, wider representation. Because the responsibility for Government, I hope, and for the economic wellbeing of Gibraltar rests squarely with the Government and nobody else. Nobody else governs Gibraltar, that is the democratic society, that is what democracy is all about. All we are asking for is to allow somebody in that committee, not to make decisions and decide but to be there representative of these interests. Surely, the Hon Mr Bossano would not object and surely the Port employers would not object to be reminded by people who have an interest in the port, who have to pay for whatever is done in the port, to be in there and remind them of their interest as well and not just the narrow interest that I think are represented in this Board and I accordingly would ask the Hon Mr Bossano and the Government since they both have the conduct of this Bill, to agree to an amendment that I think is a fair one and a reasonable one and I would hope would help relations both in the port and would help to a greater understanding, possibly by people outside of the port of the problems in the port.

HON A J CANEPA:

I am surprised that the Hon Member should be so surprised that we haven't accepted the motion. When I exercised my right of reply during the second reading of the Bill, I indicated that I did not consider that there was any need for outside interests, but what seems to be very conveniently forgotten is the role of the chairman. If a chairman is an independent person doesn't he have a duty to look after the interests of consumers? What is he going to be just doing there, rubber stamping things? He quoted, Mr Chairman, from 6a but not all of it, and this is where Mr Isola is so clever, he is a very clever lawyer, but I hope he doesn't think that he is dealing with children on this side. He referred and quoted from it, Mr Speaker, but not all of it. He referred to "whereby the rapid and economic turnaround of ships and the speedy transit of goods through the port may be effected." He quoted that and he said about 80 workers and about 30 something what have you are going to be the ones to decide on that in the Dock Labour Board. The whole of 6a says: "To consider the most efficient utilisation of Dock Labour whereby the rapid" and so on. Labour only and nothing else and that is why I maintain there is no need for these outside interests.

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 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 Zammit
The Hon J K Havers
The Hon A Collings

The amendment was accordingly defeated and Clause 4 stood part of the Bill.

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

Clause 7

HON J BOSSANO:

On clause 7 I would like to say that since the publication of the Bill and presumably because of confused versions that have been previously floating about about A licences and B licences and dock workers licences and Stevedores licences, people who are not engaged in unloading and loading ships which is the definition of stevedoring, but are engaged in the movement of cargo other than the loading and unloading of ships have been concerned that the Bill in its present form would deprive them of being able to carry on with the work that they are doing at present and that they have been doing in the port and, in fact, the Transport Contractors Association made representations to the Dock Labour Board precisely on this point saying that they had no wish to engage in loading and unloading of ships, but on the other hand they didn't want to see the updating of the Dock Labour Ordinance resulting in their being excluded from their normal employment. I think section 7(1) which quite frankly I am not sure why it is there because, I thought we had reached agreement in the Dock Labour Board that the emphasis should be not on people having to apply for registration and sort of being restricted in whether they could register or not, but that in fact registration should be almost automatic for anybody who employs dock labour. If we look at section 7(1) we find that it says that anybody who was employing 10 persons on full time dock work in the 1st May is entitled to automatic registration. That, of course, does not mean that anybody who was employing less than 10 will not be able to register, although it is difficult to understand why the figure of 10 should be there and why somebody who had been employing 9 on the 1st May should not be as entitled to automatic registration. To my mind there

is a logical inconsistency between that and the requirement that there is in the ordinance on the employment of dock workers which requires that only a registered port employer shall employ any person in dock work in section 13(3), I think we went through all these arguments in the Dock Labour Board and this is why we came to the conclusion that there should not be this restriction on 10 because if one analyses the logic of it, for example, if in fact a person was employed in unstuffing containers on the 1st May, then under section 7(2) he can go to the Dock Labour Board and request registration because he was doing that job on the 1st May and under the ordinance the Board shall register him, so he gets registered as a dock worker. But unless he was employed with 9 other dock workers, the Board cannot register his employer. Put of course, if the Board cannot register his employer then his employer has to sack him because under section 13(3) he cannot be employed unless he is employed by a registered employer. We have got the makings of a situation there where each individual worker is entitled to registration but each individual employer is not entitled to registration automatically, only the employer who has got 10. I think it is an untidy situation although of course in those circumstances I would think it would be a very clear malfunctioning of the Board if under sub-section 3 of section 7 the Board did not in those circumstances register an employer. Where there is an obvious case where the man has been employed in the docks and is entitled to registration as a dock worker, the employer has only been employing one or two men and asks for registration without getting it automatically, and the knowledge that if the employer is refused registration, the dock worker cannot continue to be employed, so that would be a case where under sub-section 3 the registration wouldn't take place.

MR SPEAKER:

What are you asking for then?

HON J BOSSANO:

I am just pointing this out because I think it is important that it should be known that the intention of this section is not to prevent people other than the companies engaged in stevedoring from registering and that it should be known that it is not the intention to prevent employers employing people from registering.

MR SPEAKER:

That is a conclusion you are entitled to draw.

HON J BOSSANO:

If, in fact, that interpretation is not the interpretation in the ordinance then, certainly, I would not be happy with that section as it is now.

MR SPEAKER:

That is why I am asking you what you want done.

HON J BOSSANO:

I am raising this to make sure that we have got it on record for the purposes of the implementation of the ordinance by the future Board.

HON CHIEF MINISTER:

I think that no interpretation that may be given here can help in that. Either it is clear or it is put clear.

HON J BOSSANO:

Then I would invite other Members to express an opinion on whether it needs changing to make it clear. I know that there are people who, having read the draft Bill have come to the conclusion that this stopped them from registering. In my view, it was never the intention that they should be stopped from registering under section 7(2) a worker can register. If that worker is registered then, if the employer cannot register, the worker cannot continue working for the employer because if he is not a registered employer he cannot employ dock labour.

HON A J CANEPA:

Mr Chairman, I have just been checking with the Department and I am told as regards the figure 10 in Section 7(1) that the Chairman in consultation with the Senior Labour Officer, who is the secretary of the Board, in drafting this, that the chairman thought that a figure should be laid down and 10 seemed to be a reasonable figure and that was actually put into the draft Bill which went to the Attorney General for him to draft another bill that went to Council of Ministers.

MR SPEAKER:

I think that the Hon Mr Bossano is not quibbling as to whether it should be 10, 9 or 15.

HON A J CANEPA:

No, I think he was wondering where the figure had come from because probably in the draft that he saw in the Board, to the extent that it was ready then, I think the impression that I gathered was that there was no figure there.

HON J BOSSANO:

Mr Speaker, I think that the situation was that the original Ordinance was brought to the Board by the Government basically starting from the ideas in the Port Operations Bill and the ideas in the existing dock labour and taking ideas from both. I think the figure of 10 appeared in a draft in the Board and based on the arguments I am putting here, the figure was taken away. Since it has reappeared here, I would like to go away happy from the House that we are not putting ourselves in a situation by passing this which we obviously are if one reads the letter of the law. The letter of the law says that if a registered employer, or if an employer today in the docks does not employ 10 people, he is not guaranteed automatic registration, so if we have got an employer who employ less than 10, he has got to sack the people under 13(3) because 13(3) says that no person other than a registered employer shall employ any person on dock work so the workers who are registered cannot continue working for the employer because the employer is not registered.

HON ATTORNEY-GENERAL:

I think I can probably settle this. When I received instructions as to the drafting of the Bill, I understood that it was intended to prevent or not entitle persons employing less than 10 in dock

work, and that any of their employees although they would be entitled to be registered could not work with their previous employer but could work elsewhere. If that is not so I think the solution, in the circumstances, is to strike out the words and I now so move Mr Chairman, that Clause 7(1) of the Bill be amended by the deletion of the words "not less than ten" appearing in the third line.

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

HON M XIBERRAS:

Mr Speaker, I don't know whether it is worth my voting on this matter or rather opposing it in view of the readiness with which the Attorney-General has stood up and proposed the deletion of the words "not less than ten" from clause 7, without any awareness of what the possible implications may be. One of the functions of the Board is, in fact, to regulate the number of employers in the dock, the number of companies, and of course, no doubt I say, because I haven't got reference to them, but in the minutes of the Board it was thought that ten at that particular time indicated a substantial company, in other words a company substantially engaged in the work of the port and that was the reason for the figure. To delete the figure on the basis that one particular employer had one man working full time

MR SPEAKER:

I think even as it stands now it will have to be two. Even if the amendment is carried it will have to be no less than two persons.

HON MR XIBERRAS:

That is a mighty powerful labour force nonetheless.

MR SPEAKER:

Well, I wouldn't know.

HON M XIBERRAS:

Well, I can assure you that it is for unloading a boat and it certainly establishes a claim as a port operator to have two men employed at a particular time. The whole tendency of the Ordinance, Mr Speaker, is to regulate the number of employers at work in the port and if there were such a case of, let us say, somebody with two dock labourers on the Board then, of course, the employees themselves would be in difficulty if the employer was not registered. I don't know how many we are going to get in, this category of employers with two or three employees on their payroll, but I can think of one, for instance, which fairly regularly has had a presence of, let us say, individuals and that person would get a licence. That, to my reckoning, would make it six licences up to now and I may not be aware of other people at the same time. The main point, Mr Speaker, which I don't know whether it is worth while opposing or not, is the ease with which the Government has conceded the point of striking out the figure 10 which I know for a fact is not an arbitrary figure but an indication

that the employer is, in fact, strong in the port. This I tie up with Mr Bossano's argument before that the Union would not oppose the extension of licences. I don't know where the logic of this argument would reach in the end given a redundancy situation in the port, I don't know how it would work, certainly, if the object of Mr Bossano's suggestion and the object of the amendment is that no worker who is at present registered would be deemed to be registered because he works in the port were to be unemployed, I am talking, obviously, of figures of about two, then, of course, that man should not lose his registration even though he was not employed. That I think is fair. But I think it is contradictory to the whole sense of the ordinance just simply with a stroke of the pen to upset the whole contents of it in regard of past operators.

HON P J ISOLA:

I have heard during the course of these discussions of how many hours have been spent in thrashing out this Dock Labour Bill and I thought this Bill was sacrosanct, how many hours have been spent to get the views of employers and employees together. Does this mean then, let us get it clear, that if I am a motor boat owner and I employ two chaps in the port and have been employing them full time to load my motor boat, or a little larger boat, a five tonner, I am now entitled to be a registered port employer. If that is the case, I would just like to know. This is what the Board has been talking about all this time, is it?

HON A W SERFATY:

There are certain things which are not included in the definition of dock work such as the discharging of vegetables and fruit.

HON M XIBERRAS:

Mr Speaker, I have thought of another one now which could be called real dock work.

MR SPEAKER:

We do not have to debate what dock work consists of because clause 2 defines dock work.

HON P J ISOLA:

I think what we are really concerned, Mr Speaker, is with discovering from the Government whether this amendment is a breach of the agreement that has been entered into freely between employers and employees. Can the Minister for Trade, I don't know who has been involved in these discussions or to whom Sir Howard Davis has been reporting, but can that person confirm positively to this House that the agreement reached was that any port employer, anybody who has employed two dock labourers, can become a registered port employer as of right. That is what we want to know.

MR SPEAKER:

Let us be specific. It is not a question of dock labourers, it is a question of persons who are doing dock work as defined in the Ordinance.

HON P J ISOLA:

There is a very wide definition. Anybody, for example, who has been dealing in the transfer and stowage of cargo in transit, anybody who can show that he was dealing in these things and had two dock workers, that person now becomes a port employer. What I am asking whichever Minister was receiving the reports from Sir Howard Davis, is whether this in fact was the agreement reached between the employers and employees. We know that the employees understood something else so, can we get positive confirmation that the employers who have been consulted or who have been sitting in this reconstituted Board also understand the position to be that. If we get that assurance, fair enough.

HON A J CANEPA:

Perhaps Hon Members opposite do not realise the pressures under which we are working in order to bring this Bill to the House. The Chairman of the Board, the Director of Labour and the Attorney-General were drafting a bill on a Friday which had to go to Council of Ministers the following Wednesday to be published, if possible, that evening, if not, the following evening. I have been speaking on the telephone to the Chairman of the Dock Labour Board and he tells me that a reasonable figure had to be put down which could be 10 persons or 12 persons, though that in fact does not preclude anybody with only two employees applying for registration but if you have the figure 10 there, then it makes it easier for the Dock Labour Board to refuse to register someone with two or three employees only, in other words, it gives them an added argument and a strong argument for not registering them. That is what he has told me.

HON J BOSSANO:

That is what I am arguing against because I don't think the Board, in fact, should say to somebody who is already working in the port, employing two or three people, that he has got to go out of business. I don't think that is right. The only people we are talking about are the people who immediately before the 1st May, 1978, were regularly employing people. If the Hon Member says that it makes it easier for the Board to say no to somebody with under ten employees, he is talking about saying no to somebody who was already there before the 1st May. I don't agree that somebody who is already in business in the port before the 1st May should have an Ordinance passed in July, telling him he has got to close his business. I don't think that is right.

HON A J CANEPA:

But it doesn't follow, on the other hand, that the Board is going to say no. Under Section 7(2), having regard to the fact that he was operating in the port with 2 or 3 or 4 or 5 that, to my mind should be sufficient argument to register them.

HON J BOSSANO:

That, to my mind, should be sufficient argument as well, Mr Speaker, but if the Hon Member has just said that having ten there gives the Board a better argument for saying no if they wanted to say no, well, that puts a possibility that I frankly thought was so remote that I didn't really see a danger in the situation because it would never occur to me that the Board would want to do that to anybody but if, in fact, putting the ten there is to strengthen the heart of the Board in doing it, then I don't think we should have it there because I don't think it should be done. If we look at the situation where the Board is going to decide the entry of a new employer into the port, then that is fair enough. The Board can say: "We cannot have 200 new employers in the port employing 200 workers". That might be a policy of the Board, Mr Speaker, for the future, but we are talking about the situation that exists today in the port. I think whatever we may do from the point of view of modernising the port and having to study the repercussions on labour of any changes in the port, and that is what the Ordinance must do, see how the number of employers or the number of employees are going to be affected by any changes that take place in the port, then we are talking about the future, but when we are talking about the future then it might well be that the small employer with two or three people will be the man who goes out of business, that might well be. But if he hasn't been prevented from carrying on his business by legislation, he may go out of business because of competition and not being able to survive, that would be a different situation altogether. Again, the Board might well consider that for the efficient operation of the port it would be wrong to register an employer with only two employees. If the Board considers that it is wrong for the efficient operation of the port to have an employer with two employees, then they would have the right to refuse registration but I maintain that they should not refuse registration to an employer who is already doing it. They should only refuse registration to a newcomer. Under the Ordinance as it is now, they can do it to somebody who has already been in business in the port employing less than ten. My view would be that they would not do it and that they should not do it. If in order to make sure that they don't do it we have to legislate then I would say let us legislate to make sure they don't do it because I think it would be most unfair to say to somebody because he has got less than 10 employees that he has to shut his business and sack his 10 employees.

HON CHIEF MINISTER:

I would have thought that the concern of the Hon Member is in the manner in which the applications are going to be dealt with of which there will be a Board and whilst he is speaking for those who are employing, that is to say, he is concerned about the employer who wants to do that, he will be also representing the employees so that any employer who is employing people and makes application is not likely to be refused by the other employers and if he is not going to be refused by the employees' representatives then there should be no problem.

HON P J ISOLA:

Mr Speaker, we are talking a bit at cross purposes. What the amendment does is to give a right to people who were employing two persons on the 1st May, 1976. This may bring up a number of people, obviously employers, who probably were not considered as employers by the port authority, as long as we are clear on that I think the principle is right, but I think it is possibly not what the employers would have agreed to who have been holding these discussions. We have been told right through this Bill that this is something that has been built up over months of hard work and it is almost a heresy for the Opposition to try and amend this Bill and we are surprised at the alacrity with which the Bill has been amended on what very much seems to me quite a fundamental point but, anyway, we are, just here as spectators, Mr Speaker.

HON CHIEF MINISTER:

I think the suggestion from the Hon Mr Bossano was in the way he would interpret it. All I said was that nothing that is said here can help in the interpretation but he will be one of the protagonists of the decision.

HON MAJOR R J FELIZA:

Mr Speaker, I am amazed to hear the Chief Minister speak in those terms. Surely there is a reason for bringing this legislation to this House. Surely, the Government must know what they intend to achieve by every clause.

MR SPEAKER:

Order. What are you amazed about?

HON MAJOR R J FELIZA:

What I am trying to say is, is it the intention of the Government that any employer of dock labour today in the port, or by the day stated in the ordinance, is going to have the right to employ those men or is he going to be subject to a decision of a Board. This is a principal thing. What interpretation can you give to that now the way the Ordinance has been drafted.

MR SPEAKER:

The way the Ordinance is intended to be amended. We are now talking about the amendment.

HON MAJOR R J FELIZA:

As it stands now, Mr Speaker, it is clear. If it is 10 there is no problem, it is as of right. If it is less than 10, to me it is clear, there is no question of going to court for interpretation, it is up to the Board to decide and what I think my Hon Friend Mr Bossano said was that that was unfair and that it was important that they should have the same rights as any other employer. I think it is not fair for the Government to try to hunt with the hounds and run with the hare, they

have got to make up their mind as to what they want, Mr Speaker.

MR SPEAKER:

With due respect to the speaker, the Government is now moving an amendment which allows the Board to do what you are saying you want.

HON MAJOR R J FELIZA:

If they are going to do it then we will know. I wasn't sure.

MR SPEAKER:

The amendment is moved by a Member of the Government.

HON MAJOR R J FELIZA:

Are they going to support it? I got the impression from the Minister of Labour when he stood up now that they had changed their mind.

HON CHIEF MINISTER:

What the Minister has done is to enlighten the House with the most recent information as to the matter. Of course the amendment is before the House and we do not require the support of the Opposition to have sufficient numbers to get it through.

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 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 J K Havers
The Hon A Collings

The following Hon Members abstained:

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

The amendment was accordingly carried and Clause 7, as amended, stood part of the Bill.

Clauses 8 to 17 were agreed to and stood part of the Bill.

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

THE FOOD AND DRUGS (AMENDMENT) BILL 1978

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

Clause 2

HON ATTORNEY-GENERAL:

I would like to make two small amendments to clause 2. The first is in the proposed section 18A subsection 1 and the proposed amendment is that the word "summary" be inserted before the word "conviction", wherever it appears in Section 18A.

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

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

HON ATTORNEY-GENERAL:

I have the honour to move that Clause 2 be further amended by the deletion in Section 16A(3) of the symbol and figures "£10" and the substitution therefor of the symbol and figures "£25".

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

Mr Speaker then put the question which was resolved, in the affirmative and the amendment was accordingly passed.

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

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

THE CIVIL LAW AMENDMENT 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 PUBLIC HEALTH (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 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 PUBLIC FINANCE (CONTROL AND AUDIT) (AMENDMENT) 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 LOCAL LOAN (NO.6) BILL, 1978

Clauses 1 to 16 were agreed to and stood part of the Bill.

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

The House resumed.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Chairman, I have the honour to report that the Regulation of Dock Work Bill, 1978; the Food and Drugs (Amendment) Bill, 1978; the Civil Law Amendment Bill, 1978; the Public Health (Amendment) Bill, 1978; the Pensions (Amendment) Bill, 1978; the Public Finance (Control and Audit)(Amendment) Bill, 1978; the Local Loan (No. 6) Bill, 1978 and the Supplementary Appropriation (1978/79) Bill, 1978, have been considered in Committee and agreed to. In the case of the Regulation of Dock Work Bill and the Food and Drugs (Amendment) Bill, with amendments. I now move that they be read a third time and do pass.

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

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I would like to move that: "This House considers that Government should give the necessary financial support to enable the Gibraltar Song Festival to continue." Mr Speaker, I have brought the Bill to the House and I think I should say that I myself in fact don't personally attend the Song Festival. The arguments that I have heard given in support of the Song Festival have convinced me that, apart from the pleasure that it might give the people who attend the Song Festival, it does, in fact, have a spin-off effect, an effect on the tourist appeal of Gibraltar and on the publicity that Gibraltar gets and on drawing people to Gibraltar which I believe would make the financing of the Song Festival a sound investment in terms of spending money to attract tourist to Gibraltar. My understanding of the situation, Mr Speaker, is that in fact there is a substantial body of support from people in the field, people interested in music in Gibraltar, who themselves feel that because of the limited opportunities that there are here because obviously it is an area where there might not be major public interest in it, people interested in this field locally get in fact a chance to listen to musicians who are highly regarded in their own field and that we get a lot of entries from all over the world from which a short list is drawn up. I believe that the last time it was held there were something like 300 entries so that there is world-wide interest in the Song Festival and it was considered in its field as an international event. I am also told that the Song Festival Committee in the past has had very valuable assistance from top professionals in the United Kingdom reflecting what we find in many fields in Gibraltar that our counterparts in that particular field in the United Kingdom

appear to have a soft spot for Gibraltar and give of their time and effort willingly without expecting to charge the sort of fees that any other country would have to pay to get the same sort of interest in this area if they needed to contract people to do it. We find that this does happen in a lot of areas and as a trade unionist I know that it does happen in the trade union field and I am told that the same has been the experience of the Song Festival Committee. But there are certain minimum financial requirements which have to be met but which bear in fact a very small relationship to what would be the normal sort of fees that would be charged by the sort of people who participate or who have participated in the past in Gibraltar. It is for this reason that it has been suggested to me that it has to be done even if it is done with a grant or some financial support from the Government, it has to be organised by a committee that consists of volunteers because, in fact, if it was a Government run function then the professionals in the United Kingdom charge the Government of Gibraltar the sort of fees they would expect to charge any Government anywhere. I don't like the idea very much of public money being used without some sort of exercise of control so I would feel that if the Government was prepared to give financial support to this venture, which I hope it will be able to do, then, nevertheless, there will be certain requirements introduced such as, for example, that the accounts of the Festival Committee should be audited by a Government Auditor and that a Government representative should be directly involved in authorising the expenditure of the funds of the committee, directly participating in it, because I think we can't just give public money to people and give them a free hand to spend it as they like. The case that has been put to me has certainly convinced me, as somebody who has got very little interest in this field, that it is worthwhile having the Song Festival for the reasons that I have stated which for me, primarily, are the ones of putting Gibraltar on the map in a field of which I am totally ignorant. The last Festival, I believe, was held two years ago. It was intended that it should be a biennial event instead of an annual event the last time round. It would have been due in 1978 but even if the House were able to support the motion, it would be impossible to organise it for 1978, so the earliest one could have another Festival would be in 1979. I am bringing it in now because I feel that if in fact, it does not take place in 1979 then, probably, the momentum will be lost for ever. This is probably the last opportunity we have to bring it back to life. Mr Speaker, that is all I have to say on the subject.

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

HON CHIEF MINISTER:

Mr Speaker, I am glad that the Hon Member has raised this matter in the way he has done because there has been a lot of press comment about the fact that the Government should run the Song Festival and this is one of the things that we should not and cannot do, not even the Tourist Office. The Song Festival has always received support from the Government in terms of money and help in putting up the show and so on and the Government does continue prepared to do so but as the mover has rightly said, the know how, the contacts and so on is something for volunteers. It was done initially with the idea of getting funds out of it to support the Community Centre, and that was why, apart from his natural musical inclination, it was initiated by Father Carruana until he did his years of service and felt somebody else should run it. Unfortunately Mr Francis Carruana, other than Father Carruana, took it one year and he couldn't find it possible to carry on. I heard that there were some comments in a recent television programme where of course it is the normal thing to blame the Government for everything, where it was said he had not found sufficient support. I don't know whether it is true that he said it or not. If he didn't say it then, of course, I would be prepared to correct it but if, in fact, he said it, to my personal experience he has no grounds to do so because towards the end the overdraft for the amount that was required was increasing and he approached me on several occasions and every time that there was a need to help I undertook to help him to the extent that it was possible. In accepting the motion I am prepared, together with such Minister as may be delegated later on, to keep an eye on the extent to which the financial help will come because if we are told that in the end we have to foot a bill of £10,000 and not £3,000, we shall have to think about it and we shall have to be satisfied not only on seeing the accounts after they are prepared, but on seeing the order of costs involved which is a factor. I am sure the Honourable Member does realise that it is a factor that we cannot give any committee a free hand to say: "Well, you get on, organise your Song Festival and when you know what it has cost you, come along and you'll have the cheque." We can't do that with public money no more than any other Government can do it. Initially, in accepting the motion, I would consider it my duty to summon those who are interested in a general way and not just those who may have been interested in the past, to summon them all to a meeting and say: "Yes, you have the support of the Government. You make out your programme, tell us what it is likely to cost. We don't want to interfere how you do it. We know, and this is a very important factor, that a voluntary committee will get much more support in volunteers than a Government. You make out your soundings as to who is going to help you, what support you need, come back, make yourself into a committee and satisfied that you have got all the knowhow, get in the previous chairmen who have helped you and people who have been in the know, if they do not want to carry on let them pass on their knowledge to those who may be more enthusiastic and the Government will, of course, be quite ready to help to the extent that it considers proper and it will have to come to the House." If it is for next year of course we can make provision in next year's estimates. We view with pleasure the idea of having the Song Festival again. We cannot accept any of the responsibility for it not having proceeded. In fact one year it was thought that they should jump it because they had had a bad year and they

wanted to come for more money and they wanted to be justified and we would be quite happy to help in every way and if progress is made I will report to the House in view of the fact that the motion does emanate from the House as to what is happening.

HON M XIBERRAS:

On that harmonious note, Mr Speaker, the House will remember that I asked a question about the Song Festival, I think it was in the course of last year. I asked a question in the course of last year and essentially the debate has gone as it has gone today. I welcome, however, the fact that the Chief Minister appears to be rather more committed now to acting as catalyst in this process and the Government itself taking a more active part because at the end of the supplementaries as a result of my question, the attitude of the Minister for Tourism was that it was up to the people who organised the committee of the Song Festival to get their house in order and then the Government would spare no effort to help. I think there are a lot of crossed wires on this and the interview of the Chairman on television appeared to disregard what had been said in the House and, in fact, as I understand it there was no meeting following that question.

HON CHIEF MINISTER:

If the Hon Member will give way. Why I say that I will call them is because there is no committee. If there was a committee I would say let the Song Festival Committee come but since it has disbanded, I would initially call a meeting of everybody interested and let them form a committee, I don't want to take any part in it, let them form a committee with the support of the Government and then carry on. That is the difference between last time, when I said we would support it, to this time when there is no committee at all.

HON M XIBERRAS:

The difference is that the Chief Minister is saying now that the Government will call the meeting. I think it is important that the Chief Minister should call the meeting otherwise the two parts would stay far apart. I think that I need not say both from a cultural point of view and from a social point of view and from an international touristic point of view, that the revival of the Song Festival would be a very welcome thing. I am sure everybody in Gibraltar would welcome it and I think that the participants in past committees, the members of past committees should take heart that they have done a very good job in the past. They have been working in very difficult circumstances and in a very complex subject and they should not give up and we should encourage them from this House to try again and all Members of the House, I am sure, will support their efforts.

HON MAJOR R J PELIZA:

I too, Mr Speaker, would like to add my words of satisfaction that the Government is now seeing it proper that it should take the initiative. It is indeed a great pity that they allowed the committee to die. Perhaps, if they had given them a kiss of life it would still have been operating last year. I was very glad that the Hon Mr Bossano took it up. If some other Member had taken it up perhaps there would not have been so much cooperation

from Government. Mr Speaker, I am entitled to say what I feel and I am not going to give way to the Chief Minister. I am not going to give way to him now. It is my turn now to shut him up.

HON CHIEF MINISTER:

You are putting your foot in it all the time.

HON MAJOR R J PELIZA:

It is my turn to shut him up, Mr Speaker, so I am very glad that he is going to start by chairing the first committee, you might say, of the Song Festival when before even the Minister of Tourism rejected it.

MR SPEAKER:

You are not speaking on the motion.

HON MAJOR R J PELIZA:

With all due respect I think I am, Mr Speaker.

MR SPEAKER:

No. I will not have my decisions questioned. We are talking about financial support.

HON MAJOR R J PELIZA:

Mr Speaker, I will talk about the financial aspect which I think was the problem because I always used to take this matter up at Estimates time and the answer was always that it was impossible. That was the general attitude. I am glad that the Government is now taking the initiative at the suggestion of My Hon friend Mr Joe Bossano. It must never be forgotten that it is Mr Joe Bossano who has taken the initiative. I must also suggest to the Government not to be very squeamish on this because the people of Gibraltar are musically gifted and I think that £10,000 is nothing in comparison with what can be obtained out of the pleasure and culture of this small community. The proof of this is that we have today a great celebrity in Albert Hammond who is very well known and that proves the point of the importance of supporting this Festival. I only hope that one day this great celebrity does earn himself the Freedom of the City of Gibraltar because he is, perhaps, the most famous Gibraltarian today in the world, certainly the most well known, perhaps second to the Chief Minister, Mr Speaker, I will say that otherwise he may object to it but, second to the Chief Minister, I will say that Mr Hammond is the most popular and well known Gibraltarian in the world and therefore, Mr Speaker, I do hope that when the Chief Minister takes the initiative and he gets the people interested around the table, that he will not put them off by saying that it all depends on how much it is going to cost because if he starts on that note then I am afraid that we are not going to be successful. When the plan is ready let us bring it to the House if necessary, and see if the House is prepared to accept what they demand or we are not prepared to accept what they demand, but let us not get them together and tell them that if they ask for too much money there is nothing we can do because that is going to discourage

them. If we start on that note it is going to discourage them and we will have the report coming back that they got together but nothing happened. Nothing happened because noone is going to start getting things going if he knows that when the moment of truth comes along, which is how much is Gibraltar prepared to pay for that, he is not going to get it. Therefore I tell the Chief Minister, call them but don't discourage them.

HON I ABECASIS:

Mr Speaker, I don't want to minimise the effort of the Hon Mr Bossano in bringing the motion but I think, to put the record straight, I must tell the Hon and Gallant Major Peliza that long before Mr Bossano thought of putting the motion, I appeared on television on my appointment as Minister for Tourism and I said I was prepared to meet whatever committee there was and prepared to help in whatever way we could.

HON A J CANEPA:

Mr Speaker, I support the motion. I notice the Hon Mr Bossano is asking for the necessary financial support and I am sure that neither the Hon Mr Bossano nor those who would run the Song Festival would wish to hold a Song Festival to an empty auditorium. There are certain constraints in this sense that whereas in the past the Government has agreed to underwrite a certain number of seats which might not be sold because the Song Festival would be broadcast over television, now this is likely to be much more so the case if we are thinking of 1979 as perhaps by then it will be possible to have it on television in colour and where we have to be careful is that we don't have a beautiful television show, a very successful Song Festival otherwise but for the fact that the auditorium is empty. I am sure that we don't want to see that. That is a consideration that has to be kept in mind. Whether it is cultural, I don't know. The Concise Oxford Dictionary defines culture as "intellectual development". There is a certain amount of intellectual development but I don't know how far. During the Chief Minister's intervention, my Hon Friend on my left Mr Brian Perez, who is now much more amenably seated in the House....

MR SPEAKER:

Less comfortably, perhaps.

HON A J CANEPA:

Well, Mr Speaker, I was sitting in the back benches yesterday and soon, no doubt, the Hon Mr Bossano may be joining me there. The Hon Mr Perez was remarking to me: "I bet you anything that the Hon Major Peliza will stand up and put his foot in it", and he has done so. The trouble, Mr Speaker, is that in this House, with such denuded Opposition benches on that side, one can no longer have sensible debates. The Opposition are acting childishly and churlishly.

MR SPEAKER:

Order. Any other contributors? I will call on the mover to reply, if he so wishes.

HON J BOSSANO:

I don't want to say very much, Mr Speaker, just to say that I am sure that the people involved in this will be encouraged by the support that the House is prepared to give them and I hope that that encouragement will be sufficient to get the thing off the ground. I think the question of the "necessary financial support" in the motion is in fact so that it should be seen that the purpose is to have the Government playing, as it were, a residual role to bridge the gap not the other way round. The point that the Hon Minister for Labour has made about not having an empty auditorium is one that the people concerned made to me and they tell me that not only is there little point in it from the point of view of running the Festival, but that it is very difficult to convince anybody to come and put on a show to an empty auditorium. It is something they are very conscious of but apparently it is a difficult problem when one is competing with television and I am sure that in this meeting that the Chief Minister proposes to have, this will be one of the points that will have to be discussed and considered. I welcome the support of the House.

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

The House recessed at 1.05 pm

The House resumed at 3.20 pm

HON G T RESTANO:

Mr Speaker, I beg to move the following motion standing in my name. "This House is gravely concerned by the contents of the Principal Auditor's Report for the year 1976/77 which appears to reveal a serious state of affairs in the management of certain Government Departments; calls for an explanation from Government and calls for immediate corrective action to be taken." Mr Speaker, since the subject matter of the motion is the Principal Auditor's Report, I hope you will allow me to quote extensively from that Report because I would not like to put into my own words, perhaps, what the Principal Auditor says.

MR SPEAKER:

Anything that is relevant to the debate and which is contained in the report, you are utterly free to quote from.

HON G T RESTANO:

Thank you, Sir. Mr Speaker, in the year 1975/76 the actual expenditure of Government was £10.3 m. The following year 1976/77, the actual expenditure was £17.8 m. For 1977/78 the revised estimate was £19.9 m and the estimated expenditure for the present year 1978/79 is £27.46 m. This is a fantastic increase in the expenditure of Government over four years and I feel that now perhaps more than ever, with this enormous increase in Government expenditure, there should be an extremely strict control over all aspects of Government expenditure and, perhaps, a streamlining in the management of Government affairs and all Government departments. This is not a new concept, this particular concept has been put forward

from time to time by I would say not only Members of the Opposition but I think Members of the whole House. I think everybody has shown certain concern about this increased expenditure and the management of Government affairs but certainly, as I say, there have been suggestions and comments on this from this side of the House on a number of occasions. Covering the year 1976/77, the Principal Auditor, as is usual, has made his report and I think that that report contains so many comments which I think could well be called to be at variance with statements which have been made on this side of the House and from the Government benches, too, that I thought that it was necessary to bring a motion to the House so that the house could debate the comments which the Principal Auditor himself had thought fit to produce in his report. Mr Speaker, I think the best thing will be to go through the report of the Principal Auditor in the sequence that he himself considers that his comments should be taken and I will add my comments to the different points that he has raised. In his introduction, the Principal Auditor quotes his terms of reference, the scope of his audit and he also makes mention that "Section 61 of the Public Finance Ordinance states that all such documents laid before the House of Assembly shall be dealt with in the manner, if any, prescribed in these Orders". I think I must say straight away that obviously I agree with the Principal Auditor immediately. It means that the Principal Auditor up to now produces his report on the annual accounts and there is no system at present laid down in Standing Orders of the House for his comments to be considered. Obviously, I think that this is a not a particularly satisfactory state of affairs, I think it should not need any member of the House to bring a motion for the comments of the Principal Auditor to be considered in the House. I think this should be something automatic because, of course, all the comments of the Principal Auditor concern the accounts of Government and this House debates the accounts of Government in the budget sessions but without having the intimate knowledge that the Principal Auditor has, after a year, of being able to go through the accounts and therefore on many occasions we are debating at budget session accounts and figures details of which we are not very certain and this is what the auditor does at the end of the year. He goes through the accounts, he checks as much as he can and then reports. Therefore it is clear that his report is a very important one indeed and a report which needs, I think, to come to the House so that his report and his comments on the accounts can be debated in the House automatically rather than through a motion. The next point that I want to bring up from the report is a comment that he makes which is that the expenditure side....

MR SPEAKER:

It might help if when you are going to quote you give us the number of the relevant page.

HON G T RESTANO:

Page 2, paragraph 3. He says "the expenditure side would, with the present accounting system, continue to be audited each year centrally on a test basis along with that of the other departments. In some cases, when an annual check is essential, the sheer volume of the transactions, especially in such as the Accountant General's billing and collection section where transactions are increasing yearly, permits only a very small percentage check being undertaken." This is in fact, the point I was raising right at the

beginning when I pointed out the huge increase in Government spending in four years of almost three times the amount from £10.3 m to £27.4 m in the current year. Obviously whereas four years ago, possibly, the Principal Auditor's staff was able and was large enough to cope with a budget of £10.3 million it is obviously increasingly difficult for that same staff, because I understand that there have been very few, if any, increases in that staff since those days to deal nowadays with an estimated expenditure which could well be increased in the coming year with supplementary appropriations and so on, of £27½ million and therefore, obviously, I would have thought the Audit Department could not possibly audit today the accounts as efficiently with a turnover of £27½ million to what it could do four years ago with only less than half that amount. Therefore I think this is something the House should consider. On page 3 of his report, the Principal Auditor makes various comments on regulations and I think these are very important and therefore I will quote what he says. He says under General Orders: "As I have mentioned in my reports for some years now" - I may say here at this stage that throughout the report there is a recurrent theme from the Principal Auditor and that is that he continually mentions that what he is mentioning this year he has mentioned in previous reports and it is the same recommendations he is making this year that he made last year, perhaps the year before and perhaps the year before that. He says: "As I have mentioned in my reports for some years now, these Orders are in spite of amendments, outdated in many respects. The volume of the amendments, also, make them difficult to use and, in addition, they are in insufficient supply for many of those who require to have ready access to them. As a result, training of new staff in this respect is inhibited and breaches of the regulations are not uncommon. A complete rewrite of these Orders was under way at one time but now seems to have come to a halt with the introduction of the new salary scales, allowances and conditions of service resulting from the introduction of parity with the United Kingdom, it is vitally necessary to introduce a new edition of these regulations in which, among other matters, the conditions of payment of the new allowances and the revised conditions of service are properly and fully codified." It is difficult to comment on that as it is so absolutely clear. In General Orders, in conditions of employment, in conditions of payment, in conditions of allowances, there seems not to be in Government employment the same conditions, for example, which the Government itself requires, say, from the private sector where employees of the private sector are required to have contracts of employment and so on and apparently, according to the Principal Auditor, these orders do not seem to have been applied over a certain number of years in the Government. This, of course, is a sorry state of affairs. Next the Auditor goes on to Financial Instructions and he says: "These instructions are now, also, outdated and in insufficient supply. In accordance with the Public Finance Ordinance they are to be superseded by Financial Regulations made by the Financial and Development Secretary (Section 76) and Accounting Instructions to be issued by the Accountant General (Section 45). The former are being issued from time to time as required and, I am informed, the latter have been drafted but not yet finally approved for issue." I think that any regulations which are required by law or by the Constitution to be in force and especially when it relates to financial matters, I think it is most important for these Financial Regulations and Instructions to be up-to-date and in sufficient quantities to be able to distribute to all departments so that

there is a similar way of dealing with any financial transactions in all departments, a system, in other words. This, I think, is what the Principal Auditor is referring to and these instructions at one time, apparently, were in use, there were sufficient copies to go round to all departments, everybody know what they were supposed to do and, presumably, today that situation is not so. Next, Mr Speaker, we have Stores Regulations. The Principal Auditor says: "Again, these are out of date and in insufficient supply. Under the Public Finance Ordinance they will be incorporated into the Accounting Instructions issued by the Accountant General." Again a lack of regulations, a lack of instructions given from the top to the different departments as to how to deal with the application of stores. Lastly he says on regulations under - General: "Comments regarding the unsatisfactory state of the regulations mentioned in the previous paragraph have featured in my reports for a number of years now. Until proper regulations are prepared and promulgated and then issued in sufficient numbers for all those who require it to have ready access to them, errors and delays will continue to occur in the accounts, in establishment matters and in the general business of Government." I think, obviously, it is in the interest of Government not to have any errors and delays in the accounts or in any matters of Government and it is really up to Government to ensure that these regulations and all these instructions are brought up-to-date and properly distributed so that all the employees of Government have their different directives to be able to carry out their own functions in a proper manner. The next section of the Principal Auditor's Report, Mr Speaker, on the statement of Assets and Liabilities makes reference to certain funds and for the moment I will deal with, first of all, one which really is of a small amount of money but, again, in the same way as one of the themes of the Principal Auditor was, as I said earlier, the lack of regulations, there is another theme which goes right through his report and that is on unauthorised expenditure. I refer to the Public Trustee Fund and here there is a small amount which represents an unauthorised advance from the Consolidated Fund which is only for £567 but I just make mention of it because this theme recurs throughout the Report. Again, in paragraph 20, page 6 on Pilotage Fund, the Principal Auditor says: "As has been the case in previous years, this Fund ended the year under review with a debit balance which again, represents an unauthorised advance from the Consolidated Fund." In this case it is only £126 but again I make reference to this because I want to stress the fact that this theme is repeated. In the next fund which is the Gibraltar Government Scholarship Fund, the Principal Auditor says: "Thus, provided these statutory payment of different contributions in access of this latter sum represent an unauthorised advance from the Consolidated Fund." Here we have three funds where there are unauthorised advances from the Consolidated Fund. Mr Speaker, if I can now turn to page 8 of the report para 24 under Advances £140,709. The Principal Auditor says: "I have again had cause to raise with the Accountant General the matter of long outstanding advances in that insufficient action appears to be being taken to clear it. Admittedly many require action by the Director of Public Works and the Accountant General has repeatedly raised the matter with him without much success. The Director of Public Works did reply in March, 1977, that he was in correspondence with certain firms who had uncleared advance accounts but pointed out that considerable research was required in some cases and that they could not therefore be dealt within a week or two. However,

at my latest examination of these accounts in October 1977, I observed that there had been little change in the position since the previous October, not only as regards the Public Works Department advance accounts but with many others which appeared to be long overdue for clearance. I pointed this out to the Accountant General in my report on these accounts dated the 15 November, 1977, but, to date, I have not received a reply." This particular section of course raises three matters. It raises the matter, first of all, of advances having been made. I cannot see from this particular section what exactly those advances are in respect of but they are advances that have been made and the Principal Auditor feels that these advances should now be settled, that is one point. The second point is that he has asked for these matters to be settled and nothing has been done and, thirdly, which is again another recurrent theme in the report, is that he has written and asked for information and the information has not been given to him and there has been a laxity in correspondence in reply. On revenue, and here I turn to page 10, the Principal Auditor comments on shortfalls in revenue to Government. He makes a point of singling out first of all the problem of the Sporting Club Licence. This has been outstanding for many many years and the Principal Auditor has this to say: He says: "The fees payable by the Sporting Club concerned are under dispute and, as mentioned again in my last year's report, the matter is in the hands of the Legal Department. No payments have been made since my last report was written and, at the 31 July, 1977, the amount owing had increased to £75,325. The amount payable under the agreement with the Sporting Club includes the re-imbusement of salaries of the Inspectors appointed by Government and this amount is subject to change when there is a general revision of salaries in the Government service. Considerable salary increases have been granted over the last few years but no revision of the amount claimed in this respect has been made. Thus, the amount due could well be appreciably greater than the figure mentioned above." First of all, the figure which is showed as owing seems to be quite below that which probably should be showed as owing. Secondly, the fact that this legal problem has been going on for so many years and I don't know who's responsibility it is. According to this Report it is the Legal Department's responsibility and I don't know who's fault it is but certainly I would have thought that rather than having such great sums of money outstanding, the Legal Department, if it felt the Government had sufficient grounds to take the licensee to court for the non-payment of these fees, it should have been done already, it should have been done years ago. There are sums outstanding which it would appear are owed to Government and there is a legal complication. Well, either those amounts are legally owed to Government or they are not legally owed to Government. If they are legally owed to Government and the Government feels that it has a strong enough legal case let it be taken to court, let the Government take the licensee to Court and let us hear the end of this matter. Let us not drag on for years and years and years. The next shortfall under Revenue is on the Department of Education Contribution of Service Departments - Item 4. Once again I am sorry to be so repetitive, Mr Speaker, but these things come over and over again in this report. The Principal Auditor says: "As mentioned in my last year's report, the reason for this shortfall was that there was a delay in submitting the relevant claims to the Ministry of Defence and the Department of the Environment Property Services Agency. As a result, nothing was

received in 1975/76 and only £4,128 in 1976/77 against an estimate of £50,000 and £63,000 respectively. This matter is commented in more detail in paragraph 47-49." I thought it was important enough to bring this particular point up in that again monies owing to Government only possibly required an indent to the different departments concerned, the Ministry of Defence and the PSA, and it was not done. I don't know, there may well be reasons for these claims not having been put forward but the fact is that the claims were not put forward and therefore Government did not receive the money which they should have received. Again, I can only consider this to be rather a delatory state of affairs in that particular department. In Arrears of Revenue the Auditor has this to say: "One of the statements required to be submitted to me by the Accountant General with the annual accounts is one of "aggregate arrears of revenue subheads" Section 52(2)(i) of the Public Finance Ordinance. However, this statement has not been included with the accounts submitted to me mainly, it would appear, because the required information has not been submitted to the Accountant General by the Receivers of Revenue though, in a number of cases, the figures should have been produced within his own department." He lists 12 subheads where these statements should have been produced. I can imagine how difficult it must be for the Principal Auditor to go through his accounts properly, how heartrending it must be if statements which should be made to him are not made. He must find it extremely difficult and in this case we have 12 subheads and he does carry on to say that: "The return now required is a brief one showing the total arrears against each type of revenue for each of the preceding three years and a single figure for any amount due prior to that. This it would appear to me, would not seem to be an unreasonable instruction for Receivers of Revenue to comply with. I am informed that the Surveyor and Planning Secretary has now complied his returns and that the Commissioner of Income Tax will be submitting them from 1977 to 78 onwards." He does not comment on the other subhead and therefore presumably whilst he has been given notice that both the Surveyor and Planning Secretary and the Commissioner of Income Tax would be submitting their statements in the near future, the other subheads and there are quite a few of them especially under the Account General's department, he does not seem to have or at least he hasn't mentioned the fact that he has any knowledge that these statements will be brought to him in the near future. Quite frankly, Mr Speaker, these statements of arrears are required by law to be produced by the different departments and to my mind there is no excuse whatsoever for any department not to comply with that part of the law. Next, Mr Speaker, the Principal Auditor refers to expenditure and excesses on Heads. In paragraph 32 he says: "When the accounts were finally closed, unauthorised excess expenditure, after taking into account all Supplementary Appropriations, was found to have been incurred on 11 of the original 25 heads of expenditure." It gives details but I won't go into the details, I think just the sum total is sufficient. £2,240,950 unauthorised expenditure. He goes on to say: "To date, no Supplementary Appropriation Bill in respect of this expenditure has been introduced into the House of Assembly. I would emphasise that these excesses did not result from the delay in the issue of the required warrant of other similar administrative error. These excesses represent expenditure for which the required approval of the House of Assembly by Supplementary Appropriation Ordinance had not, and still has not, been given, presumably as the Controlling Officers concerned had

not applied for such supplementary appropriation in time for it to be included in a Bill to be presented to the House or, in many cases, had not even applied for this prospective, or already incurred, excess expenditure to be included in supplementary appropriation at all. Certain of these excesses are commented on in more details under the section for Departmental Accounts. However, although proper analysis is impossible in the case of wages it appears that much of these excesses resulted from the increased salaries and wages, including considerable amounts of back pay which are paid during the 1976/77 financial year when the October 1974 and October 1975 salary and wage reviews were concluded. However in the absence of supplementary appropriation, all these excesses represent expenditure for which there was, and still is, no legal authority." That, I think, is a very serious state of affairs. One of the functions of this House is to approve or not to approve supplementary appropriations and I don't think in this House, certainly on this side of the House, there has ever been a lot of opposition to any supplementary appropriation because if money is required this side of the House certainly does not put any opposition to the appropriation. However the Opposition does feel that if supplementary appropriations are required then it feels that in accordance with the Constitution these matters should be brought to the House. I know that in the Constitution it says that certain supplementary appropriations can be brought in either before the monies are spent or when the monies are spent but nevertheless it is a very sorry state of affairs to see that £2½ million has been paid without the supplementary appropriation bill having been brought to this House. This I think is a very sorry state of affairs. I think that we have sufficient meetings of this House for there to be plenty of time for these supplementary appropriations to be brought in before. The Auditor, commenting on the 25 April 1978 on the year 1976/77 on excesses generally, has this to say: "The continued incurring of this excess expenditure, particularly on Heads, tends to negate the requirements of the Constitution and, in particular, Section 64(3) which states that "no monies shall be withdrawn from the Consolidated Fund except in such manner as may be prescribed by the Legislature, ie, by the Governor and the Assembly." I don't think it could be put any clearer than that. On the Excess Expenditure on Heads Financial Year 1975/76 he says: "To date the excess expenditure on Heads incurred during the year ending the 31 March 1976, which was mentioned in paragraph 32 of my last year's report, a sum of £423,476 has not received the authority of a Supplementary Appropriation Ordinance." This is now nearly 2 years out of date and, again, it is a most unsatisfactory state of affairs. On Unvouched Expenditure he says: "When the monthly accounts have been submitted to me for audit I have had cause to point out to the Accountant General from time to time that a number of payment vouchers have been missing. At the date of writing this report a number have still not been submitted for audit and the expenditure involved must thus be considered as unvouched." I just don't know what is happening in Government departments, unvouched expenditure, excess expenditure not brought to the House, hardly, I would have thought, to show good management by government. In Section 5 of the Report the Principal Auditor deals with the Improvement and Development Fund and quite frankly I wouldn't go into that because this of course shows horrendous shortfalls in both revenue and expenditure due of course to complete lack over that period of time of the government development programme. That has been a subject of debate in the House in the past and

all that the Principal Auditor does is, in fact, highlight that there has been no development and that there has been no receipt of money from the ODM, from the British Government, in order to meet those development programmes and therefore there has been no expenses either. I think the House has debated that particular problem on quite a number of occasions so there is no need to go into it yet again. The next section of the Auditor's report deals with departmental accounts. I will go first of all to Head 5, the Electricity Undertaking, which is on page 23 of the report. Again excess expenditure and the Principal Auditor says: "A sum of £124,478 in excess of that voted by the House of Assembly was spent on this Head during the year. As in the case of other votes, the majority of this excess was incurred on subheads for wages, on subheads including wages and on that for the Biennial Review. However, in addition, on an original estimate of £24,200 for the purchase of engine spares, an excess of £27,396 was incurred. I enquired of the Controlling Officer the reason for the excess and why application had not been made for additional provision prior to the excess being incurred. I was informed that the excess was due to increases in the cost of spares and to unexpected faults and break-downs during the year and that when the 1977/78 estimates were submitted the revised estimate for 1976/77 was put as high as £63,000, against a sum of £51,598 eventually spent. Application for additional provision was delayed until the end of the financial year "so that an accurate figure could be known". However, by this time it was too late for submission to the House of Assembly." Again another example of unauthorised expenditure coming to this House. In Housing, I would not agree with the Auditor's comments on Varyl Begg. He mentions Varyl Begg on page 24. He says: "Whilst I accept that the whole problem of the roofs of all the blocks is under active consideration, I consider that these vacant flats should be recorded as "voids" at least and the continuing loss of revenue due to their not being able to be allocated thus recorded. In addition, 20 flats which have been allocated are apparently considered to be faulty by their tenants again due to damp conditions, and they are declining to pay the rents due. Amounts of up to £600 are owing on individual flats as at 30 November 1977, the total amount then outstanding on these flats being over £6,000." The reason why I say why I don't agree with the Principal Auditor on these particular comments is that he would prefer that the flats which cannot be used on account of the roofs be recorded as voids but I feel that it is a good thing that one should know exactly how much Government is losing from revenue apart from the fact of how many people are being put into very difficult positions because those flats cannot be allocated to them and are living in bad conditions. In any case I think it is very interesting for everyone in Gibraltar to know exactly how much the Government have lost and how much they are continuing to be losing out of those flats not being able to be allocated to tenants in Gibraltar. On this I think that I personally would like to see the figures being accumulated so that one can see exactly how much is being lost in revenue to Government. I don't know if this particular loss of revenue to Government could at one stage or other be claimed if fault or culpability could be levelled at one or other of the parties in the dispute. To continue on housing, the Principal Auditor refers to Log Books, and he says: "It is a requirement of Stores Regulations, which have been issued under the authority of the Financial and Development Secretary, that log books and daily record sheets are to be

maintained for all government vehicles. A new system was introduced in 1976 which was fairly simple and straight forward but did enable control to be exercised over the use of these vehicles. During an inspection of the Housing Department I observed that no log books or daily record sheets were, however, being maintained for the departmental vehicles. In reply to my request for an explanation the Housing Manager informed me that the staff who used the vehicles declined to keep the required records." All I can say about that, Mr Speaker, is that if there are regulations they should be kept and they should be seen to be kept. I don't know what the reasons are for the staff declining to keep those records. If there are justified reasons for those records not to be kept then let those regulations be changed but if there are no proper reasons for the regulations not to be kept then it is up to the management of the Housing Department to say "these are the conditions for all government departments, not just this particular one." I don't know whether this happens in any other department but certainly if there are regulations they should be applied. I see no reason why they should not be applied unless, as I say, there are very good reasons which the employees themselves may have given, but if they have not given good reasons then those regulations should be applied and management should ensure that they are. Next in the same department we have the non-payment of rates and the Auditor says: "In March, 1974, I called attention to the fact that a number of civil servants occupying government houses, as opposed to quarters, were paying only the rent due on these houses and not the rates. This was, apparently on the grounds that the occupants considered that these houses should be redesignated as quarters. No debits were being raised for these rate charges in the books of the Housing Department and yet no approval had been given for them to be waived. As a result of representations from me the debits were raised and considerable correspondence entered into regarding the action to be taken. Certain officers have now paid, or are paying, these arrears, others have moved but have left a static debit while yet others, still in occupation, are increasing their debts monthly." At one stage, obviously, these persons did not have to pay rates I think it is most unfair for some of them to be paying and others to be allowed to carry on and to continue without paying.

MR SPEAKER:

If I may, perhaps, correct the Hon Member, I do not think it is a question of at one stage having to pay and another stage not having to pay but a question of whether the quarters attracted rates or not that is to say as to whether they were government quarters or they were just government flats given to these officers.

HON G T RESTANO:

I think the point is that from one stage onwards it was considered that they should pay.

MR SPEAKER:

No, it is not a question of a Government decision, it is a

question of the tenants deciding whether they wished to pay or not.

HON G T RESTANO:

My reading of it was that these were government houses as opposed to government quarters but I think that those in government houses rather than government quarters who may not be paying, should pay.

MR SPEAKER:

Yes, but I think you have said something which was ambiguous to the extent that you said that government had decided that some ought to pay and not others.

HON CHIEF MINISTER:

You ask the civil servants whether they are happy with the revised rents for their quarters and look at the legislation that we have passed today in order that the City Council quarters which could not be rated will be rated so that they will pay rates.

HON G T RESTANO:

The fact is that there are certain government houses where the tenants are in arrears. Some have paid and some have not paid and I think it is unfair that those who have paid should have paid when the others haven't. I think the others should be made to pay and so does the Principal Auditor. The Principal Auditor says: "Some of these changes date back to prior to 31 December 1971, and at 30 November 1977, the total amount due stood at just over £4,450, some officers owing sums in excess of £400. As mentioned above I have repeatedly raised this matter but little action appears to have been taken with the exception of one or two. It appears that a very early decision is now required either to recover these amounts from the officers concerned or write them off." I hope that it is not the Government's intention to write all these off because some people may have paid. The next department is the Labour and Social Security Department and the Principal Auditor on page 26 refers to the Industrial Training Ordinance. He says: "Section 26 of this Ordinance requires the Accountant General to keep accounts in respect of the transactions carried out under this Ordinance and to prepare annual statements and submit them to me for audit. The Board established under this Ordinance is, in addition, required to make a report on its activities to the Governor in Council, which report is to include a statement of the accounts and a copy of any report that I may make on them. A copy of the Board's report is also to be laid before the House of Assembly. I pointed out in my last year's report that the accounts for the year ended 31 March 1976 had only just been received and were still under audit. This was subsequently completed and I certified the accounts of 21 April 1977. However, the accounts for the year ended 31 March 1977 have not yet been submitted to me for audit. Furthermore, I also mentioned last year that the audited accounts and report for the year 1974-75

did not appear to have been submitted to the Governor in Council. The position regarding this appears to remain the same with the addition that the accounts and report for 1975/76 also do not appear to have been so submitted. In fact, it appears doubtful that a Board does, in fact, exist as the appointment of the Chairman expired on the 28 February 1978 and members, though some were nominated last year, do not appear to have been formally appointed." This shows not particularly good management, I would have thought, in this department.

HON A J CANEPA:

If the Hon Member will give way on a point of clarification. The Industrial Training Board has only come under the Department of Labour in the last few months when I brought legislation to the House for that purpose. Prior to that it didn't come under the Department of Labour and Social Security. There hasn't been an Industrial Training Board for four years so how can you have a statement of accounts from a Board that doesn't exist.

HON G T RESTANO:

I would advise the Hon Minister for Labour not to argue with me but to go and argue with the Principal Auditor. This is his report and whether, Mr Speaker, that department was anywhere else, today that department is his responsibility, he has to answer for it or his colleagues. It is down in the Principal Auditor's Report as Labour and Social Security, Mr Speaker, and I have to take it as such because that is the signed report of the Principal Auditor. The next Head which is gone into, Mr Speaker, is Public Works. First of all, Excess Expenditure. The Principal Auditor says: "There was an excess on Head 13 Public Works over that authorised by appropriation of £377,154. This resulted, almost entirely, from an excess of £267,618 on a vote of £232,090 for Personal Emoluments and of £114,779 on the usual token vote of a £100 for the difference between the cost of purchases and the value of issues of unallocated stores. The former was largely due to payments resulting from the 1 October 1974 salaries revision. However, additional appropriation could and should have been sought as was done in the case of Head 15 Port, among others, where an additional sum of £175,000 was provided for personal emoluments resulting in there being no excess on the Head of that vote. The excess of £114,779 on unallocated stores was largely due to purchases during the year exceeding issues. However, the increase in stocks did not have the necessary authority of the House of Assembly as the voting of the token vote means that purchases and issues should be virtually equal. In any case, the stock on hand at 31 March 1977, was valued at £491,321 and this figure exceeded the limit authorised by the Secretary of State in September 1974, which power is now vested in the Financial and Development Secretary, by £240,321. An application has very recently been made to the Financial and Development Secretary to increase this limit to £700,000." Whether the application has been made or not, the fact is that on unallocated stores there has been an excess expenditure of £144,000 without authority from this House. This is very wrong and there are further comments on this particular aspect further on. Another excess occurred in the importation of water where a new vote of £100,000 was approved by supplementary

appropriation the Auditor says: "However, as mentioned again in paragraph 65 of my last year's report, a sum of \$100,000 for water imported in the 1975/76 financial year and charged to an advance account had to be debited to this subhead in the 1976/77 financial year. Even then, the cost of the water imported in the latter year was more than double the amount of the appropriation authorised resulting in a total unauthorised excess on the subhead of \$201,546. The Principal Auditor says that he asked the Director of Public Works for an explanation of the more significant excesses and that he had replied to the following effect ie that on unallocated stores he had been in considerable correspondence with the Financial and Development Secretary over this in which he pointed out that inflation and the demand on my department to stock pile has caused these excesses to be incurred over the last 4 years but that until a realistic figure is provided and accepted in the estimates there will be no answer to the problem (What action has been taken to obtain a realistic figure when submitting the draft estimates for the consideration of the Financial and Development Secretary and the Council of Ministers is not known). Whether the figure is a realistic figure or it is not a realistic figure I would have thought it is up to the Head of that Department to have applied and not just to have overspent without authority. Let him go to the Financial and Development Secretary and let the Financial and Development Secretary come to the House. On Advance Accounts he says: "As mentioned in para 24 there are many advance account relating to the Public Works Department which are now long overdue for clearance. I understand that action was being taken regarding their clearance in March 1977 but at my last inspection in October 1977 little appeared to have been achieved. This matter has been the subject of comment in my last two annual reports. On Furniture Inventories - Quarters, the Principal Auditor says: "This point was again raised in paragraph 65 of my last year's report, and though checks and re-checks of furniture in quarters have been recently undertaken, a satisfactory inventory system has not yet been introduced together with the required main ledger. Also, furniture in quarters, or offices for that matter, is still not being clearly marked as belonging to Government with the attendant risk of at least inferior substitution." If it is the duty of the department to furnish a proper inventory system and this has been requested by the Principal Auditor year in year out, I can see no reason why that department has not done so. It is a very poor reflection on the management of that department. The next item, again on the Public Works Department, which the Principal Auditor refers to is Unallocated Stores. He says: "A committee has been appointed by the Administrative Secretary to enquire into the whole system of control and organisation for the purchase, custody and issue of stores throughout Government. This committee has made a number of interim reports and the final report has now been drafted and is to be submitted to the Administrative Secretary shortly. This Committee will recommend improvements and changes in, inter alia, systems for both local and overseas purchases and the accounting for the stores received. Thus, although I am still not satisfied with the system of control being exercised in the Unallocated Stores I will not comment further here as the matter is under action. The recommendations will, in all certainty, cover the point I made last year that the requirement to obtain a certificate of receipt from the

requisitioning officer as opposed to the officer collecting the stores, is a vital part of the system of control. I mentioned last year that the survey of these Stores had revealed a number of discrepancies but that no reply had been received to my report on the matter. I still have received no reply on a further report on a survey held in September 1977, which again revealed discrepancies between stock and ledger balances also remains unanswered." He then goes on to talk about a Tabular Summary and says: "A summary has now been prepared covering the whole period 1 January 1970 to the 31 March 1977. During this period the value of the stock on hand increased from £179,275 to £491,321 which, as mentioned above, is in excess of that authorised. The preparation of the summary revealed an unexplained difference of £2,934, the stock in hand at 31 March 1977, according to the ledgers, being greater by this amount than the theoretical balance revealed by the summary. No reply has been received to my request for the Director of Public Works' comments on this point." On Overseas Purchases from that department the Auditor says: "I have observed in audit that the majority of purchases of unallocated stores made from the United Kingdom are now dealt with through one particular agent - other than the Crown Agents. I have had cause to query a number of payments in respect of such purchases which resulted from only a percentage check. The invoices, usually photocopies attached to the vouchers, were those of the agent only and showed the direct price charged by the agent including freight, insurance, procurement charges etc. In a number of cases I discovered that the prices charged showed significant increases over those originally quoted by the suppliers themselves. Furthermore, errors were noted in the amounts charged on the invoices, including calculating errors, and yet they had been certified in the department as "correct." This is a very, very serious statement, Mr Speaker, errors in calculation, errors in prices can, of course, always be made. It is in human nature to make errors but that the Principal Auditor should have picked out only a small percentage and in that small percentage check he has discovered these sort of mistakes which had been certified as correct by the department, that is a very serious indictment on that particular department. He says: "I raised the matter with the Director of Public Works who informed me that they also had become concerned over the matter and were taking action. Manufacturers' or suppliers' invoices are to be submitted in future and freight, insurance, procurement and other charges are to be specified." He goes on to say: "It is only fair to mention under the heading of Unallocated Stores that the Stores Officer is operating from premises which are far from ideal. Apart from the cramped state of his and his staff's offices, the stores under his control are kept in 12 widely diversified locations, some being decidedly insecure." This, of course, is a definite disadvantage and I would have thought that this is one of the reasons why possible discrepancies may occur and then it is up to the Government, it is up to the Department to ensure that a better situation for sites are found so that there can be more control. The next section on Public Works Department refers to the Works Section and the Auditor says: "In July 1975, I wrote to the Director of Public Works pointing out that a number of claims for the unchoking of drains and similar works remained unpaid. In a subsequent inspection I observed that virtually no action had been

taken regarding these claims and wrote again in June 1976. A further inspection revealed that most of them were still outstanding and I again wrote in February 1978 on the subject. Miscellaneous claims outstanding at 31 March 1977 amounted to over £3,000, one dating back to 1971. Regarding the unchoking of drains, no record of amounts due have been kept during the period September 1974 to August 1977, though works have in fact been undertaken. No reply has been received to these three reports." It seems, quite frankly, that that particular department doesn't take one iota of consideration of the points the Principal Auditor has put forward. The Public Works Department seems to take no account at all of the Auditor's Report or of the Auditor's request for information. In fact, in paragraph 79 the auditor says: "A number of reports and queries addressed to the Director of Public Works still remain outstanding in spite of reminders being sent regularly. A concerted effort was made during the year by the Public Works Department to clear the long outstanding correspondence and, though much was done, much still remains outstanding." I wonder how much more remains outstanding that has, in fact, been cleared. The next aspect which the Auditor sees fit to comment upon is in Head 21 - Recreation and Sport where he says: "Although no excess expenditure was incurred on this Head, considerable unauthorised expenditure was incurred on the subhead for Personal Emoluments" - an excess in fact of nearly 29,000 over an authorised expenditure of £5,000. - "He says: "Whilst part of this excess can be attributed to the payments of the new rates of salary arising out of the 1974 and 1975 salary revisions, together with the resultant arrears,.....

MR SPEAKER:

I don't think you need to read all that, I think you can summarise what it says, that it refers to payment of pensionable posts. It is a fair comment to say that again another department has had excess expenditure which is not authorised.

HON G T RESTANO:

The Auditor says: "Together with the resultant arrears, much of it was due to the payment of the emoluments of three new pensionable posts, two of which were back-dated to August 1975. I queried these payments as the posts were not formally created during the year under review nor was any money provided for their payment, the three new posts were eventually approved in the estimates for the following financial year but no formal authority has been given for their creation prior to 1 April 1977, nor have the required funds been approved. The posts were designated as pensionable in the Gazette of 23 June 1977. The next Head, Mr Speaker, is Head 22 - Revenue. In paragraph 84 the Auditor says: "I have had cause to point out to the Accountant General that arrears of electricity and water charges, in the case of a number of consumers, continue to increase with no attempt apparently being made to pay even the current accounts. A case was noted where a consumer owed accounts totalling over £4,000 for the period June 1975 to March 1977, another owed over £10,000 for the period May 1976 to March 1977 and other smaller amounts were owed by consumers for periods of 6 months or more." The period under review of course does not take in the period where bills were not sent out in time. This is over a period where

bills were sent out in time and there does seem to be quite a number of cases, according to the Auditor, where unjustified arrears, I would have thought, are in existence and have not been collected and of course this is up to the department concerned to ensure that it does its utmost, at any rate, to collect those arrears. The same applies to General and Brackish Water Rates. In this particular department the Auditor comments on Payment Vouchers. He says: "At present, all government payments are centralised through the Accountant General's department, with the exception of those made by the two self-accounting departments, ie the Post Office and Savings Bank Department and the Department of Labour and Social Security. These central payments are made on vouchers submitted by the various departments to the Treasury and are all "passed for payment" by the Accountant General before being paid. At one time, all vouchers were examined and checked in the Treasury prior to being passed for payment and paid but, as a result apparently of shortage of staff, this was discontinued some years ago. Whether it has been as a result of this or not I cannot say, but the number of defective vouchers discovered in audit has increased considerably in the past few years and this increase has been out of all proportion to the increase in the number of payments made. These defects, most of which directly contravene Financial Instructions, involve, inter alia, the following: (1) Required certificates omitted or incorrect, (2) Vouchers and supporting documents not stamped "PAID", (This is an important facet in the system of control), (3) Supporting documents not attached or those attached unsatisfactory, eg no Local Purchase Order attached or this document issued after the purchase has been made, which largely defeats the whole purpose for which it is issued, (4) Copy invoices attached instead of the original. On occasions, no invoice at all, or only a hand-written bill is attached even though the latter is from a properly established firm or a company. Cases have been noted of errors on invoices which have been signed as "certified correct" by the department concerned. (5) Vouchers not receipted or the receipt form signed, often illegibly, by an employee of the firm concerned instead of a firm's proper receipt being attached to the voucher." The Auditor continues saying: "Whilst I cannot, with the present volume of transactions, expect the Accountant General to carry out a 100% check of all vouchers paid by him, it would appear that some increase in prepayment examination is required to enable him to carry out the duty imposed on him by section 45(3B) of the Public Finance Ordinance which states that the Accountant General shall refuse payment on any voucher which is wrong or insufficient in content, or which contravenes accounting instructions..." The responsibility, of course, for submitting correct vouchers lies with each Controlling Officer and they can, and should, be held personally responsible for any errors in public monies disbursed under the Head of expenditure for which they are responsible. However, the Accountant General is charged with the supervision of the accounts of the Government under section 44 of that Ordinance and thus I consider should be in a position to bring to notice, within reason, any errors in the accounts and documents being submitted to him by the Controlling Officers. With the check at present being exercised by him over the vouchers submitted for payment this would not it would appear to me, be possible." When one considers that the Principal Auditor only checks a small percentage of accounts and he has found errors and yet the Accountant General's

Department which should be checking, although not, as the Auditor says, 100% at least a far greater percentage of bills to be paid, I wonder how many errors would be found if the Principal Auditor were to go into each and every one of those accounts. Next we come to the Former City Council Properties: let us see what the Principal Auditor has to say because there are two aspects to this. He says: "I raised this point some time ago as, though permitted by law in the case of rates and not prohibited by any statute in the case of electricity charges, it seemed to be an anomalous situation, if nothing else. However, with the founding of the Public Utilities the position has changed in that the funds are, in effect, being undercharged in respect of rates and electricity for the ex-City Council properties and the Electricity Undertaking Fund is being underpaid for electricity in such properties.

HON K K FEATHERSTONE:

The Hon Mr Restano said this refers to dwellings and yet the Auditor says it refers mainly to offices and official buildings.

HON G T RESTANO:

Properties and Offices. He says: "I was informed by the Financial and Development Secretary in March 1977 that it was not then intended to do anything about changing the rating position but that the necessary action would be taken regarding the electricity charges. At the date of writing this report, however, no such change has been made in the electricity charges being levied." This morning, of course, we have had the law being changed for the rates but, certainly, as far as we know on this side of the House, nothing has been done about the electricity charges and obviously if the Electricity Department is being subsidised to a certain extent in the normal run of events in Gibraltar I think there should not be any particular properties which should be more subsidised than others. All properties should be the same. The next item under the Accountant General is paragraph 95 Payments under Guarantee where the Principal Auditor states that there are a lot of payments under guarantee some of which going back to 1971 which are still outstanding. Again this is another case of monies being owed to Government and for some reason or another perhaps not sufficient stream-lining in the different departments, monies which are not being recovered as they should be recovered. In any case, the Principal Auditor feels it sufficiently enough important to put it into his report. The next head is Secretariat. I think there are two points in this. The record of industrial employees which has not been kept up to date for some time and details are not readily available when they should be made readily available and they should be there for the calculating of salaries and so on. We also had today, and yesterday, comments from the Chief Minister on the increase in staff in the Secretariat and one hopes that those changes will go a long way to getting rid of these difficulties. Perhaps they should have been done a long time ago but it takes the Government a long time to do things, apparently. Next, the Principal Auditor refers to Vehicle Accidents and he says: "The system laid down for dealing with vehicle accidents is not satisfactory. Even where a report is required, and this is not in every case, the report is made to the Administrative Secretary

instead of to the Financial and Development Secretary. Furthermore, no copy is sent to the Principal Auditor. The matter has been under discussion with the Accountant General for over a year now and it is some time since an agreement on a procedure was reached and a draft report form prepared. My suggestion to introduce a proper system for the reporting of accidents was agreed with by the Financial and Development Secretary in January 1976 when he stated that such a system must be introduced and the report must be in such a form that responsibility can be determined. However the necessary instructions have not yet been drafted or promulgated. The intended instructions would require a report to be made to the Financial and Development Secretary or to the Accountant General whenever an accident to a Government vehicle occurred and a copy of the report to be sent to me." Again this is in the same vein as to lack of regulations and the lack of instructions. There is also a section on ex-gratia payments. On this the Auditor says: "From time to time the Financial and Development Secretary approves the payment of sums of money to members of the public or in some cases civil servants, which are in the nature of ex-gratia payments. These involve payments for such matters as damage to a motor car due to it coming into collision with improperly lighted road works, damage to carpets etc, due to water leaks, loss of civil servants' belongings when on duty, etc. These payments are not shown in the accounts as ex-gratia but are in effect hidden therein by being charged to the works vote concerned or to a general office expenses vote. The only one recently to be allocated was a payment of £8,000 to a firm as a result of a fire but even this was allocated to a firm under Law Officers Head entitled "Law Expenses, Government Actions." This is, in my opinion, a misnomer, the true description being an ex-gratia payment." I entirely agree because, in fact, at Budget time, one is asked to vote on payments of monies and, as is said here, ex-gratia payments can be hidden under a works vote or under any other vote and it should be made clear in the budget that they are ex-gratia payments and what these are for. I must say, whilst on departmental Heads, that I must congratulate the Minister for Medical and Health Services, being one of the departments which spends most money in Government. He must obviously be running a wellnigh perfect service because he doesn't even get a mention in this Report. I must congratulate him. The Principal Auditor then reiterated points on page 45 which he mentioned in his last year's report. He says: "As already mentioned the new Public Finance (Control and Audit) Ordinance 1977 requires the annual accounts to be submitted to me by the Accountant General for audit within nine months after the close of each financial year. Under the same Ordinance, I am required to audit and certify these accounts and submit them, together with my report, to the Governor within twelve months after the close of the financial year. Both these time limits may be extended on the authority of the Governor where the circumstances so require. The accounts, together with my report thereon, are then required to be laid before the House of Assembly. However, I feel certain that the annual accounts and my report would be of much value to the House, and lead to less misunderstandings, if they could be laid before it prior to the budget session, which is usually held in March of the following financial year. This would involve the accounts being submitted to me for audit within, say, six months of the end of the finan-

cial year and for me to submit them to the Governor with my report after a further two or three months. If this were done the report and accounts could be laid before the House in January, or at the latest February, of the subsequent year." I think that is important. If we were in a position to have the Auditor's report before hand it would properly facilitate a lot of the discussions at Budget Sessions. The Auditor goes on to say: "At present, with the staff available to the Accountant General, it is not possible for him to submit the accounts within the time limit suggested in the previous paragraph."

MR SPEAKER:

I think you are entitled to comment on all that the Auditor is saying but, surely, not to read to us what is easily available. The other parts you were reading for the purpose of showing discrepancies but this is surely a matter for fair comment. You do not have to quote from the Report on this one. You are completely and utterly entitled to refer to the recommendations as to the accounts being submitted but we must not have too much unnecessary quoting. I say this at the end of your quotations so as not to inhibit you.

HON G T RESTANO:

I think it is very important, Mr Speaker, that the Principal Auditor considers that it would be of great help to the House in order to debate the budget session, to have his report for the previous year available.

MR SPEAKER:

There is no need for Hansard to repeat verbatim the Report of the Annual Accounts for 1976/77 unless there is good reason for it.

HON G T RESTANO:

Lastly, Mr Speaker, the question of Correspondence is dealt with in paragraph 109 where the Principal Auditor says: "Section 55(1) of the Public Finance Ordinance provides, inter alia, that I may call on any public officer for any explanations and information that I may require in order to enable me to discharge my duties. Financial Instructions further require that such enquiries shall be replied to promptly and fully. Whilst a number of departments are extremely prompt in their replies, other require continuous reminders, demi-official letters and copies to be sent before a reply is forthcoming. Such procedures should not be necessary and are very time consuming on my staff. Department have varied in the regularity of their replies but I have particularly had cause to address the Director of Public Works on this subject and as a result the position has much improved." Mr Speaker, I think that one can condense into five points the criticisms or comments made by the Principal Auditor. It would appear that the first point is that there does not seem to be a really proper system in Government, no regulations, no instructions. These are most important for the proper running of any government department and if these systems are not implemented then you are likely to get the sort of problems which are highlighted in the report of unauthorised spending, excess spending, insufficient checking of

accounts, again the other point which has been clearly highlighted by the Principal Auditor. On the question of the lack of adequate correspondence I think most people in Gibraltar have been at one time or another subject to that particular difficulty of writing letters and letters not being replied to and, finally, the almost total disregard for the recommendations which are included year in year out in the Principal Auditor's report. Mr Speaker, I commend the motion to the House.

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

HON MAJOR F J DEILIPIANI:

Mr Speaker, I would like to thank the Hon Member on behalf of some of my colleagues who might not have had time to have read the full report for having heard the full report from Mr Restano.

HON P J ISOLA:

Mr Speaker, I don't know whether the Government is stunned by the report and is unable to respond. I have no doubt that the Financial and Development Secretary as the Supremo in the financial side of the administration of Gibraltar will, no doubt, have something to say on the report. I don't think that any Hon Member can but have concern or express concern at the picture that is revealed in the report. It is of course, mainly, Mr. Speaker, an indictment of the civil servants or the top management in the Gibraltar Government and I think if top management doesn't act in accordance with Financial Instructions or Financial Regulations of the Public Finance (Control and Audit) Ordinance and ignores the Auditor's reports of previous years, that can only lead and must permeate right down the departments and more junior members in the departments if they find that Financial Instructions are not being followed, that scant regard is paid to the Financial Instructions and procedures, I think that permeates through and they tend to disregard procedures and of course if that happens, if management fails, if management doesn't give a lead then of course you can expect this to go right down to the lowest paid worker in the Government service. The result must inevitably mean that a lot of money is just going down the drain, a lot of money payable by the taxpayers and everybody who pay their taxes and pay their contributions, then money is being apparently mismanaged if we are to look at this report. What must be of the greatest concern to any person who reads this report through must be the situation in the Department of the Hon Mr Featherstone, the Public Works Department. I think a very serious situation is revealed there. The vote of the Public Works Department is very considerable indeed and it is clear if one just looks at the unallocated stores amounts, £½ m involved, if one looks at that paragraph that was referred to by the Hon mover, Overseas Purchases and other paragraphs, it is no use going into particular ones, I think there is less loss in some cases than in others one must become extremely concerned at the situation revealed by the Auditor's Report. What is a cause for more concern is that a lot of these remarks have apparently appeared in previous Auditor's reports and very little corrective action has been taken, when you get the Principal Auditor actually saying that some of these

Controlling Officers should be made personally responsible for the errors in public monies disbursed, when you get to that stage, Mr Speaker, the situation is surely a serious one because, after all, no-one is suggesting that the Controlling Officer is doing anything more than his duty. One would expect a normal Controlling Officer, a man at the head of a department who is a responsible person, one expects that, by and large, he of all people will abide by Financial Instructions and Regulations. It never occurs to a member of the public that a head of a Government Department is doing anything other than in accordance with the rules and regulations of the department. We can understand junior officials or junior industrial disregarding instructions but it never occurs to anybody that a head of a Department is going to ignore financial instructions and, accordingly, Mr Speaker, that the Auditor should have said that Controlling Officer, in cases of errors, should be made personally responsible, he has made a judgement presumably after giving it a lot of thought before making this sort of suggestion, I think that reflects the seriousness of the situation. Certainly, one is most surprised, Mr Speaker, at the question of the Accountant General's Department because that is the department on which we all expect things to be done properly. This is a department that handles, I should imagine, most of the revenues of the colony as far as payment is concerned and it appears that they have been paying people out without correct vouchers, without all sorts of things. I just have to refer the House to paragraphs 89 and 90 of the Auditor's Report. That is serious, Mr Speaker. If there is not enough staff to deal with it then the payments should go more slowly. If it takes longer to pay out because things have to be checked, well, let them take longer to pay out let us not have in that department people being paid off without proper vouchers, without the proper accounting procedures having been carried out. I don't think any of us can say whether there have been losses as a result of this or not we don't know. We know that there have been serious discrepancies which have let the Auditor to suggest that Controlling Officers should be personally made responsible for errors in this respect Mr Speaker, the question of the Auditor not getting prompt replies from departments is something that the Government should come down on very heavily. We are asking the Government for an explanation and we are asking the Government to say what is going to be done in the future. I would suggest that one thing that should be immediately done is to send each Controlling Officer, if he doesn't have it, a copy of the Public Finance Ordinance and his attention should be referred to Section 42 of the Ordinance and he should be told that it will be implemented in the future. Then the Financial Instructions should be sent to him if he has not got them and the ordinary regulations and I think that Controlling Officers and their immediate sub-heads of Department should be told that the government will not tolerate any departure because if the top management in the Government, Mr Speaker, disregards the Public Finance Ordinance, disregards financial instructions, how can we expect people lower down to have any confidence in the Heads of Department if they see them disregarding these things. It may be pressure of work, Mr Speaker, it may be whatever it is, but one thing is certain that in a budget of \$27 million it is vital for the continued existence of Gibraltar as a viable community and as a viable entity that our public finances should be properly managed and

controlled. I think that we must all agree with that, Mr Speaker, and accordingly, as I say, we have not had the benefit of a Government response to the detailed review of the Auditor's Report, we have not had a government response on it and certainly we are interested in receiving, obviously, the assurances that there will not be a Report like this for 1977/78. I don't know whether corrective action has yet been taken on this because it has only come up now but certainly for 1978/79 the Auditor's Report is going to be much shorter and what he has said especially when he has drawn attention to breaches of Ordinances and breaches of Instructions, that we won't get references to that in any future report. Mr Speaker, I look forward to hearing the explanation of the Government and more importantly getting assurances, not just this side of the House, but I think the public at large or anybody who reads this report, would wish to have strong firm assurances that top management will observe the regulations and the Ordinances and ensure that this goes all the way down. Mr Speaker, one very small point which perplexes me, or two small points. The question of the log books. Certainly one would welcome an explanation as to why it is that the persons concerned refuse to keep log books. This, I understand, happens right through in public service not in Gibraltar Government Departments but in the other official employers and if this is a breach of regulations what action has been taken to correct it, and if Government is content to allow that situation well, I think the appropriate Financial Instructions should be given that they needn't keep records. But I think it is very bad if the instruction says that a log book must be kept and it is not kept, it is very bad if no action is taken and it is just left to sort itself out somehow or another. I think that My Hon Friend the Mover of the motion has really pointed out to every item of which there can be criticism.

MR SPEAKER:

I cannot quite believe that there are no other contributors. Perhaps we will recess for about 20 minutes for tea.

The House recessed at 5.15 pm

The House resumed at 5.45 pm

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I cannot help feeling that the motion before us could have been better worded. I think that the way it was presented it might have been better reflected had the wording been "that it calls upon the House to attend a reading of selected passages from the Principal Auditor's Report for the year ended 31 March." But I don't want it to be thought that this is the way in which I am going to deal with the motion as it is in fact worded before us. It is not a matter for levity it is a matter which deserves serious consideration and a serious objective response. Before I attempt to deal with the multitude of points which the Honourable mover made insofar, that is, as I am prepared to deal with them at all, and I will expand on that statement in a moment, there are one or two general points I think it would be worth making. First of all, the motion as it is before us has been phrased in the widest and most general terms, yet the mover in speaking to it went

through the Audit Report and read out and subsequently commented on a very large number of particular observations, comments and criticisms made by the Principal Auditor and I feel certain that on reflection even the mover cannot expect this side of the House, even if it were willing to do so, to be able to comment in detail on those various paragraphs. As the Honourable and Learned Mr Peter Isola rightly pointed out, the Finance (Control and Audit) Ordinance imposes on the Civil Service in generality and more specifically upon certain officers within the Civil Service who are appointed either Controlling Officers for the purposes of the expenditure of voted funds and for the management of certain of the designated funds and upon receivers of revenue for the accounting for the various Heads of Revenue. It is not, therefore, for the Government, Ministers individually or the Government collectively to be able or, indeed, in my view, is it proper to comment in detail on the matters raised in the Audit Report in every respect. There are certain points and certain areas upon which the Principal Auditor has offered comment which are or touch upon matters concerning policy and, shall we say, the overall management of the Government's funds in total and not in relation to particular votes. In some ways the mover of this motion pre-empted what I was going to lead on to and that is to say that the floor of the House in formal session, with Mr Speaker in the chair, is not the forum in which the Audit Report can be considered as it should be considered. It is not the forum and I think the fact that the Honourable Member was, shall we say, persuaded to present the motion in the way he did, makes it absolutely clear that any attempt to consider as the Audit Report ought to be considered, to consider the report across the floor of the House, with the House in formal session, would be utterly impossible. Moreover, I recall there was a slight exchange between the Hon the Minister for Labour and Social Security and the mover and that again is evidence that this House, sitting as a House, is not the forum in which the great detail contained in the Audit Report can be or certainly should be examined. Mr Speaker, the mover of the motion of course framed his motion at a time when the information in the Audit Report was privileged, that is to say, it was not a public document. It only became a public document when I laid it on the table of the House on Monday morning and it is not until that time that those who are responsible for so much of what is in the Audit Report and who are required by the Ordinance under which the Audit Report is made to provide the necessary explanations and observations. Quite clearly, since the Report only became a public document to be dealt with, the Controlling Officers and the receivers of revenue, whose job it is and the burden of whose duty is laid upon them by the Ordinance, have not had any chance whatsoever to consider what response they must make to those criticisms. So that even if with the best will in the world I, on behalf of the Government, was prepared to go through the Report paragraph by paragraph in the manner in which the mover went through the Report, I could offer no objective comment at all on a very large number of the matters which are referred to in the Report. Having said that, however, there are one or two which are of a more general character which I might comment on. First of all, a small point that I did think I heard the mover say that the accounts are debated at Budget time. If he did say that, if I heard him correctly, then I must correct that

because it is not a correct statement, it is not the accounts that are debated at Budget time, it is the Estimates for the forthcoming year which are debated. What is relevant to those Estimates, of course, is the actual expenditure and the revised expenditure which are shown alongside but that is quite different from debating the actual accounts. He also made the point and, indeed, the Principal Auditor has stressed this in his report that he and his department are unable to carry out a full audit on all the accounts of the Government. He carries out a test, or partial audit, to the extent that his staff permits and the mover made the point that if that was the case then, perhaps, we should consider increasing the staff of the Audit Department. Mr Speaker, the Audit Department like other Departments in Government has recently been staff inspected and speaking from memory as far as I recall the Staff Inspector came to the conclusion that in any rate in terms of overall numbers the Audit Department was properly and adequately staffed, I will stand, subject to correction by anybody with greater knowledge than that but I can say also that I do not recall in my time in Gibraltar the Principal Auditor at Estimates time coming to the Financial and Development Secretary and pleading for additional posts which have been turned down by the Department of Finance. He may, indeed, have come whether in fact over the last 2½ years he has had an increase in staff my memory is not good enough but, certainly, I cannot recall ever having said to the Principal Auditor: "Sorry, but I am not going to allow any additional staff." I think that in many cases the Audit Department as such cannot deal with every single aspect of the accounts. I think that in the great majority of countries the Audit Departments, in fact, does a selective audit. Wealthier administrations have attached to the major department if not throughout the Government as a whole what is known as an internal audit which is a different thing altogether. It does not form part of the Audit Department, it is an adjunct, if you like, to the Treasury or the Accountant General's Department. It is a department which carries out a check on the accounting operations of the Department to which it is attached prior to the accounts, indeed it is continuous check, but it is a continuous check and a subsequent check prior to the final accounts being submitted for formal audit. On a number of occasions the Honourable Mr Resteno drew attention to the fact that Financial Instructions were not being complied with. He drew attention to the many occasions in which the Audit Report said precisely that. But that is not the same thing as saying that there are no instructions. The Financial Instructions that were issued some years ago are in force today in so far as they apply under the new Public Finance Ordinance. When I first arrived in Gibraltar some revised Financial Instructions were in draft then and I made the comment, and I consider it was the only comment I could make, that it was pointless revising the old instructions when this was on the dock and clearly the instructions would have to take account of any changes between this and the old Public Finance Ordinance. However, as soon as that became law, work was started on revised accounting instructions which I designed to replace the Financial Instructions to which the Principal Auditor has referred in his report. A draft was put up to me and I turned it down because I wasn't satisfied with it and requested that work start over again. There were

several areas which I considered conflicted not only with the sense of the Ordinance but also my interpretation of the areas in respect of which the Ordinance empowers me to issue Regulations. That work is well advanced and it might well have been that today I could say that within the next few weeks the instructions would issue. Unfortunately, however, the officer who was appointed to prepare them full time, because it is not something that can be done as part and parcel of an ordinary schedule of work, has had perforce to be taken off that work and given other duties in relation to the pay settlement. I can assure the House, however, that as soon as he has completed all that there is to do in that respect I shall be urging him to produce to me the final draft of suitable revised accounting instructions. I would only add one other thing. Since we shall have, hopefully, within the course of the next month perhaps or six weeks a new substantive Accountant-General, I would consider it only right and proper that the officer selected to fill that post substantively should at least have the opportunity to go through the draft regulations before in fact they are put into effect, that would only be sensible. On General Orders, Mr Speaker, I cannot speak because that is not exactly my side of the House. I should add, perhaps, in relation to accounting instructions that this will of course include the Stores Instructions as well. The Honourable Mr Restano made a point on which he hinged quite a lot of other things, namely, that over the last four years the expenditure of Government funds has increased enormously. Certainly it has, but I would remind him of course that there is a difference between money terms and real terms and in real terms of course the increase, although considerable, has been less than the increase in money terms and hence it doesn't necessarily follow, as I think I made this quite clear in my statement on the Estimates, it doesn't necessarily follow that the same degree of increase has applied to the actual number of accounting transactions which go through the books. However, it is a valid point, the Government in its total capacity is today disposing of in one way or another and indeed receiving, I include that as at its disposal, a very much larger sum of money than it had four years ago. It has also expanded in no small measure the range of services which it provides and with that increase of course there has been an inevitable increase in the range and nature of the accounting transactions which are involved and again as I said in my Budget statement, it is a matter for some concern on this side of the House that the staff who are engaged on accounting duties are subject as they are still and as they have been for the last, I can only speak from personal knowledge of course, for 2½ years, side-way transfers and replacement by other staff who have not had the benefit of systematic training in accounts, and this is something which the Government is looking at. It is very easy to say that this that or the other should be done, it is rather a different case when you actually have to come to do it because one has got a number of considerations to take into account not least the prospects of those who, if one takes an arbitrary decision, are engaged from hereinafter on accounting duties, one may damage their promotion prospects etc, and this has all got to be taken

into account. I am glad that the Honourable and Learned Peter Isola did stress this question of the Civil Service because we follow in broad principle the traditional practice of the United Kingdom where the money which the United Kingdom Parliament, here the House of Assembly, vote it votes not to a Minister, not to the Government in its collective sense, it votes it to a specified Civil Servant and it requires the Civil Servant to render account for the management of his charge on the basis of the comments and criticisms made in the United Kingdom, by the Controller and Auditor-General who reports in the United Kingdom directly to Parliament and is an officer of Parliament, here by Principal Auditor whose report comes to this House via the Governor in accordance with the terms of the Constitution. Now this is a most important thing to realise, that both in relation to expenditure, in relation to revenue and in relation to the management of certain of the major funds of Government, indeed all special funds, there is a Government officer charged specifically by the Ordinance with the management of the money in his trust and I am not going to come to this House, and I make this perfectly clear, I am not going to come to this House and stand up and protect individual controlling officers. It is not my function, any more than it is any Minister's function, to protect the controlling officer in the detailed way in which he handles money voted to him by this House, I would like that message to get across. All I can do on receipt of the Principal Auditor's Report is to call upon the controlling officers and the receivers of revenue to comment to me on what the Auditor has criticised and on the observations he has made. That is done as a matter of course but then what happens, what else can I do as the Financial Secretary? You may say I have powers of surcharge, I would ask Members to think what would happen if in my personal view I get an explanation which is to me unsatisfactory and I turn round and say: 'HLOC' Mr Speaker, that kind of action is not possible because it is only when each individual case has been thoroughly examined right down to its root that it is even possible to begin to think whether or not there has been neglect, negligence or wilful refusal to obey instructions, and the Ordinance is perfectly specific that these factors must be present, neglect of duty, carelessness or fault. It just is not possible for any Financial Secretary or any other individual to impose a surcharge which is by the way, different from a penalty because it means the restitution of something which the Government otherwise would have had or something which the Government by virtue of the action has lost, it is impossible for a Financial Secretary or any other individual in my capacity or the Government front bench to carry out the necessary detailed inquiries which are a pre-requisite before one even considers the question of a surcharge. I am going to end on something which the Gibraltar Civil Service as a whole and certainly those who control the funds can congratulate themselves on. I have seen a great many audit reports where, as you will see at the back of this one if you turn to page 114, losses, write-offs etc, I do not see a single theft, not one, but I have seen in audit reports in other places pages where Government funds have been stolen I have also seen something which is a comparative rarity even on these pages and where it occurs I think in every case a trivial sum, cash shortage.

I have seen hundreds, thousands of pounds having to be written off for cash shortages; just as I have seen thousands, tens of thousands of pounds having to be written off because they have been stolen. It doesn't happen in Gibraltar and I think, Mr Speaker, that that is a characteristic which is very, very credit worthy.

HON J BOSSANO:

Mr Speaker, I can understand the Hon Financial and Development Secretary trying to defend the position but I don't really think that he can stretch his defence to the extent that he has done. I think one has to understand the fundamentals of what we are talking about in respect of the Auditor's Report and it is easy, in fact, to misunderstand the implications of some of the things that the Auditor is saying. I have said in the past that the Auditor's Report is my favourite bedtime reading. In fact, I managed to stay awake the first time I read it when I received it. I don't feel that I have spent enough time on the report, really, to be able to do it justice because we have had it a very short time and it is a very thorough document and I think the Auditor is doing excellent work and is rendering an excellent service to the House of Assembly because, effectively, the whole political theory of parliamentary government is that the parliament is able to control expenditure and in order to be able to control expenditure it requires information. There is one obvious thing that strikes one in the report which I think the Hon Mr Restano brought out, which is that there is a repetition of previous criticisms. Whereas the Financial Secretary might legitimately argue that since Monday there has been little time to consider what response to make, he can hardly argue that about the criticisms that are virtual word for word quotes of the criticisms made in the 1975/76 Report. To the extent that the Auditor says, for example, in the 1975/76 Report that the expenditure of £423,000 - this is in May 1977 and it produced a motion that I moved in the House - in May 1977 the Auditor says: "To date no Supplementary Bill in respect of this expenditure has been introduced in the House of Assembly." That, Mr Speaker, in my view, whatever may be wrong about the 1977/78 accounts I cannot find any way of defending that in the 1977/78 accounts the Auditor should say that the £423,000 of which he was talking in 1975/76 still has not been brought to the House of Assembly. However little time there may have been about this Report, surely, once the Auditor made the point then one would have expected that at least that £423,000 would have been cleared and as I understand it the money, in fact, has been included in the final figures for the year so we are not talking about the final figures for 1975/76 having to be increased by £423,000 nor are we talking about the final figures which we were given in this year's budget as the actual expenditure in 1976/77 having now to be increased by £2¼ million. In fact the £2¼ million pounds are included in those final expenditure figure but it just shows how ill-equipped the House is for carrying out its functions that the House can be given at budget time a figure of £17½ million as the actual expenditure and not be aware that the House itself has not authorised £2¼ million of those pounds.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

May I say, on a point of clarification, for the benefit of the House. This is my deliberate decision, the reason being, firstly, that clearly I would hope the House would not be prepared to vote and authorise supplementary expenditure to cover excesses without a full and total explanation as to how and why those excesses occurred and that is linked to what I said in emphatic terms that I am not going to be the Controlling Officers' keeper.

HON J BOSSANO:

I accept that, Mr Speaker, and that was what the Hon Financial and Development Secretary said the last time and I accept that fully but I imagine that at some stage, in order to regularise the position the House will be asked to vote this money otherwise we are going to find ourselves with an Auditor's Report in 1985 which will say that there is £423,000 from 1975/76, £2¼ from 1977/78 and so on ad infinitum so at some stage the job will have to be done. I think the longer the gap the worse it looks. I think it reflects badly on all of us, on those of us who are supposed to be looking after those who have elected us, it looks bad on the administration and it looks bad on the Government. I think that it is important that this thing should be dealt with so that we don't get the same criticism being repeated year after year. Secondly, I think the overall impression that the report creates is one where the Government does not seem to have a sufficiently detailed knowledge of its own machinery to be able to do what it has set itself in its own legislation and I think it is an important point to be understood. If in fact, we pass legislation requiring a certain level of accountability we should not set that level of accountability because when we are talking about auditing or accountancy it is possible to have different degrees of accountability and to establish different criteria. I don't think it is a good thing to set ourselves standards that we are subsequently incapable of meeting. I am not suggesting that the standards should be lowered but I think it is worse to have standards that we are hopelessly incapable of meeting which appears to be the case at the moment and in particular we have the point about General Orders and Financial Instructions which every civil servant is required to be familiar with on appointment and which have been out of print for years. So we are employing people in the public service and making it a condition of their employment that they should be required to do something that they are incapable of doing because the employer is incapable of providing them with the tools to enable them to do it and then, of course, we have to go round criticising them for not complying with regulations which they are incapable of complying with because they don't know what they are. We had a recent dispute in the generating station where the person appointed by the Government to conduct an Inquiry came out saying that it was important that everybody there should be fully familiar with General Orders and Financial Instructions so that they know exactly how to act in this sort of situation. Nobody could be made familiar because there were no copies available and there are still no copies available. There are

a number of points in this report which require not simply explanations from those who are responsible as to why these things have come about, but also require action to ensure that next year we don't get another Auditor's report that points to the fact that what he said in 1975/76 and 1976/77, he is also saying about 1978/79 and 1977/78. Two very important points on the question of arrears of revenue which arise from the report are that the Auditor says that in some cases arrears may have to be written off because the time limit within which legal action can be taken has passed or is about to pass. That is something that I think should not be allowed to happen and the question that a lot of people must be asking themselves in Gibraltar is how is it that if I fall one month behind with my electricity bill they send me a bit of red paper telling me they are going to take me to court and it is possible for somebody to have arrears with the Government that are over six years old. Surely the criteria that are applied in deciding whether to threaten prosecution or to prosecute must apply equally, generally speaking, to all consumers of government services although it would be right if exceptions to the general rule are made for specific social reasons where there are very clear reasons why somebody has fallen into debt but if that were the sort of case I would imagine that that sort of explanation would have been given to the Auditor and the Auditor either would have been satisfied or would have pointed it out in his report that this was the reason for the arrears. That is an important one. The other important one is that when the Government gives us an explanation for its inability to improve family allowances or to improve tax allowances, its limited room for manoeuvre financially, one must question just how tight their position is when arrears can be allowed to amount up and when we have a situation like we had in last year's report on page 7 which I don't know what has transpired because one of the things that tends to happen as well, Mr Speaker, is that because we all have more work than we can cope with we intend to be conscious of things that need to be done the moment they are produced and then we tend to forget them three months later and we don't keep on coming back to them and seeking explanations, but in last year's report, on page 7, the Auditor mentioned the fact that in the importation of water part of the money was supposed to be recovered from the United Kingdom Departments and that the reason why nothing had been received was that a claim had not been made and that it was now accepted that the whole amount was to be a charge to the Gibraltar Government funds. Again that suggests a Government with money to splash around, if one will forgive the pun with water. I think points like that are very important because the credibility that one can attach to the arguments put forward by the Government must be necessarily undermined if things that are within its control, money that is owed to the Government, or money that is in arrears, Government seems to be doing little to obtain and if in fact it is left to the decisions of a particular level of the public service then, perhaps, the Government should have a specific person or a specific area of Government where the efficient collection of money is the responsibility of somebody who can be held accountable for it. I think this specific type of arguments are the ones that we should concentrate on although I believe that the whole report in itself deserves the

full attention of all Members because, as I say, as far as I am concerned it is an excellent piece of work.

HON CHIEF MINISTER:

Mr Speaker, I would just like to make two comments on this matter. First of all, I would like to draw attention in connection with the reference by the Auditor to the non-existence of up-to-date Finance Regulations, General Orders and Stores Orders, to some of the things I said yesterday when I asked for the extra bodies in the Secretariat Vote. I said: "The Establishment Side of the Secretariat in particular has not been functioning as well as it might for some time. This has been due as I have indicated to progressively increasing pressures and considerable undermanning. Policy issues such as second jobs for civil servants and many aspects of personnel service have had to take second place to day to day pressures. Other works such as analysis of reports on staff and the preparation and up-dating of General Orders and other regulations has simply not been possible." My view, for what it is worth, is that when this Ordinance was passed which we did at the initiative of the Financial and Development Secretary and the full support of the Government, the Public Finance (Control and Audit) Ordinance which laid upon Accounting Officers much heavier responsibilities than existed before and I think it substituted one which was passed in the time of the previous Financial and Development Secretary which was the original one that was brought here, I think that we put the cart before the horse, that what we did was that we brought out a very good Ordinance with considerable amount of duties to be carried out when we were not in a condition or fit or had the machinery to implement the requirements of that Ordinance I know that as the Financial and Development Secretary has said, accounting officers are civil servant and so on, but there is another way in which the Government or Members can control or bring to bear or make blush, let us put it that way, the Accounting Officers without having to surcharge them or anything and I refer to the question of the Public Accounts Committee. A Question was asked on that and I did undertake and I have every intention of doing, to select areas, and we have plenty of them from which to select on consultation - I would like to put my finger on one particular one but I won't be selective myself until I see what other Members feel about it - areas in which we can start looking at these weaknesses that have been shown in the Report by an ad hoc Public Accounts Committee to see how the thing works at first in one or two areas and see what we can do and see what salutary effect I hope it will have on the public service, if they, because they are responsible, they are made accountable to a Committee of this House composed of Members of both sides, to account for some of the faults that are shown here. There are some that look worse than they are. Some have not sought approval for extraordinary expenditure in connection with back pay in respect of so many changes that have taken place over a period which has been rather a hectic period in any sense. I think that apart from what the Financial Secretary has said and the difficulty that there has been in drawing up the Financial Regulations and the General Orders to which I referred yesterday and for which now we hope you have now

voted the funds in order to be able to strengthen the staff to do it, we will have the regulations and we can have those areas of inquiry where we can ask Heads of Department in private, not because they are not accountable in public but because the nature of the work will require the production of considerable numbers of documents and material and make them realise, progressively, because I do not think that we have enough numbers here to go through a Public Accounts Committee through the whole range of Government expenditure in a year and it has got to be done the previous year, it is no use looking back beyond the last year it is good enough if we can do it in the last year so that the next year they will take into account, as was done in the City Council, they will take into account that they have to appear before a Committee of Members and that there they have to account and that all the roaring of the Financial and Development Secretary, which I am sure he does plenty of, is not just enough, that there must be something else and that is account to Members of the House who are elected and may be that that has a better and more salutary effect than what has been done up to now. May be that will be the beginning apart from the fact that there are quite a number of items in the accounts which have been mentioned before and which the Financial and Development Secretary has clearly stated and in fact has told me and I have entirely agreed that we were not prepared to let these things go until there is a complete explanation for the extraordinary expenditure of which there may be a perfectly good explanation and then come here for the vote of the money. Not to do that would have been for the Financial and Development Secretary and the Government, knowing it, to be a party to cheating the House in the overall and that is something which we are not prepared to do. So I think that despite the fact that the report has been read through and so on and that the matters could have been brought out in the same way by selection and so on, I think that all Members of the House should be interested to see that we get the best value for money and that we know where the money goes.

HON M. XIBERRAS:

Mr Speaker, may I first of all second, or third, I think, all those Members who have congratulated the Auditor on his Report. I think it requires great sturdiness of character not to be enmeshed in a system which goes back for quite many years, perhaps to colonial origins, whereby the expenditure of this House, which was small at a particular time, has grown and grown to £27 million. Mr Speaker, may I also congratulate the mover of the motion because even if his method was dour it has been determined and if he had not gone through that report piece by piece and paragraph by paragraph perhaps his motion would have had as little effect as the motion of the Hon Mr Bossano had on the previous report. I think the Hon Mr Bossano also must be congratulated for presenting that motion which is referred to on page 44 of the Auditor's report, it is referred to specifically, as drawing attention to what obviously the Principal Auditor wants done with his report, and that is that it should be discussed in the proper forum with the proper time available so that Members can make a proper judgement of

how the management of these £27 million is being carried out. I think not even the Chief Minister would deny me the phrase that this is a vindication of what he has said today about the ad hoc Public Accounts Committee, is a vindication of the policy of my colleagues and myself with respect to the establishing of something approaching a Public Accounts Committee. I hope the Chief Minister will not object from the point of view of boredom, or the Chair from the point of view of relevance, if I quote from a letter which shows the position of Hon Members on this side some time ago. Mr Speaker, I have made some photocopies which Members can have if they wish.

MR SPEAKER:

This is written by whom to whom?

HON M. XIBERRAS:

I am just going to explain that. I will give the Chair a copy. Mr Speaker, the argument about the desirability or otherwise of a Public Accounts Committee started way back in 1976, in fact, and the last reference to it was during the Budget session when there was a rather angry exchange between the Chief Minister and myself on this question. The letter to which I refer is of the 5 January 1977, and refers to correspondence starting much earlier. For instance, I have a letter here to the Chief Minister of the 23 November 1976 and at page 2 it says: "Returning to my opening remarks to the effect that our Standing Orders are necessarily out of date and colonialistic, I would emphasise that there are a number of points of substance, indeed, the substance of the matter, left untouched by your proposals." These proposals were, in fact, the proposals to change the budget procedure. "although they do have the virtue of simplifying procedure considerably. Broadly speaking, it seems to me that our Standing Orders were designed in this context with a view to pressing acceptance of the estimates of expenditure upon the House thereby committing it to the need to raise the necessary revenue. Control of expenditure and of the Government's performance by the elected members which must figure as one of the most important functions of the legislature is similarly minimal. The Opposition, in my view, does not have sufficient opportunity to examine the estimates of expenditure in any depth under the present Standing Orders or to monitor this expenditure under existing arrangements." One paragraph after that I say: "The Opposition is further weakened by the pressure to approve the estimates of expenditure before the revenue raising measures, if any, are announced. In the United Kingdom the procedure is completely different and much of the in depth questioning of Government policies and performance takes place in such committees as the Committee of Supply, the Estimates Committee and the Public Accounts Committee." When introducing this quotation I said that I had advocated something approaching a Public Accounts Committee. I have no intention of saddling or that the House should be saddled with a Supply Committee, an Expenditure Committee and a Committee on Public Accounts, but I do think that a committee, perhaps at first ad hoc, with functions which

might be useful in relation to all these jobs which the House has to do, would be conducive to giving the House real control over expenditure and a real say over the monitoring of such expenditure.

MR SPEAKER:

I think we are departing from the point at issue, with due respect to the speaker. We are talking specifically on a motion showing certain concern about the Report of the Auditor for year 1976/77.

HON M. XIBERRAS:

Indeed, Mr Speaker, and that is why I would like now to refer to paragraph 106, page 44, of the report headed, General. It says, amongst other things: "However, apart from a debate on the Report on 14 July 1977 on a motion by the Leader of Opposition (Mr Bossano) the House has not apparently been in a position to give further consideration to the Report or to ascertain from the Controlling Officers their explanations for the shortcomings revealed therein." Mr Speaker, I think this is a clear indication that the House, in the opinion of the Auditor, is not in a position to treat his Reports properly and I would say, by extension, that the House is not in a position to perform the duties for which it was elected. Mr Speaker, the Chief Minister has now with a new tone said that he will go into the question of an ad hoc committee on Public Accounts. I think, Mr Speaker, that now, at this stage, it would be unpardonable if this were not done soon and, certainly, I shall say this again, perhaps, for the third year, before the next Budget. I think it is most important that the next Budget should not be taken on the basis that the last Budget was and I think that the information that can be gleaned from this Report should be followed up in, above all, Hon Members being able to deal bit by bit, piece by piece, and in detail, with the comments made by the Principal Auditor and that this knowledge should be applied in consideration of the estimates when Budget time comes. Mr Speaker, who is responsible for the comments or the state of affairs described by the Principal Auditor? I could not go the whole way with the Financial and Development Secretary when he says that he is not the keeper of the Controlling Officers. I think that the Financial and Development Secretary does have a responsibility, I would certainly agree with him that he cannot do the job of each of the Controlling Officers, but I believe in all fairness and bearing in mind the Constitutional responsibility and the Despatch to the Constitution that there is a responsibility of the Financial and Development Secretary in this matter, in the overall management of the affairs and of the economy. The Hon Mr Bossano has made a very valid point that the Auditor's comments, in fact, do affect the ability of the House to carry out its own wishes - he mentioned the family allowances and other things - because without that information the arguments of the Government cannot be tested correctly and if there is expenditure which has not come to the House at any particular point when the House is discussing other possible expenditure, then the state of the financial affairs cannot be properly judged and it is here, Mr Speaker, that I feel the Financial

and Development Secretary's responsibility extends to this point.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Leader of Opposition will give way. I think he has got himself confused because in the figures which are for revised estimates of expenditure or actual expenditure, they are what they say. It is immaterial whether all or only some of it has already been passed as the Hon Mr Bossano made perfectly clear. The figures contain money which has been spent or is expected to be spent notwithstanding that it has not been backed by legislation.

HON M. XIBERRAS:

But the performance of each Department and the need for certain monies and how much money is being spent properly or not, is still a matter beyond the ken of most Members of this House and really the real position for Hon Members to judge is not apparent until we know the state of the finances and of the performance of the departments as expressed in the Auditor's Report or complemented by the Auditor's Report. The other point, Mr Speaker, is in fact, the Financial and Development Secretary is in a dual position in this House, I say unfortunately to the extent that I think that Hon Members in this House should be able to enquire of Controlling Officers themselves about the performance of the Departments and about the Auditor's comments. The Controlling Officers should be accessible to any ad hoc committee that is set up by this House. It is so in the United Kingdom, and it should be so here, but for as long as this is not the case, I am sorry for the Financial and Development Secretary because I notice from his speech, from his address, and from previous addresses that he does not disagree with the establishing of an ad hoc committee but for as long as we are not able to approach Controlling Officers there is no-one more opposite on the other side to address in these matters than the Financial and Development Secretary. The other point is that the non-existence of an ad hoc committee to discuss such matters as Public Accounts in detail is a political responsibility, it is a matter that has been discussed in this House for a considerable amount of time and only today do I see in the Chief Minister any real hint that this may come about.

HON CHIEF MINISTER:

If the Hon Member will give way. I don't think it is fair, I told him in a straight forward answer to his Question 77 on the 3 April 1978: "Control of public expenditure is of course a matter of public importance but as I have indicated on previous occasions I am not convinced that the Public Accounts Committee is necessarily the best way of dealing with this matter in the circumstances of Gibraltar. I will invite the Hon Leader of the Opposition and others to come and discuss the matter with me at an early date and I hope as stated previously to devise a simple procedure, as a start, to identify particular departments for the examination. This could be done in connection with some aspects of the 1977/78 Budget. That is the Budget

that we are going to look in because it has to be done a year behind." So I was as sympathetic about that then as I am now. I haven't changed.

HON M XIBERRAS:

1977/78?

HON CHIEF MINISTER:

Yes, it has to be that way and next year it will be this year's. The Public Accounts Committee must go on the previous year's performance.

HON M XIBERRAS:

I stick to my words when I say any real progress because I feel that in much of this, especially after the last exchange in the House where, frankly, I was still waiting for proposals, I was still hoping that the Government would take an initiative and the Government was passing on the buck to this side of the House. The point of this, Mr Speaker, is that I do, and I am happy about it because as I say it is a vindication of Opposition policy, I do see a real intention now on the part of the Government to establish this ad hoc committee. Mr Speaker, there are a good many points which have been dealt with and I would not say that they are invalid, I think they have cumulatively created this need for a Public Accounts Committee, ad hoc as it may be.

HON J ROSSANO:

If the Hon Member will give way: I propose to vote in support of the motion because I think the Auditor's Report, in fact, requires action on the part of the Government. I wouldn't like it to be misinterpreted as support for a Public Accounts Committee which I have never supported and I still don't.

HON M XIBERRAS:

Mr Speaker, the Hon Member is of course quite right. The responsibility, ultimately, must be with the Government as it does in the United Kingdom, but in the United Kingdom of course there is a Public Accounts Committee and all the other committees and there are 630 Members of Parliament and it was precisely to this point that I was going to draw attention and that is the implications of a Public Accounts Committee. It is, undoubtedly, going to draw heavily on the time of Hon Members but I think it is unavoidable. It is undoubtedly not going to be a panacea but it is, to my mind, also undoubtedly going to be the main instrument by which this House can control or attempt to control and monitor expenditure. It will be concerned intimately with questions of detail - and how much detail there has been exposed by the Auditor - and I as Hon Members to compare the consideration which my Hon Friend, Mr Restano, has given to this Report, to some of the questions that have been made in respect of the whole Budget at the time of the expenditure estimates. I am sure Hon Members would be very much more satisfied if they were able to deal with at

least some Departments in the kind of detail which this motion has allowed. Mr Speaker, the question which the Financial and Development Secretary raised that there had been no chance for Heads of Departments to reply is a perfectly valid one. Unfortunately, we don't have this Committee but I hope that the Chief Minister, before the proceedings are out, will be able to agree, in principle, that Heads of Department should be accountable to Members of this House through an ad hoc committee. That would be a great advantage because all these things are matters of detail and the accountability must rest, in part, with the Head of Department. On the question of surcharge, certainly there is no intention on this side of the House that the Financial and Development Secretary should ask that surcharge should be exercised. I think it would be unfair on a civil service that has not been used to this corrective approach. I do not agree with him, however, that one can say straight away that there has been, let us say, irregularity. I don't think that the level at which the House and Hon Members operate at present in the questioning of the running of departments allow the Financial and Development Secretary to make such a statement.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

If the Hon Member will give way. I don't recall ever using the word irregularity. I singled out two specific types of loss which have to be written-off, one is theft and the other is loss of cash. I did not use the word irregularity.

HON M XIBERRAS:

Well Mr Speaker, it is a question I attribute to myself, a question of irregularity. I think Hon Members will agree that if, for instance, on the question of vouchers, things are as haphazard, as chaotic, as the Auditor suggests, then, certainly, we are not in a position to say that there is not either and I, for one, am not going to commit myself until we do have the means available to be able to look at these things closely. On the question of shortage of staff, I entirely agree with both the Chief Minister and the Financial and Development Secretary that of late, especially, there has been a move to try to move staff, I don't know whether it was motivated by the previous Auditor's Report or by any inkling of the present Auditor's Report, but this is most welcome, that officers should be in a position to discharge their duties and should not be unable to do so for shortage of staff. I think that the savings and the compensations by proper scrutiny of management of financial affairs will more than compensate for this in the long run. Mr Speaker, there is one final point I would like to make and that is the question of inspiration. It is true that Hon Members opposite are not responsible directly for the anomalies that might arise in various departments. They are part-time politicians as we are but, overall, Mr Speaker, there is such a thing as inspiration in Government and I think that the present Government should certainly try to get across to the civil service, which after all is now adequately compensated, should get across to the civil service as a whole and particularly to the higher echelons of the civil service, if necessary, to the Deputy Governor, that there is a

concomitant responsibility for the accounts of Gibraltar and the public is aware that the £27m being spent annually now for 25,000 or 30,000 people is a very big amount and that everybody in Gibraltar is, in fact contributing to this and therefore I ask the Chief Minister to make his views absolutely clear throughout the civil service that the House will not deny the wherewithal for the civil service to perform its proper functions but, equally, the people of Gibraltar expect high standards, especially in the upper echalon of the civil service. I have no hesitation in supporting the motion of my Hon Friend.

HON MAJOR R J PELIZA:

Mr Speaker, I cannot see what great objection the Honourable Financial Secretary had against the wording of a motion which I think he tried to find. I would like to read the motion carefully and I would like to see to what extent having heard everything that has been said and having heard my Hon Friend, Mr Gerald Restano, taking the trouble of quoting some of the, I should say some of the most serious passages of the report, whether they do agree that we should be gravely concerned with the contents of the report. I would like to know whether the Government is gravely concerned or whether they are taking this as just another ordinary report from the Auditor because from what one can read there one would have thought that any Board of Directors of any company would have wondered to what extent they had control of the funds for which they were responsible. It is not a question of responsibility for the actual managing of the funds in that ultimately it is the executive Head of the Government of Gibraltar who happens to be the Governor himself and I have no doubt that the Governor will have to read this report very carefully and the Governor will have to assess to what extent the regulations which I think that he, as Head of the Executive, must ensure are enforced. I think that that having been said, and having apportioned certain responsibility to the civil servants, whatever the category, I think there must be also within the administration of the Civil Service somebody who must be accountable for the Heads of Departments in the way that they carry out their functions, and it is no good saying that the Vote have been voted, say, to the Director of Public Works. He, in turn, has got to account to somebody else that he is carrying his functions out in the proper manner. Eventually, of course, it is up to the Auditor in a very independent and impartial manner, without fear or favour, to bring out his report which is brought to the public, because any member of the public can buy the Report for £1 and I do hope that those members of the public who are interested in finding out how the money is spent and to make sure that the money is spent in the manner that it is supposed to be spent, do purchase this Report and do read it because there is no doubt about it that there will be many people in Gibraltar who will be alarmed, certainly responsible people who know how these things should function, will be alarmed to find out the points that have been raised by the Auditor, not once but as he has stated in this report, time and time again. It is not the job of course of any Board of Directors to see that all the receipts are signed and what have you, they have their accountants and therefore the accountant is responsible to the Board to make sure that it functions, but they have an overall responsibility to take action or ignore whatever the Auditor

says. The Auditor's job is to present the situation to the Directors and the Directors are responsible to the shareholders. In some respects this is the same situation in Gibraltar except that instead of being shareholders they are tax-payers and the Directors, there is no doubt whatsoever, are the Members of the Government and to some extent representing, you might say, although they themselves also represent the shareholders, the minority shareholders of the company is the Opposition. This is why we are bringing to the notice of the Directors that we are not happy, at least in respect of the shareholders that we represent, that things are functioning in the manner that they should and we cannot, of course, go into the details as to who is responsible and who is not responsible, that is not our function but, certainly, I would say, the function of the Government, of the Directors, to make sure that whoever is responsible to see that those functions are carried out does so because they have, if not a direct constitutional responsibility they certainly have a political responsibility to the tax-payers of Gibraltar.

HON CHIEF MINISTER:

If the Hon Member will give way for one moment. He is really negating the prospects of a Public Accounts Committee, absolutely negating it, because if the idea of a Public Account Committee is that all Members of the House shall share in the investigation, then it is no use saying that only the Government is responsible.

HON MAJOR R J PELIZA:

Oh, no, I think the Hon Member is somewhat mistaken. What the Public Accounts Committee does is not auditing, it is informing itself. In fact, I am still waiting for an answer to a simple question from the Minister of Municipal Services and I still haven't got it. It was said to me that it could not be replied in this House, which I objected to because to me that was closed Government, and the Minister said it was very complicated and that he would let me have an answer in writing. I asked him to send it as soon as possible because I might take it up of the adjournment and if I don't take it up on the adjournment then I'll have to take it publicly in the press, and this is unfortunately the situation today. I put in my questions five clear days before the Meeting of the House, we have had three days since the meeting took place and I still have not had a reply to a simple question which was: "Why is it that this year in Subhead 3 of Head 6 - Fire Services the expense for running the motor vehicles and cleaning expenses had gone up by £7,500?" I would have thought that I would have been given a quick answer and I haven't got it yet. That is what a Public Accounts Committee is principally for, so that when we go back and we see that there has been a demand for quite a big rise like that the Members would look into it and find if that was absolutely justifiable or not and then in that process work back for the following year's estimates and say "No, this is not justified, we want to cut that account by that amount". The responsibility for the administration and for the running of the Government falls squarely on the Government and it is no use passing the baby to the Opposition when things are going wrong as I think, unfortunately, that this Government is in the habit of doing it and is already trying to do this even before the committee is formed.

HON CHIEF MINISTER:

I have never heard such nonsense.

MR SPEAKER:

Order.

HON MAJOR R J PELIZA:

Mr Speaker, I am surprised to see that the Hon Chief Minister is not respecting the dignity of the House. He is behaving like a clown.

MR SPEAKER:

Order. I have been very tolerant while you have been speaking for the last few minutes on matters that are not relevant to the motion before the House.

HON MAJOR R J PELIZA:

Mr Speaker, it is very important that we should find out who is responsible for the past situation.

MR SPEAKER:

Yes, and to that extent you are perfectly entitled to speak on the motion.

HON MAJOR R J PELIZA:

And then, Mr Speaker, we have got to make sure that action is taken on this occasion to prevent a similar situation facing this House next year. It is, in fact, Mr Speaker, a very serious matter. It is impossible to say, if one follows the report of the Auditor, it is impossible to say whether the money has been spent at all, if it has been spent in accordance with the decision of this House or whether the money has disappeared altogether. That is what that report is saying. That, I think, would alarm any Board of Directors in any firm. I haven't heard yet that attitude taken by the Government in which they firmly and squarely make a decision that this is not going to happen again, and that they are going to see that matters are put right. It is due to the apparent impassivity of the Government of the way that they seem to in some respects be passing the buck. This is the attitude that makes me more concerned, if I may say so, than the actual report of the Auditor. To suggest that everything is going to be put right now because they are going to have an ad hoc committee of the House, that is not the answer, Mr Speaker, it required much more than that and it requires it straight away without any delay. If I were the Chief Minister I would make sure that there was an investigation immediately so that the most important points raised in the Auditor's Report are put right if not within 24 hours at least, certainly, within 24 days. I don't see that sense of urgency at all coming from the Government. They seem to be taking it in their stride and this to me is the most serious indictment that has been made against any administration. It is much worse than the Teesdale report.

I probably will have to take the matter up publicly because it is an extremely serious matter which I think the Government must take up immediately without any hesitation whatsoever.

MR SPEAKER:

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

HON G T RESTANO:

Mr Speaker, I would like to take up the Financial and Development Secretary on some of the points that he made. He said, first of all, that he didn't think the House was the proper forum to examine the Principal Auditor's Report. I cannot agree with him at all. I think the House is the proper forum because after all it is in the House where the Government comes to ask for funds to be voted for Government expenditure and if the House afterwards is not allowed to examine in this particular forum the comments of the Auditor who looks into the expenditure to see whether those funds which have been vote by the House have been properly and correctly used, then I don't really see any other forum that the Financial and Development Secretary could suggest for this. You can have a Public Accounts Committee where there will be certain Members of the House looking at selected areas for examination but in any case I think that this House is a right forum to examine these accounts. In the same way as Ministers come at budget time and give explanations as to the expenses they intend to incur in those departments I fully appreciate that the Controlling Officers are the people who are responsible in law but of course at budget time it is the Ministers who are here to reply. Therefore I cannot agree with the Financial and Development Secretary when he says that it is not up to the Ministers in any way to comment on any points that the Principal Auditor has brought forward where it concerns their department. If, as Ministers, they are unable to comment, then I really don't know what they are doing in those departments. I take the Financial and Developments Secretary's point that the value terms of Government expenditure today, although in value term it is nearly three times the amount of what it was four years ago, in value terms it is not so much. Of course, there has been inflation over the four years but, nevertheless, even allowing for inflation there still has been quite a considerable increase in Government expenditure and all that this motion calls for is that there should be corrective measures taken in the points that the Principal Auditor has brought forward in his report 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 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 AP Montegriffo
The Hon J B Perez
The Hon A W Serfaty
The Hon H J Zammitt
The Hon J K Havers
The Hon A Collings

The following Hon Member was absent from the Chamber:

The Hon Dr R G Valarino

The motion was accordingly defeated.

HON J BOSSANO:

Mr Speaker, I beg to move that: "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". Mr Speaker this is not the first time that the House has given consideration to this matter. If one looks at the record of the Minister for Labour and Social Security in providing for senior citizens, I think one can feel encouraged to expect sympathetic treatment for this group from him and, in fact, the situation is that because of the lateness in our society with which we introduced social insurance which came much later than, for example, in the United Kingdom, because of the original condition that people above a certain income which would look very low indeed today, £500 per annum, considered at the time obviously too wealthy to require protection in their old age and because I think it took some time to convince the Government of the desirability of making insurance compulsory, I remember in the year 1972/73 when Government felt then that one was infringing the liberty of the individual by compelling him to pay social insurance, nowadays I think they are perhaps more conscious that sometimes the liberty of the individual has got to be limited and that it is politically right to do so and one has got a political mandate to do it. The Government introduced compulsory social insurance in 1975 which by European standards is very late indeed. At the time there was quite a lot of debate as to how the line was going to be drawn between those who should be allowed to join the scheme and those who should not be allowed to join the scheme and I think the Hon Member will correct me if I am wrong that basically it finished up with a situation where those who were beyond pensionable age not being given the opportunity to pay the arrears Government has attempted to protect this group by the introduction of the Elderly Persons Pension which at the moment is £5 a week. I think it is right that the Government should review the whole position now because the protection, the income, the standard of living that are going to be provided to our senior citizens covered by the Social Insurance Scheme is directly linked with the level of earnings in Gibraltar, a

measure which when the Hon Member introduced it in the House I was happy to associate myself with fully and the House will recall that I called this one of the most progressive pieces of legislation ever introduced in the House of Assembly. On social insurance, Mr Speaker, I think we can be justly proud in saying that we are probably ahead of anyone else in Western Europe, but this particular group seems to be an island and the disparity between the income that we provide them and that which others more fortunate through almost an accident of history will be getting, is likely to grow bigger. I think, therefore, that now that the House is having its last meeting before the introduction of the new wages scales, given that one of the arguments that the Government, or the employers, laid great emphasis on during the pay negotiations was the need to protect minority groups in our community with the introduction of parity, I think that it is right that the Government should review the whole position once more and see if it can do something to improve the position of this group of citizens who are themselves very conscious of what they feel to be a great injustice that has been done to them. I think that we have a particular duty to look after elderly people and I think that the degree to which we care for those who are not able to care for themselves is one of the measures by which we can judge ourselves and the community and by which we can expect others to judge us. I hope, Mr Speaker, that the motion will receive the sympathetic support of the Government benches.

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

HON A J CANEPA:

I am very grateful to the Hon Mover for the tone and the manner in which he has presented this motion to the House. I think that I regret perhaps more than anybody, given my involvement with social insurance in recent years, our inability to do something more for this group of about a 1,000 people - and I will explain why later on there are a 1,000 - to do something more than what in fact has been done. I think that I fully appreciate their sense of grievance. I think if I were to find myself in their position I would share it and unfortunately, their sense of grievance is bound to be even more increasingly felt as the level of benefits improves as it will undoubtedly do given the nature of the system now, in years to come. But before I go into the general reasons and arguments why it hasn't been possible to do something more for this group of people, I would like to take two specific points which the Hon Member made earlier on in his intervention and elaborate on them somewhat. First of all, I think it should be of interest to explain why was the earnings limit set at £500 when the Social Insurance Scheme started over twenty years ago. My understanding of this is that the advice which the Government received at the time from someone who was brought out from the United Kingdom, a Mr Parrot, who had a great deal of experience in setting up Social Insurance Schemes of our nature in other small territories, the advice that he gave the Government was that it could be expected that anyone earning over £500 a year in those days would be able primarily from his employment, because at that level in those days, it may seem strange these days when we are talking of salaries of over £10,000 for

senior civil servants, but in those days £500 was probably the salary of a fairly senior civil servant; they would be able either because of their employment or for other reasons, to make adequate provision for retirement. This I have been able to ascertain in the Department from looking at the relevant files. Also I would like to point out to the Hon Member that, in fact, the Government took the decision to make social insurance compulsory for employed persons, at any rate, in 1968. That was the time, in 1968, when the earnings limit was abolished and all employed persons from then on were made compulsorily insurable except for the ones that had already been through the net which we brought back in 1975. Insurance wasn't compulsory for everybody because the self-employed were still outside the scheme and we made the self-employed insurable in 1975 as well. The matter, Mr Speaker, has been kept under constant review in the last years, in fact, going back beyond my time in office, going back to 1971 when the Hon Leader of the Opposition was himself Minister for Labour and Social Security. I think that it was then in 1971, from the records that I have been able to look up, that the question of giving an opportunity to people who in the past were unable to contribute to the scheme for a variety of reasons, the question was first raised publicly and the Government received representations to that effect and I have got here the relevant file which, as I say, goes back to 1971. I have myself kept the matter under constant review as a result of representations which I have received from members of the public and from the Pensioners' Association as a result of the matter being raised here in the House and not just myself, naturally, but I have also involved my advisers in the Department. But the sad reality is, Mr Speaker, that the more that we review the position the more reasons we find we find against the suggestion allowing persons in all equity who are already over the age of 65 to pay arrears, as it were, one week and the following week to be able to receive the old age pension. I will come back to that later on. As the Hon Mr Bossano has said, the Elderly Persons Pension was a small attempt to meet this situation, a not entirely successful one, of course, because the amount involved in the elderly persons pension is small by comparison to the social insurance pension. But, of course, people who are suffering hardship or who have small income, there is always supplementary benefits which at the moment is pretty well at the level of an old age pension so no-one is worse off, in fact, usually slightly better off because anybody who is on supplementary benefits automatically is on full rent relief which as from next week may be substantial and therefore, if anything, they are rather better off than persons who may only have an old age pension. The elderly persons pension was meant to be a gesture by Government to try to meet their cases up to a point because, primarily, we could not find our way to make provisions for them by other means. I am glad to note from the wording of the motion that there is an awareness on the part of the Hon Mr Bossano that the people that we are talking about are not necessarily destitute. He does say in his motion, at the end, "with a view to providing them with an improved income" and I have taken that to mean not just an improved income because he knows that they are receiving an elderly persons pension, but because I know that he must be aware that the majority of the people that we are talking about are in receipt of employers' pension, in many cases very substantial employers' pensions. I would like to dispel one notion straight away, that sympathetic as I am to the principles, to the

views and to the grievances of the people concerned, I do not think that we are dealing with hardship in this case, we are not talking of people who are suffering hardship, we are talking of people who naturally would be far better off if they were able to collect £22.50 a week tax free, that naturally I recognise and who as they see others benefitting from these improvements as I have said naturally feel aggrieved, but that I think is the kind of thing that happens with any social insurance scheme the moment that a dividing line has to be drawn somewhere as it inevitably has. I think that it would also be correct to say, Mr Speaker, that back in 1955 when the social insurance scheme started, few people were really interested in contributing to social insurance. There was an attitude at the time which I think we have had until very recently, one has seen, that it wasn't worthwhile. Obviously the benefits were very low, it is difficult to judge how low they were by comparison to wages and incomes but I have detected this not just with respect to social insurance but also, for instance, with respect to the Widows and Orphans Pension Scheme which the Government runs. There seems to be a reluctance on the part of Government employees to pay 1½% or 2% contribution out of their salaries to make provision for the widow and make provision for the children. I have had the sad experience in recent years of coming across more than one case where a perfectly good husband and a perfectly good father has neglected to make adequate provision in this respect inexplicably. I know of a very sad case of a Government officer who didn't contribute to the Widows and Orphans Pension Scheme, who in 1975 when we gave them the opportunity to come back and pay a mere £200 in arrears neglected to do so and sadly he died in 1976 leaving his wife destitute, leaving his wife virtually without a penny so that the lady has had to apply for supplementary benefits. This is something that I have come across constantly. It is only in recent years, as people have become aware of the importance of social insurance, it is only as they approach the age of 65, perhaps, that people become increasingly aware of the need to make provision for this, I have received representations from, for instance, the Taxi Association precisely to make it possible for their members who are self-employed to pay arrears and I have had two relatively young taxi drivers aged 40 or so coming to the Department and wishing to be excused from the obligation of paying and when I have told them whether they don't realise that they should be making adequate provision for their family for the future, they have virtually laughed in my face because they just weren't interested, they didn't care, there were still young and active and they could not foresee the day when they might be old or when they might die and leave their family destitute. We still haven't gone all the way in this community in making younger people fully aware of their obligation. I believe that it is true to say that there was a time, certainly before my time in the House, when the unions were against any increases in contribution and therefore benefits could not be improved for very many years and I have no doubt Mr Speaker, that unfortunately many of the people that we are talking about weren't sufficiently interested in 1955. The Government in 1968, before my time, gave an opportunity to people to come back into insurance and pay arrears. In those days it was a mere matter of some £30 and a handful came back into insurance in those days and the fact also is, Mr Speaker, that when persons reached the earnings limit of £500 if they had been previously contributing they could continue to contribute as voluntary contributors and the department

used to put a slip of paper into peoples pay packets the month that they had gone over the £500 limit bringing to their attention the fact that they could pay as voluntary contributors and again only a handful did so and that is why we have this problem today. The matter, as I say, has been kept under constant review, we have looked at it very exhaustively. The Hon Mr Xiberras asked me a question on the subject or rather arising from a question that he put in November 1977 in a supplementary to the question he raised this matter and I quote, Mr Speaker: "Has the Hon Member given consideration to making possible the payment of a full social insurance contribution for those persons who are in employment and over the age?" I replied: "Over the age of 65 I take it. Yes, more than once because I have had representations about this over the years ever since I took office and I am aware that even in the time when my Hon friend was Minister for Labour and Social Security, there were a number of people making representations to that effect. Were that to be done it would go against all the principles of social insurance that I am aware of. I do not understand that in any part of the world people continue to pay social insurance contributions after pensionable age." What I meant by this being against the principles of social insurance was this, Mr Speaker. What the proposal would amount to is that persons who are now over the age of 65 should be allowed to pay arrears, and I have had two versions, either arrears that would be computed up to the time that they reached the age of 65 or, perhaps, arrears even up to their present age which means that between the age of 65 and their present age they would be contributing as well in return for being allowed to derive a full pension. What would happen therefore is that depending on the individual's age, depending on whether he has in fact in the past contributed, because he may have contributed for a while, an individual might have to pay a maximum of £250 in arrears and he would have to pay it naturally in one lump sum. That would entitle him the following week to receive now £22.50 a week in the case of a couple and as from next January £30. In the space of 12 weeks he will have recovered what he has paid by way of arrears. I don't think, Mr Speaker, that that is just when there are people paying social insurance contributions through a life time and making weekly contributions which helps the Social Insurance Fund to build up and to accumulate. There are, Mr Speaker, a number of persons who have got gaps in their contributions record, who at various times in their working life time have not been able to contribute fully. If we allow persons who are now over 65 to pay arrears, why shouldn't we allow every insured person who has had a gap in his contribution record, at the time when he reaches the age of 65, to make good that gap in order to derive full benefit? Many of the reasons why I consider it impossible to agree to this proposal I gave in a letter, one of five or six letters that I have written - I have had a great deal of correspondence with this gentleman over the years - in a letter in reply to one that I received from a gentleman with whom I also then discussed the matter exhaustively in my office and I said: "I have considered further the points which you made and discussed them with the officers concerned in this Department and I have come to the conclusion, reluctantly, let me add, because I appreciate your sense of grievance on this issue, that it would be extremely unwise to adopt your suggestion of allowing those who were excluded from the Social

Insurance Scheme on its inception in 1965 and who have already reached pensionable age, to pay the contributions which they would have paid up to reaching that age if they had not been excluded in order to acquire entitlement to pension forthwith. In a scheme of this nature particularly one which evolved considerably over the 20 years since it was first introduced, it is well nigh impossible to avoid coming up against hard luck cases such as yours. Let me add that even within those classes which have recently been brought compulsorily into insurance on what could be described as particularly favourable conditions, there still exists some who feel that they should have been even better dealt with in several ways. In the course of our meetings we were able to identify other cases that are very likely to arise as a direct consequence of acceding to your representation. Since then it has occurred to us that the following, for example, would justifiably press to be allowed to make good all arrears back to 1955. (a) persons who elected to pay arrears in 1975 but who could not do so fully because arrears could only be paid back to when they last ceased to be insured - when we gave an opportunity, Mr Speaker, to people who were compulsorily brought back into insurance in 1975 to pay arrears, they were only able to do so to the date on which they were employed. In other words, if there was a previous gap in their contribution records they could not make it good. If we were to open the way now for these people to come into the scheme and pay arrears, in all equity we would have to reopen what we did in 1975. Also persons now drawing retirement pension who would no doubt also wish to pay arrears and as a result of the lowering of the first contribution condition, this is when we lowered it from 500 contributions to 156, acquire entitlement to old age pension. There are nearly a 100 persons getting retirement pensions out of revenue, not out of the Social Insurance Scheme, because they were already too old in 1955 to attain 500 contributions. The Government gave them this opportunity to get a retirement pension but the retirement pension is a reduced pension, it is slightly less than the old age pension. I think that instead of £22.50p for a couple it is £18 or so. Well, in equity, we would also have to allow these people, because the scheme started in 1955 and they were already too old, to somehow pay back a little bit further to acquire entitlement to old age pensions. I am afraid therefore - I had to conclude - that I cannot see my way to accepting your proposals but I can assure you that I very much appreciate the deep interest that you have taken in the matter and the very cogent way in which you have put forward your point." This was in February 1976. When the Hon Mr Xiberras raised the matter again in supplementaries which I have quoted, I asked the Social Insurance Officer to review the matter and in addition to these two reasons that I have just quoted from my letter, he had used one other reason, perhaps, two. Persons who are now drawing a reduced old age pension would also quite justifiably, particularly if the gaps in their insurance records were due to a period when they were exempted because of the then £500 limitation, want to pay arrears in order to enable them to become entitled to the full pension. I do not know how many persons there must be who are not getting a full old age pension who are getting a reduced pension for a number of reasons. If you are going to allow people who are already over pensionable age as they are, who are not getting a pension, to derive entitlement, why shouldn't you open the way up for those

who are getting a reduced pension to pay some element of arrears in respect of contributions which are missing from their record and thereby get full entitlement? At the time, there were some people who had been exempted in 1955 but because of amendments that we had had in 1975 when we reduced the first contribution to 156 could, if they so wished, re-open the whole matter merely by paying £18.20p of arrears which would take them up to 156 contributions and they could be entitled to a weekly pension of £11 for a married couple. As I say, Mr Speaker, the more that one thinks about this the more reasons which one finds and which make one reluctant to go along with the proposal. This morning I was thinking about the matter again and there is another category of person. Amongst the one thousand or so of persons on Elderly Persons Pension there are a number of widows. If we allow persons over 65 who are now getting Elderly Persons Pension to pay arrears and get an old age pension, if we allow men, what do we do about widows whose husbands have died in the last four years since we started paying Elderly Persons Pension, because had we been able to do something for these people in the last four years their husbands being alive would have been able to exercise the option, pay arrears, gain entitlement and pass it on to their widows. This is why, as I say, Mr Speaker, no matter how sympathetic one is, no matter how concerned; and I share it fully, I cannot honestly find the way to do something beyond what we have done. I would clearly welcome concrete ideas which might enable one, in all justice, to do something but I am sorry that it isn't just enough to bring a well intentioned motion to the House and to be urged to review the matter, either by the Hon Mr Bossano or the Hon Mr Xiberras who may intervene in a moment or Major Peliza or anybody else. Urging me, I am sorry to say, is quite unnecessary because it is something that I have very much in mind and the people affected, let me tell you, do not let me forget it. I am stopped very often in the street by affected parties, moreso every time that there is an announcement of improvement in pensions, who urge me whether something can be done for them, so the matter is under constant review. I don't know if from what I have said any Hon members feel that they could put their thinking caps on and, perhaps, come up with something that I haven't been able to discover. Perhaps, one is not sufficiently detached from this, one is too involved, but I cannot find my way in all honesty and justice to do something and it is something which we have been going over ad nauseam over the years. I would like to end on this note, Mr Speaker, to quote the last paragraph that I wrote in a letter in June 1976 to someone who was making representations on this subject and I quote. I said: "I can more than understand that you naturally nurture a grievance against what you consider to be an injustice. I cannot pretend, however, that I know how to solve the problem other than in a manner which I could not, in all conscience, consider to be morally just." And this is the crux of the matter, Mr Speaker, I cannot in all conscience consider that it would be right to have these people pay arrears even if it was in a lump sum because the money could be borrowed and it would be worthwhile to borrow it, in the knowledge that the following week they can get, if not £22.50, if it is not a couple at least £14.50 a week if it is a single person, in the knowledge that they are going to get that money and recoup what they have paid in arrears in a matter of a few

weeks. In some cases they feel aggrieved because persons who were on the right side of 65 by only perhaps a year or a few months profitted. That is the penalty, I think, that we have to pay when an improvement is brought in at a certain given moment in time and those who are in the net benefit others do not. I am sorry, Mr Speaker, that I sincerely regret that I cannot be more positive than what I have been. I share the concern, I wish I were to wake up one morning or perhaps later on when I am shaving which is when my mind seems to work better, and come up with an idea that would meet the situation, satisfy the requirement of the matter and I would dearly love to be able to bring legislation to the House to that effect but I don't think that it is going to be possible.

HON M XIBERRAS:

Mr Speaker, as the Hon Minister for Labour has said, this is a subject on which I have questioned him from time to time or subjects allied to them and as I have told the Hon Mover of the motion, Mr Bossano, it was my intention to bring a motion couched in wider terms, in fact, than the one at present before the House. To explain this may I remind the House that both in the Budget debate and in the words of welcome to the Governor as well as in a specific letter to the Pensioners Association whose general meeting was at the end of last month, I expressed concern that the general economic standards which Gibraltar now gives or affords for its working population should not be lost in the case of the older generation. I feel, Mr Speaker, that the Minister for Labour is in a perfectly understandable dilemma and his dilemma is that operating within the rules as they are at present he finds it very difficult to deal equitably with one group of pensioners, putting the matter loosely, and leaving out others that may have a claim that is just as good. I would suggest to the Minister of Labour that he is not going to arrive at a solution within the limitations of the present concepts and rules of social insurance and that his moral dilemma extends rather beyond those persons who are at present eligible or almost eligible for benefits under social insurance legislation. I would urge the Minister for Labour to look at the matter in the perspective that the standards of today, especially in this parity age, are very different from the standards of yesterday, the standards according to which people elected or did not elect to pay social insurance at that particular time and that a £500 ceiling at that time was barely comparable or impossible to compare with present standards. Therefore, the dilemma that the older generation is facing is a dilemma of very rapid change in a small community which has isolated pockets in every direction. The Minister has mentioned all sorts of factors which have a bearing on this, the Elderly Persons Pension, supplementary benefits, the question of arrears, the question of half pensioners, the question, I would add, of taxation of pensions, all these things have a bearing on the older generation and the grievance that many of these older generation have is that they were living in a completely different world when these decisions had to be taken by themselves. I support the motion, I support it entirely but I understand completely the Minister's problem and I have not pressed the Minister unduly on this. I, too, would like to say as the Hon Mr Bossano has said, that I entirely accept the work that the Minister has done in regard to this and also his

good faith, his good intentions in respect of the future. What I would ask for is a broader review of the pensions situation. May I illustrate this in connection with a general point. As I understand it the Social Insurance Fund is composed of contributions from employers and employees and the Government contributes not directly to the payment of social insurance pensions as such, they are the non-contributory social pensions. In France, I believe, and in the UK there is a more massive contribution of Government funds. I know that this is rather much to take in connection with a motion of this kind but I am just broaching these ideas to the Minister because I can see that he is in difficulty and I can see that he would like to help the older generation as such. What I said to the Pensioners Association was that I would be approaching the Minister for Labour shortly with proposals for a review of the general situation of older people in Gibraltar with a view to up-dating them to the changes that have taken place and to the changes that might take place in the future as a result of the introduction of new standards of wages and so forth. Perhaps it would not be possible to meet the aspirations of each of those groups which the Minister has alluded to and which the mover of the motion is talking about but I would say that a sine qua non of any success in this direction must be an enlargement of the vision and perhaps a decision that there is a responsibility to the older generation as a whole which by far outweighs the responsibility that the Minister has to individual contributors, a favourite argument of the Minister, namely, that it would be unfair to people who have paid the full whack which they need to qualify for a full pension, that it would be unfair to pay them that in view that others have not contributed as much in the past. To my mind, this is a lesser moral consideration and it is not a moral consideration that applies equally in all cases, for instance, in the question of those people who were given notice to pay arrears of pensions and failed to do so as compared to the 500 ceiling kind of problem. Those two considerations are completely different to my mind, one may have been out of laxity the other out of the law imposed by the Government at that particular time. It may be possible to help one or the other or both but he will not be able to do it if he sticks to those rules that are accepted in Social Insurance today, I would suggest to him that one big decision to go for parity implies another big decision, that, to help the older generation as a whole and to try to eliminate those pockets where, perhaps, there is not hardship, not in all of them, but where there is a sense of grievance of an age that gave of its best and is not getting the rewards, in the long term, of its efforts. I am going to support the motion, I am going to ask the Minister to consider representations for a method of dealing with a number of these problems which I shall be making to him by letter and I hope that he will see me and discuss my ideas with me.

MR SPEAKER:

I will now call on the mover to reply.

HON J BOSSANO:

Mr Speaker, I deliberately phrased my motion in such a way that, in fact, I was limiting myself to asking the Government to take

another look at the situation and leaving it to their judgement as to what was needed in terms of providing an improved income and as to what constituted an improved income. I did it in that fashion because I am conscious of the arguments that the Minister for Labour has put and I am conscious of the fact that he has proved by his action in improving social insurance pensions that he is concerned with providing an adequate standard of living for senior citizens. I did not want to put a motion on the Order Paper that he would be unable to accept because he might feel that it constrained him to a particular course of action. I had hoped that with the motion phrased in the manner it was it would be possible for him to support it. I commend the motion to the House.

HON A J CANEPA:

Mr Speaker, on a point of order, if I may. In view of the clarification which the Hon Mover has made in exercising his right of reply, I think that I ought to explain that we find ourselves able to accept this motion on the Government's side with the reservation of the point that he has made on the one hand and also on the understanding that I am naturally only too happy to receive representations from the Hon Leader of the Opposition which I will look at very, very deeply and also anything further which the Hon Mover may wish to bring to my attention as a result of this debate without any commitment. I would hate if the people concerned were to misinterpret that and feel that they are being let up the garden path because that is one thing that I will never do, I will not lead anybody up the garden path or give them false expectations.

MR SPEAKER:

I am afraid that I cannot open the debate again so we will now take a vote.

HON A J CANEPA:

We would prefer to abstain.

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 abstained:

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 Zammit
The Hon J K Havers
The Hon A Collings

The motion was accordingly passed.

HON CHIEF MINISTER:

Mr Speaker, I beg to move the adjournment of the House. I know that there are two notices for a debate on the Adjournment. I think this would be the best time in which to draw the attention of the House that this will be the last time that the Hon John Havers will be sitting with us as Attorney-General as he is due to leave Gibraltar some time in August by which time we shall not, I can assure Members, unless we have a national emergency, be meeting. I would like on behalf certainly of the Government and I hope also on behalf of the Opposition, to thank the Attorney-General for his help to the House at all times, for his sincere attempts at meeting people's points, for his dry sense of humour, for his betting qualities and for his friendship and for the work that he has done for the House and to wish him well in his new venture.

HON M XIBERRAS:

Mr Speaker, it is not that I am going to disassociate myself from what the Chief Minister has said on this occasion but I would like, on the basis of a personal friendship which I have very much enjoyed with the Hon and Learned Member, say a few words both on my own behalf and, I am sure, on behalf of my colleagues in Opposition. I have not had sufficient notice to say these things in Latin and my Latin is rather rusty, but the Hon and Learned Member knows that we have enjoyed the exchange of latinisms on many an occasion. I was going to quote a poem in Latin but I think I have done that before and Hon Members are no doubt eager to move on. However, I think that from a professional level we all admire the constancy of the Hon and Learned Member. We have enjoyed his humour in the House and away from it, we have lost, perhaps, some small bets here and there to him because of his great knowledge of the subjects on which he was betting and, on another level, I have enjoyed watching him on the cricket field now and again and I wish both himself on behalf of all of us, and his lady wife, all the best in his new appointment.

HON ATTORNEY GENERAL:

Mr Speaker, Chief Minister, Leader of the Opposition. I am very grateful for the very kind things that have been said. There has been no reference or mention of Mr Packer or even a question of "we are giving you a free transfer". I, too, have very much enjoyed in this House working with all Members, I won't say working with Members on the other side, but debating with them, listening to their points and trying to do the best of my ability to guide the House, not always entirely correctly I feel, but that was out of mistakes not out of dishonesty, and the six years I have been here have given me great enjoyment and a great sense of fulfilment. Thank you.

MR SPEAKER:

It gives me great pleasure to associate myself with the words of appreciation and good wishes which have just been expressed both by the Chief Minister and the Leader of the Opposition. John Havers, or more formally the Hon and Learned Attorney-General, has been with us since the 5 October 1972, when he attended his first meeting of the House. He has at all times contributed to the debates and to the work of the House in a manner which I feel sure all Members will agree with me has won the respect of all of us. I am sure that Gibraltar's loss will be Cyprus' gain and I wish you and your wife all the very best for the future.

HON ATTORNEY GENERAL:

If I could add just one postscript. I shall be coming back. I have a bet maturing on the 15 December, 1990, when I shall be very pleased to see my Hon Friend the Minister for Medical and Health Services reaching the age of 70 and I shall collect 10 pence off him.

MR SPEAKER:

I will now propose the question which is that this House do now adjourn sine die and in so doing I will call on the Hon Mr Bossano who has given notice that he wishes to raise on the Adjournment the question of the inadequacy of the premises of the temporary Varyl Begg Primary School.

HON J BOSSANO:

Mr Speaker, actually I wanted first to make a statement of personal explanation.

MR SPEAKER:

If you want to make a statement of personal explanation you are most certainly free to do so now.

HON J BOSSANO:

I thought it was appropriate that I should make my statement of personal explanation before the motion on the housing question because I feel that if the House is going to debate on the adjournment the question of the housing it should do so in full possession of the facts and not be misled by anything I may have said earlier on in the course of the meeting when I withdrew what I had said regarding the supposed cheque that the Hon Minister for Housing, I alleged, had signed and in withdrawing it I think the Hon and Learned Chief Minister suggested that my withdrawal was not unreserved. He was quite correct in saying this because in fact I had no doubt in my own mind that my information was correct. Had I doubted the correctness of the information with which I had been provided I would not have mentioned the fact. I am in a position to inform the House that I have checked my facts with my source, the person who provided me with the information had a meeting with me and the Hon Mr Zammit and in fact there is no substance at all in it, the cheque in question was not signed by the Hon Member it just

happens that he shares his name with a number of other people in Gibraltar, and I therefore would like the House to know that I am withdrawing my statement completely and without reservation.

MR SPEAKER:

Let there be no misunderstanding about this. Insofar as the Chair is concerned your withdrawal was unconditional. I think any Member is entitled to be dissatisfied or satisfied with the way that a Member withdraws and is entitled therefore to reserve his position and to take whatever action he thinks fit and I think the Chief Minister being dissatisfied at the way the withdrawal was made gave notice of his intention to hold an Inquiry but I think that in fairness to everyone it should be said that as far as the Chair is concerned the statement was withdrawn unconditionally.

HON J BOSSANO:

As far as I am concerned the Hon and Learned Member is free to hold as many Inquiries as he likes but I would like to make it perfectly clear that if I gave the impression that there were any reservations in my withdrawal before then I want to make quite clear that I am making it a point of giving the impression now that there are no reservations in my withdrawal and I would like to particularly reassure the Hon the Minister for Housing that there was no intent in personal animosity or anything of that nature in the statements that I make. I always try to make a point, even if I do not always succeed, of sticking to facts and not involving myself in personal invective and I would like to reassure him that there is nothing personal or any animosity towards him in this matter.

HON CHIEF MINISTER:

As you said, Mr Speaker, one has got to judge the situation and whether one withdraws because one is asked to withdraw because it is untenable but one has got reservations, it is a question of judgement. I am glad that for once my judgement was right that he withdrew because he had to withdraw because he had said something whether it was true or not that he should not have said. Having regard to the Hon Member's quite frank and honest re-appraisal of the situation there arises no question at all of any Inquiry. The Inquiry was to establish whether, in fact, the allegation that had been made, with or without his reserved withdrawal, was fair or not. Now that he has done that I think it is the best of possible solutions. We do get heated up and nothing gets more heated than the housing problem. I saw the Hon Member and the Minister for Housing speaking on the matter in the Ante Room and nothing pleased me more until now to hear this and I am very happy to say that I shall not have to bother with yet another Inquiry.

HON H J ZAMMITT:

Mr Speaker, it is undoubtedly with great pleasure that I am able to stand here and thank the Hon Mr Bossano. It is not that I say that I am pleased because he has withdrawn, it is because I think that in a small place like Gibraltar where allegations are very quickly made and difficult to substantiate,

he has been man enough to explain to me in detail exactly how he has been tricked and I am convinced that he was misled, I am not saying maliciously or otherwise, but somebody along the road with mal-intention persuaded the Hon Mr Bossano to come along and make this allegation. Quite honestly, Sir, when this question came up and I was asked about wall-paper and a cheque.....

MR SPEAKER:

Let us not go into the circumstances. If you wish to speak on the fact that the Hon Mr Bossano has stood up to give an explanation and apologies you are free to do so but let us not under any circumstances reopen the issue.

HON H J ZAMMITT:

Mr Speaker, I do not intend to go into detail or to give the House any explanation. What I think I am entitled to do is that there is in Gibraltar.....

MR SPEAKER:

I will not allow this under any circumstances. Even now I am bending the Rules. You are free to speak about the attitude taken by the Hon Mr Bossano. If you feel that an Inquiry should be held that is another matter but we are not going to use this as a forum for that. I cannot allow that.

HON H J ZAMMITT:

Mr Speaker, an accusation has been made against me either of giving a cheque.....

MR SPEAKER:

I am afraid I cannot allow you to continue in that vein.

HON H J ZAMMITT:

Then I am saying no more.

MR SPEAKER:

That is your prerogative.

HON H J ZAMMITT:

Mr Speaker. I think that I am entitled at least to defend myself in the House.

MR SPEAKER:

Not at this particular stage of the proceedings, with due respect.

HON CHIEF MINISTER:

The point is the Hon Member does not realise that he has nothing to defend himself about because nothing has been said against him in this House now that the matter has been satisfactorily cleared.

HON H J ZAMMITT:

That I agree with fully, Mr Speaker, that nothing has been said in this House it having been withdrawn, but I am elected by my constituents and by the people of Gibraltar who will not have a clear record that there was no such cheque signed by me at all. The rumours are that I have given a cheque or taken a cheque or God knows what and I think that I am entitled, as other people are entitled, to explain.

MR SPEAKER:

I will not allow that attitude and I will call you to order. I now call on the Hon Mr Bossano to raise the question of the inadequacy of the premises of the temporary Varyl Begg Primary School.

HON J BOSSANO:

Mr Speaker, the matter which I gave notice to raise on the adjournment concerns the facilities of the Varyl Begg Primary School, the one we have at the moment, and in fact the Chair will recall that in the course of my question I had omitted to take into account that the Minister for Public Works now only has one hat. I was about to ask him for an explanation on the existing facilities in his other hat when I was stopped because he does not now have the other hat. I would like to give the Minister who wears the hat for Education now an opportunity to say something on the subject. I can say that the non-materialisation from his Colleague's quarter of a proper Primary School for Varyl Begg is something which has put a great strain on the teaching staff who have to copy with very inferior facilities in that area and who have nonetheless done a magnificent job. I have to declare an interest in this matter because I have got a six year old and a seven year old already there and they will shortly be joined by a four and a half year old so I have intimate experience as a parent of the good work that is being done and of the difficult conditions under which it is being done. The residents of the Estate, knowing that there was no indication that work was starting on the permanent building for the permanent Primary School, have been getting more agitated about what is going to happen with this year's intake as time has gone on and until recently everyone was under the impression that the Supermarket site on the Estate which has been dormant ever since the Estate was occupied was, in fact, going to be made available to the Education Department and would constitute an improvement on the existing facilities in the interim period until the permanent school was made available. It appears that this is no longer certain and if, in fact, a final decision has not yet been taken on this matter, I would like the Minister to re-assure the House and through the House the parents of the children at the Varyl Begg Primary School that the Government will give further thought that they will take a second look at the possibility of allocating that site for the school and that they will do it as a matter of urgency so that work can start sufficiently soon to allow the premises to be in a state fit to be used as a school or as part of a school in September. We are now at end of June and there is really a very short time within which to get the specifications done and the work out and completed in time although, of course, the buildings are there already and the amount of work that needs to be done is not of a major nature. I would like to hear the Government's view on this and I would like to stress that even with a supermarket site, in fact, the buildings are still not what they should be because we made use of an ex-contractor's office, of a nursery school and now the supermarket, to make do for a Primary School that should have been built a very long time ago. I have no doubt at all that people were expecting this site to

be made available, that the staff were confident that they could make do, that they could conduct their job as reasonably well as they have been doing in the past if this was made available to them and I have no doubt either that the parents of the estate having done without a supermarket for so long would quite willingly do without a supermarket for a year or two more if it is for the benefit of the education of the young children whom I must stress in my view are at their most critical learning stage when they enter the Primary School. It is an area where we must not in fact, in my view, Mr Speaker, in any way be stingy in the facilities we provide in this field of education because the impact that is made on the child when he enters the educational system can have a tremendous influence on his progress for the rest of his school life.

HON MAJOR E J DELLIPIANI:

Mr Speaker, I welcome the Hon Mr Bossano's motion on the adjournment giving me an opportunity to explain that I have been in the process during the last month of trying to visit as many of the schools as possible before the summer term is over and one of the schools I went to see was the Primary School at Varyl Begg where they are working under very difficult conditions separated from one block to the other and I was not very confident that whatever facilities would be included for the future enrolment of the children for this coming term was suitable. I have consulted with my colleagues in the Council of Ministers and the enrolment figures are going up and up and up. Government has not made a final decision on not allocating the supermarket. We are meeting specially to discuss the whole question because of the excessive enrolment which we had not accounted for and I will assure the Hon Mr Bossano that the thing is very much in my heart, that I want to have a good Department and I obviously want the best for my Department and I will try and convince my colleagues, if they need convincing, that we should have a supermarket.

MR SPEAKER:

I will now call on the Hon the Leader of the Opposition who also gave notice that he wished to raise on the adjournment the replies of the Minister for Housing to questions involving housing allocations.

HON M XIBERRAS:

Thank you, Mr Speaker. There were a number of questions on housing as the House knows. The Minister of Housing replied on these and the answers to some of them, and they covered a pretty broad range, were not to our mind in the Opposition, entirely satisfactory. In fact, some of them gave grounds for concern. I should start by saying that the Hon Member knows that I made a personal pledge to him in the circumstances of his taking office that for as long as I considered that the allocations were being made in a manner which I considered to be according to accepted rules, then I would not take advantage of the undoubtedly difficult position in which he is in, and this words were in fact made public in a communique of the Party I belonged to then. The housing situation has undoubtedly been at a critical point for a very long time. Hon members will

know that we have been extremely critical of the development side of the present Government and we have been for long quite sympathetic to the plight which the Hon Member found himself in. Undoubtedly, he is working under considerable strain because fundamentally the demand for housing has increased whereas the number of dwellings available to the Minister and to his Department, including the Committee for allocation, has proportionately diminished and now he is left with barely any new houses to allocate, I would say none, and he has a number of houses to allocate in respect of modernisation. The Minister, in these circumstances, has I am afraid began, in our view, to deviate somewhat from his original attitude. In part I attribute it to the strain under which he is working, in part I attribute it to the development programme but the position has been reached where we must, even at this late hour and not in a substantial motion before the House but in this enlarged questioning, if I may put it this way, we must bring certain matters to his notice. The first is quite clear, that any case that we consider does not correspond to stated and accepted methods of housing allocation will come in for very severe criticism from this side of the House and we will criticise because whereas we appreciate the position of the Minister and his Department, we also have to appreciate the position of our constituents on the housing list and realise, and make the Minister realise, that the non-availability of houses imposes a great strain on the applicants also and not just on the Minister and the applicants have fewer chances now of getting a decent home and they see more and more people coming on to the housing list and many of them, many of the present applicants, or the erstwhile applicants, being overtaken very rapidly by newer applicants, so much so that people who were on the borderline of receiving a house at the operative date, September 1976, within 10 points, and I have many cases to quote, have now absolutely no chance of getting a house, I would say, in the next four years. This is an intolerable situation for many families who have been on the housing list for many years. The least that these families can expect is that they be treated fairly within the available number of dwellings to be allocated, this is very least, and that there should be no queue jumping and no bending of the rules. Mr Speaker, the Minister made certain statements at Budget time also which have a bearing on this. He made in fact three statements, each successive statement amending the previous one. At first he said that the pointage list had been frozen, then he corrected this to allow some movement and then he allowed greater movement, in other words, greater possibility that the people who would qualify on pointage would get a house in respect of modernised dwellings. The importance of this is absolutely central because all the houses the Minister has to allocate are, in fact, at present houses coming from modernisation and therefore, theoretically, if one accepted his first statement, only those people whose houses were going to be modernised, living in an area that was going to be modernised, would stand a chance after Varyl Begg of obtaining a house and then, according to the Minister's first statement, even if you had five hundred points if you lived in another part of town you would not be able to qualify on pointage. I still don't know to what extent the modification or the amendment that the Minister made to his statement can be quantified. I would like to see percentages stated by the Minister, so many for pointage; wherever you

live, so many for moving around in this process of modernisation. Mr Speaker, the other important thing is that the Minister now can allocate all pre-war houses and he has made a statement himself to this effect, that the Minister reserves to himself the right to allocate himself by ministerial discretion and without reference to the Housing Allocation Committee and the Housing Advisory Committee, all pre-war houses and it so happens because of the delays at Varyl Begg and because of the great delays in the construction programme in the case of new houses, that this now forms a big proportion, if not almost the entirety, of the allocation available to the Minister and therefore it is reasonable to ask the Minister in this period of time before other new housing comes into the market, as it were, and available to the Housing Department that he specifies the rules under which his ministerial allocations are going to be made and that he involves the Housing Allocation Committee and the Housing Advisory Committee in those decisions so that his decision is not regarded as arbitrary. I hope the Minister will be able to give assurances in that respect and to give them early, Mr Speaker, because otherwise the wave of angry applicants on top of him is going to be mammoth and he knows that already he is in difficulty in interviews and even seeing people because he has nothing to tell them. Mr Speaker, some of the movements in relation to modernisation have been justified under the umbrella of transfers and I would say as we heard in reply to two questions on the Order Paper in this session, in the case of number 45 Archbishop Amigo House, in this case there was an allocation made by the Minister, that is, from a post-war house occupied by Major Dellipiani at the time, from Moorish Castle Estate to an empty house 45, Archbishop Amigo House, without reference to either the Housing Allocation Committee or the Housing Advisory Committee. I did not know this at the time of the question but I am informed that the Housing Allocation Committee interprets this as a transfer to post-war accommodation and therefore it is their prerogative to allocate this particular house. This is what I understand from a reliable source: If this is not the case the Minister should state it and should make it clear to the Housing Allocation Committee and to this House that this is not regarded by him as being an allocation. I know that the Housing Allocation Committee considers "musical chairs", where people are moved to allow for the decanting of premises to be modernised and there have been many cases, I am told, where the Housing Allocation Committee has been consulted on these matters but, apparently, not in the case of the allocation of Number 45, Archbishop Amigo House. Apart from that, there is the question of Mr Morello where there was an indication given by Mr Morello that he had a much prior interest than the Minister admitted to me in that particular house. At this point I would limit myself in respect to Mr Morello to ask the Minister again for an assurance that my representation of the case of Mr Morello is not going to prejudice his position and his desire to get adequate accommodation. I ask him to give this assurance again because this is a matter which is fundamental to the raising of issues in this House, especially in a small place like Gibraltar. Mr Speaker, the case of the Savignon family is, to my mind, an even more serious one if I may say so because here there was a transfer arranged when the Housing Unit knew perfectly well that the Savignon family would not be able to occupy it physically for any length of time

beyond, I don't know, they would have two houses, in fact, at the time, the dwelling occupied by the Mauros in Lower Castle Road because proceedings had already been started with the consent of the Housing Allocation Committee to recoup the flat in Brother O'Brien House which the Savignons occupied. Therefore that transfer was, to my mind, indisputably a fake transfer according to any kind of rules any kind of criteria accepted either in this House as it is informed by the Housing Allocation Committee or the Housing Advisory Committee. This, to my mind, requires further investigation because the Department had already given the Savignons a firm and clear assurance that they would be reprovided with a dwelling if their tied house which the Savignons had acquired in the new job that Mr Savignon was taking up, if that house proved unsatisfactory or if the job was not pleasing to him. Here, Mr Speaker, is undoubtedly the case of the transfer used to accommodate one applicant in preference, perhaps, to another without reference to the Housing Allocation Committee and breaking the rules which the Minister had established with the Housing Allocation Committee in respect of transfers. Mr Speaker, in these instances it is difficult to seek retribution of any kind, it is almost impossible to do it, but the circumstances do need further examination and I hope that the Minister will be able to take the matter to the Housing Allocation Committee and discuss that matter with them, otherwise the confidence of the Housing Allocation Committee will be undermined in the extreme. Mr Speaker, there have been quite a number of sharp exchanges in the House as regards housing and I would not like to use this opportunity to get vehement about these things but I assure the Minister that I have other cases also in mind and I shall mention only one. Perhaps the Minister will give me an account of it. That is the case of Radcliffe moving, I believe, from Laguna Estate to Penney House. This brings in the question of seeking a larger house as a result of a transfer. The Minister knows, because it is on files, that it was my policy that if there was something to be gained from the exchange, such an exchange would be contemplated with prior reference to the Housing Allocation Committee provided that person was very short of obtaining a new house on merit and on points. For instance if the necessary pointage was 250 and the person had 240 then the Housing Allocation Committee would say: "Yes, we are getting a three-roomed house and the person is getting a four-roomed house but there is a case of great need there." I will finalise, Mr Speaker, with a reference to something which the Minister made in passing. He spoke about representations which I had made on behalf of my brother. I have every right to make representations and I do not make representations on behalf of my family that often as the Minister knows. But if my family is in a bad situation then I see no reason why their case should not be brought to the Government's notice if this were necessary but I ask the Minister to confirm that at no time did I request the Minister to apply special rules in the case of my brother, in a housing problem, I said there was a serious social problem which I made clear and which Hon Members on that side of the House are perfectly aware of and any allocation that might be made in the future to my brother's family should be made and I will insist now, even though I did not insist at the time with the Minister, by reference to the Committees established. It is up to the Minister to see whether there is a case in anybody's representation but it is

wrong of the Minister to say that because I represent a particular case which is serious, as the Minister knows, to insinuate improper motives. I ask the Minister to clarify what happened at the meeting with him as well on this. Mr Speaker, I hope I have left the Minister some time to reply. I do not expect him to reply to all the points I have made.

HON H J ZAMMITT:

Mr Speaker, I will try and take up as short a time as possible and I would like to say that certainly the Hon Leader of the Opposition on that side of the House is, to my mind, the only Member on that side that has had some experience in housing. I say some experience because I think he was Minister for Housing for something like seven months and therefore he does know that problems do exist irrespective of whoever happens to be there. Mr Speaker, the Hon Leader of the Opposition began by saying that I had pledged myself, in taking over as Housing Minister, that all allocations of post-war housing would be of a nature that would be decided upon ultimately of course by the Minister but that they would go to the Housing Allocation Committee and, if need be, to the Housing Advisory Committee because the Housing Advisory Committee is not an allocation committee, it is purely an advisory committee on medical grounds and social cases that recommend particular cases to the Minister which in turn goes to the Allocation Committee for evaluation of pointage. The Housing Advisory Committee has, other than recommending and invariably they do in post-war housing they have really no function other than looking at the medical certificates, judging the merits of a particular medical case and recommending the relative pointage. Mr Speaker, before I go on to answer these facts I would like to say one thing and I take full responsibility for not having said so, I am afraid my memory is not all that good, I could well have mentioned it during the Budget session and that is that I do remember clearly having thanked the Housing Advisory Committee and the Housing Allocation Committee but I am not very sure if in fact I did mention that the Housing Allocation Scheme had been under review for something like nearly two years and that the Housing Allocation Committee had come up with an excellent piece of work which I hope to introduce and I think I said that I would certainly not implement it - it has of course to go to my colleagues in Council of Ministers - I would certainly not intend to implement it in any way that would prejudice those people which we referred to before ie, those qualified on 30 September, 1976, because of the Varyl Begg situation. I just want to say that in case I had omitted it. I accept fully that the Leader of the Opposition, in fact members on this side of the House, have had reason to bring to the attention of my colleague the housing situation as it stands in particular how it has stood in the past two years because not only has the Varyl Begg disaster brought a standstill on allocation but in addition to that the pre-war accommodation of which I used to allocate pre-1945, in cases of social issues and even medical cases and other factors where the discretion was invariably mine, that has come to an end because the pre-war one-room and kitchen, two-room and kitchen which we used to have now and again coming through is completely non-existent because the moment that they are decanted or vacated whether it be by death or something else, Mr Speaker, the Modernisation

Programme requires it for modernisation so I have absolutely nothing to give. Mr Speaker, it is in that context of what has occurred in housing particularly since the first Development Aid talks when we started on the policy for which I take full responsibility to go into a Modernisation Programme, that has burdened, I accept it, my colleagues accept it, we know it, the only thing of course we have to accept ourselves is that there is no other way of constructing houses in Gibraltar, there is no other way to be able to find the land space of a Varyl Begg, there is no other development where you can build another 700 flats. We can only do it by building smaller numbers here and there and emphasis on a modernisation programme which, whether we like it or not, is here to stay. That is the position which the Minister for Housing today finds himself in and I think the Leader of the Opposition will accept that it is futile and a waste of time for me and it is a waste of time for applicants to come and see me in interviews when in fact, irrespective of pointage, I can say nothing. All I can say is: "Well, you appear to qualify for Varyl Begg if and when Varyl Begg is ready for allocation." Mr Speaker, I think the Leader of the Opposition well knows that I find myself in quite abnormal circumstances in Housing because of recent events. There are no houses coming in for allocation, absolutely nothing. We have not even got a Transit Centre. It is not that my policy has changed, what has changed is the circumstances because of the Modernisation Programme, because of the Varyl Begg situation, that I have had to take it upon myself and I exonerate fully the Housing Allocation Committee and they should not be blamed at all for anything in this sphere. I want to make it very clear to the general public that the Housing Allocation Committee is not allocating any houses at the present time.

HON M XIBERRAS:

If the Hon Member will give way. I exonerated the Minister from the question of development, what I was talking about is allocation and how does he propose to do it.

HON H J ZAMMITT:

Mr Speaker, I think the House knows that we have had to decant some 87 families in the Tank Ramp area, in Lime Kiln Steps and now we are beginning with Road to the Lines. The Housing Department, in spite of their difficulties have decanted everybody. In fact, I think there is one family left in Tank Ramp but we have a house earmarked for them. Mr Speaker, I accept fully that the Leader of the Opposition or any Member of this House, even my own colleagues, can question my judgement as to moving A from here to there and B from there to there, that I accept. I would not dare say that I am perfect, I am not. I am liable to make mistakes but I have to decide, unfortunately or fortunately. I have to move around in "musical chairs" to try and make the maximum use of what is available for the Modernisation Programme. I agree that it appears to be unfair that because Mr X who has been married eighteen months or three years but happens to be in the right place at the right time or should I say in the wrong place at the wrong time and that building is required by the Modernisation Programme for demolition, modernisation etc, Mr X whether he is married two years, four months or unmarried, has to come out of that building.

Mr Speaker, it is not that the Hon Leader of the Opposition does not agree with the Minister for Housing, what the Hon Leader does not agree with is with Government policy in the general context of the Modernisation Programme and he is quite entitled not to agree.

HON M XIBERRAS:

If the Hon Member will give way. I am talking, Mr Speaker, about fairness within the rules and what are the rules and how are the Housing Allocation Committee and the Housing Advisory Committee being brought into it.

HON H J ZAMMITT:

I hate being personal about things. I am probably hard and I shout a bit too much and I lose my head but I like to be nice to people, Mr Speaker. The Housing Allocation Committee does not come into this at all nor has it got to come in, Mr Speaker. The Housing Allocation Committee is there to recommend to the Minister for Housing and their terms of reference are to consider applications for accommodation in Government-owned premises but those houses have to be made available to them by me for allocation and I am not making any house available to them for allocation. All that I am doing is I am authorising transfers from house A to house B so that house A can be modernised or use house A to house B to house C which is going to be modernised. That is what I am doing. I can be wrong or I can be right, I hope I am right and I hope the tree will bear fruit. The Leader of the Opposition knows that I spent a little time together discussing his case for which I have great sympathy, Mr Speaker, and I think the Leader of the Opposition must accept this and I try to help him out. I cannot take a case like that to the Housing Allocation Committee or the Housing Advisory Committee. I cannot say to someone who has an interview with me: "I sympathise with you fully but I am taking it to the Housing Advisory Committee." Then what the hell is the Minister for Housing doing? The Minister for Housing has to decide. He is the ultimate authority. In the case of the Hon Leader of the Opposition's brother, I made the decision, I stand by that decision despite the fact that it has taken a few months or over a year and your brother will go to that place because I have said so. I have a list of files here of transfers that took place during Miss Conchita Anes' time from 11 August 1969 to 28 June 1970, during Mr Joe Caruana's time from 29 June 1970 to 18 October 1971 and even during Mr Xiberras' time from 19 November 1971 to 27 June 1972. I have not seen one case here that has gone to the Housing Allocation Committee or the Housing Advisory Committee. Why is there so much interest that I should have to take them to the Housing Advisory Committee? Mr Speaker, the Leader of the Opposition referred to Mr Radcliffe going....

HON M XIBERRAS:

It is when the house is empty that the Housing Allocation Committee should be consulted.

HON H J ZAMMITT:

If he is picking on that we are splitting hairs because if I give a house to somebody who has vacated a house particularly in the case of Mr Morello when the house at Archbishop Amigo House if vacated by virtue of the tenant going back to Penny House, that house, to me, is usable in more than one way. The Allocation Committee would never have had Archbishop Amigo House to allocate as it would come back to me in connection with the modernisation. If you disagree that the Hon Major Dellipiani should go there you are quite entitled to do so. But I say, Mr Speaker, that because one happens to be a Member of this House one should not be adversely affected in having a house or getting a job or his wife getting a job or what have you. I think we are at least entitled to the same treatment as any member of the public. I have had criticism because Members opposite have been given a house even in our time and I can justify quite clearly and quite sincerely I would say 99.9% of the cases. There are justifications, justifications which I cannot go around with a bell explaining to the general public as to why I have taken these decisions. I try to do so, particularly when the Leader of the Opposition comes along and I may or may not convince him and no doubt when this motion has come up it is because I have not convinced him. This is again a matter of judgement and I am the person in the hot seat who has to judge. I am not going to touch on these cases because when these cases took place there was no Modernisation programme and there wasn't the burden that one has to bear today. For the time being, Mr Speaker, unfortunately, much to my regret I cannot put cases, for a number of reasons, to the Allocation Committee or the Advisory Committee because I cannot expect people to meet every three or four days with a list of housing problems which, and I think the Leader of the Opposition well knows, there are a lot of matters which are said to the Minister in absolute confidentiality. There are cases Mr Speaker of a very personal nature that the persons in question do not want this Committee to know about. In fact, there have been cases where they have asked the Housing Manager to leave as they wish to speak to me alone.

MR SPEAKER:

You have got approximately 3½ minutes left.

HON H J ZAMMITT:

I will try and rush it. In the Savignon case, Mr Speaker, a lot of hoo-ha has been created about it. I accept, that at first sight it doesn't look completely straight forward. It may appear not to look straight forward but I think it was veiled by virtue of the information that somebody had given that I had given a cheque or provided money. If the true facts had been known that another Zammit who signed the cheque then the accusations that have been made would not have been made. Thank God that it has been cleared that it wasn't me, Mr Speaker. The question I would like to pose again, Mr Speaker, is exactly what I said in answer to Question 137 which is the relevant question. Mrs Savignon saw me, way back in February, offering an exchange with Mr and Mrs Mauro and if I would have authorised that exchange in February, nothing would have happened,

absolutely nothing would have happened. The fact that Mr Savignon doesn't go to his house because as we all know now he is living at Ocean Heights and his letters are piling up and I think that there are other Members that know this too, that when he goes there and finds letters three months later saying: "You are not living there, hand your house in, and what have you, then the man reacts, but only reacts when some neighbours say to him: "There is a notice A under the Housing Special Powers Ordinance. Go and sort it out." As regards the Mauro case, Mr Speaker, I have correspondence from the Housing Advisory Committee that they should be moved for very special reasons. That is exactly what I did. I took advantage of that to move them out for another very strong reason, equally on social grounds, and that is that I required the Mauro flat. As a result I have sorted out five housing problems. I am afraid I cannot go beyond that as the 40 minutes are up.

Mr Speaker then put the question that the House should adjourn sine die.

The question was resolved in the affirmative and the House adjourned sine die.

The adjournment of the House sine die was taken at 9.00 pm on Wednesday the 28th June 1978.