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GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

3rd APRIL 1978

VOLUME I

REPORT ON THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Tenth Meeting of the First Session of the Third House of Assembly held in the Assembly Chambers on Monday the 3rd April 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 & Social Security  
The Hon H J Zammit - Minister for Housing & Sport  
The Hon A P Montegriffo, OBE - Minister for Medical & Health Services  
The Hon Major F J Dellipiani, ED - Minister for Municipal Services  
The Hon I Abecasis - Minister for Postal Services  
The Hon A W Serfaty, OBE, JP - Minister for Tourism, Trade & Economic Development  
The Hon M K Featherstone - Minister for Education & Public Works  
The Hon J K Havers, OBE QC - Attorney-General  
The Hon A Collings - Financial & Development Secretary

The Hon Dr R G Valarino

OPPOSITION:

The Hon M Xiberras - Leader of the Opposition  
The Hon P J Isola, OBE  
The Hon J B Perez  
The Hon G T Restano

INDEPENDENT MEMBER:

The Hon J Bossano

ABSENT

The Hon Major R J Peliza

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 7th February, 1978 having been previously circulated, were taken as read and con-

firmed.

ANNOUNCEMENTS

MR SPEAKER

I have no claim to any credit but the Speaker's Office should be congratulated on the fact that for the first time in the history at least of this particular House we have had the Hansards of the previous meeting circulated before the start of the current meeting.

DOCUMENTS LAID

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

Charities Ordinance - Report for 1977.

Ordered to lie.

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

- (1) The Weights and Measures (Prescribed Stamp) Regulations, 1978.
- (2) The Measuring Instruments (Liquid Fuel and Lubricants) Regulations, 1978.
- (3) The Weights and Measures (Testing and Adjustment Fees) Regulations, 1978.
- (4) The Weights and Measures (Certificate of Appointment of Inspectors) Regulations, 1978.

Ordered to lie.

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

The Landlord and Tenant (Communal Services Tenements) Notice, 1978.

Ordered to lie.

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

The Group Practice Medical Scheme (Amendment) Regulations, 1978.

Ordered to lie.

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



- (1) The Hotel Occupancy and Air Traffic Surveys Report 1975-1977.
- (2) The Merchant Shipping Ordinance (Amendment of First Schedule) Notice, 1978.
- (3) Annual Accounts of the Gibraltar Museum for the year ended 31st March, 1977.

Ordered to lie.

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

- (1) The Special Fund (Housing) Notice, 1978.
- (2) The Housing Fund Regulations, 1978.
- (3) Supplementary Estimates Consolidated Fund No.8 of 1977/78.
- (4) Supplementary Estimates Improvement and Development Fund No.5 of 1977/78.
- (5) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary. (No.3 of 1977/78).
- (6) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No.2 of 1977/78).

Ordered to lie.

#### HONOURABLE FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, with your permission I must make a short remark about the Estimates of Revenue and Expenditure for the year 1978/79. These are not ready to be brought to the House at this particular juncture and I am therefore unable to lay them, but in accordance with Standing Order 44 (1), the Clerk will send to Honourable Members copies of these Estimates not less than 15 days before they are considered by the House. In due course, when I come to the House I shall ask leave to move under Standing Order No.7 that I be permitted to speak to the estimates as they are laid.

Ordered to lie.

#### ANSWERS TO QUESTIONS

The House recessed at 1.00 p.m.

The House resumed at 3.25 p.m.

#### BILLS

#### FIRST AND SECOND READINGS

THE INDUSTRIAL TRAINING (AMENDMENT) ORDINANCE 1978

HON A J CANEPA

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Industrial Training (Amendment) Ordinance (Chapter 185) be read a first time.

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

HON A J CANEPA

Mr Speaker, I have the honour to move that this Bill be now read a second time. Sir, administrative responsibility for industrial training was transferred from the Government Secretariat Productivity and Training Unit to the Department of Labour and Social Security on the 1st April last year. Consequently, it has become necessary to carry out certain amendments to the Industrial Training Ordinance which was enacted in 1970. In fact, what the Bill now before the House seeks to do is to give statutory support to the administrative change which has taken place. Up to the present the position has been somewhat unsatisfactory in that the Industrial Training Officer, for the purposes of the Ordinance was not in fact the holder of the post of that title. The Productivity and Training Manager was considered to be in a personal capacity and not necessarily ex-officio the Industrial Training Officer and therefore one of the proposed amendments in the Bill now before the House seeks to correct this anomalous position by making the Director of Labour and Social Security ex-officio the officer who is now responsible for administering the Ordinance. Another amendment, and also a very necessary one, will, in effect, resume the Industrial Training Officer as a member of the Board since the Director of Labour and Social Security is himself a member and it will make the holder of that post, namely, the post of Industrial Training Officer, who is now part of the establishment of the Department of Labour and Social Security the ex-officio secretary to the ITB. Most of the other amendments are consequential to this transfer, Mr Speaker. For instance, the substitution of the Financial and Development Secretary by the Director of Labour and Social Security as the Officer who may require employers to furnish returns and information and to keep and produce for examination such records as may be directed by the Governor. However, in conclusion, I should tell the House that a most significant amendment and one to which I am drawing the House's attention in particular is that contained in clause 3 of the Bill which by seeking to delete the words "Governor-in-Council" wheresoever they appear in the Ordinance and by substituting therefore the word "Governor", makes responsibility for industrial training in Gibraltar, as it should, be a defined domestic matter. Mr Speaker, I commend the Bill to the House.

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

HON M XIBERRAS

Mr Speaker, I have been associated with the Ordinance the Minister has just mentioned, the Industrial Training Ordinance of 1970. I view, if not with disquiet, a certain amount of scepticism, the changes which the Minister now seeks to have incorporated into the law and I do not think the Minister, in presentation, has given all the factors which would come into play if such a change were approved by the House. I would say it is not a question of very great principle, it is a question of the Government choosing to administer a service as it sees fit, but at the same time the consequences of such administrative changes when they come to the House, I think, should be commented on if anybody has a contrary view.

Mr Speaker, the Industrial Training services of the Government and the set-up under the Industrial Training Ordinance formed at one time a part of a number of new services introduced consequent on the withdrawal of labour in 1969/1970. The other aspects of this Productivity and Training Unit, the Productivity and Training Manager, which the Honourable Member has alluded to and whose so called personal responsibilities the Minister is now trying to circumscribe, embrace not only Industrial Training but also such other aspects of Civil Service Training and the general subject of productivity and there was an impingement of Ministerial or defined domestic responsibility over the non-defined domestic responsibility and there is a letter in existence whereby the Deputy Governor at the time agreed on a limitation of responsibilities but also in the areas of common interest so that both services which had to do with non-industrial staff which constitutionally, by the Annex of the Constitution, are the concern of the Deputy Governor and the administration, generally, and those, for instance, the one under discussion now, Industrial Training, as it affected the Industrial employees of the Government and the private sector generally and which the House at that time voted funds for globally, that these services might not be completely disjointed. The move to bring the Industrial Training under the umbrella of the Director of Labour and Social Security could be viewed as such a disjointing exercise and the House might in signifying its agreement to the proposition of the Minister now, be also at the same time giving up certain rights or certain interests which it has had in respect of those other functions of the old Productivity and Training Unit which I have mentioned.

Mr Speaker, I am aware that there has been some fragmentation in purpose as regards the original drive for productivity and efficiency both in the Government service and outside it and in the Government service at both the level of industrials and non-industrials but I would like to know before I would agree to this Bill whether, in fact, the other areas which might be called more purely Civil Service, are going to pass outside the ken of Ministers, especially the Minister for Labour, by virtue of this Ordinance. I do not generally consider it a good thing to have this Industrial Training broken away as it were, from a main body which is going to remain outside the powers of Ministers, outside defined domestic matters and I think that whatever drive was left in the old Productivity and Training Unit is going to be lost. My argument, put more simply, is that industrial training was

only one part of the old Productivity and Training Unit, the others being Civil Service Training, Organisation and Methods as it applied to Civil Servants who are non-industrial staff and there was another which I have just mentioned. Anyway, that is the main body and in hiving off this particular part of it, namely, industrial training, Ministers might be giving up a say as regards the main functions of the Productivity and Training Unit as it used to be. Mr Speaker, I have no doubt that it is the Government's prerogative to deal with these matters as they think fit but as far as this House is concerned I feel that there is an interest because I would not like to see the original purpose of the Productivity and Training Unit as a whole, which was to develop training and to increase productivity, being left in the hands of persons who are not Ministers, namely, Establishment. I have already said in the House that as far as I could see much of the Organisation and Methods team, as it used to be, was being increasingly geared to become an arm of the Establishment, especially in the realm of wage negotiations and so forth, and that therefore what was their original purpose as was envisaged by the House at that time, had been changed. I think they are considerations that deserve a reply from the Minister and I do not think the House should go that easily for the argument that here is a particular service which was not clearly within the ambit of the Minister because, if one accepts that too readily, one might be giving up at the same time the say which de facto the Minister had in respect of all those other Civil Service functions. I will maintain an open mind as to how I vote on this particular Bill pending the Minister's reply. I will refer him, in doing so, to the letter which he should have available which the Administrative Secretary, the Deputy Governor of the time, and myself, agreed a division of responsibilities and also areas of common interest.

HON A J CANEPA

Sir, yes, I do have a copy of that letter available. It is in the first file which the Productivity and Training Manager brought me, a file containing papers which he thought that I should read back in 1972 in order to acquaint myself with the work, the role and the functions of the Productivity and Training Unit. The only thing is, without being too controversial, whether I should tell the Honourable Leader of the Opposition that we are in 1978 and not in 1970 and that a lot of changes have taken place in the last eight years and therefore although I can assure the Honourable Member that up to the present the role and the function, indeed, of the Productivity and Training Unit have not significantly changed, it may well do so in the future to keep abreast of new developments that have arisen in the last 2/3 years, not the least of which, is the change to a close wages relationship with the United Kingdom. But let me deal first of all with what the Bill gives legislative effect to, namely, the administrative change that took place last year whereby industrial training was transferred from the Productivity and Training Unit to the Department of Labour and Social Security. It is not the first time in the House that we have discussed this transfer and I did, at the time, adduce reasons in a statement that I

made in the House in March last year, I adduced reasons in support of that transfer. In my view, labour policy and its related aspects such as manpower planning and industrial training should be the purview of the Department of Labour and Social Security and of no other department. Whilst the Productivity and Training Unit that was responsible for industrial training worked to the Minister of Labour with regard to industrial training, nevertheless, it is my view that not only should that be the constitutional position but it should also be the administrative position and it should be from within the Department of Labour and Social Security that people should be working on industrial training clearly to the person who is the political head of that Department, namely, the Minister of Labour. It should also be noted that in the last fifteen months or so there has been another change in that the Chairman of the Manpower Planning Committee is today the Minister of Labour, so what is happening is that the Minister of Labour is gathering directly into his hands, through his Department as well, all these strands of labour policy. I said, Mr Speaker, that we are in 1978 and what is happening today is, in fact, that there is greater de facto involvement by the Minister of Labour, and I think the Chief Minister could confirm that, in all sorts of matters which are, traditionally, and by and large, Establishment matters, because of developments in industrial relations. I can assure the Honourable Member that I am much more involved with what goes on within the Civil Service, if he likes, on anything that has to do with industrial relations or very loosely labour policy than I certainly was four or five year's ago. If the position is not recognised de jure nevertheless it is a de facto position and the Establishment Officer does keep me very closely consulted informed and very closely involved in these matters. As to the future of the Productivity and Training Unit it is now going to be the subject of Staff Inspection. There are plans, I do not think that I am revealing anything that I should not be, if I am the Chief Minister can pull me up. There are plans to bring about re-organisation in Secretariat involving the Administrative Secretary, the Establishment Officer and this re-organisation is going to affect the Productivity and Training Unit. I do not see the Productivity and Training Unit having less work to do in the future than it had in the past. It will continue with work study, it will continue with organisation and methods, it will continue with Civil Service training, it will probably take on, additionally, staff inspection and therefore what may well happen is that the Productivity and Training Unit may become something along the lines of the Civil Service Department in the future with, certainly, very close de facto involvement by the Minister of Labour in all these matters. Whether it is de jure or not I think will depend on other constitutional changes but there will, in practice, be no problems and if there is a need to have the position clarified from what I may call the other side of the House in Secretariat, not here, that can be done by an exchange of correspondence similar to what my Honourable Friend the Leader of the Opposition alluded to, namely, that letter which he obtained from the Deputy Governor at the time because let it not be forgotten that the Productivity and Training Unit never came directly under the portfolio of the Honourable Member opposite when he was

Minister for Labour. Even if the Civil Service Department does not come under the portfolio of the Minister of Labour which it obviously will not, nevertheless the position can be made clear and patently clarified as to what is the standing of the Minister of Labour with regard to the Civil Service Departments. He need not be sceptical with regard to these changes. They are needed. In the first place I have explained that it is part and parcel of closer co-ordination of labour policy and with regard to the Productivity and Training Unit I stress that we have to look to the future and the changes in the whole set-up closely arising from our move to parity of wages and conditions with the United Kingdom does mean that we have to keep abreast of the situation and take a new look at the institutions that we set up such as the Productivity and Training Unit.

HON M XIBERRAS

If the Honourable Member will give way. I am reluctant to commit myself by voting in favour of this measure until I know what is going to happen to the rest of the Productivity and Training Unit. Can he give me an idea by when plans for a Civil Service Department or whatever it is that is going to take the place of a part of the Productivity and Training Unit will be known?

HON A J CANEPA

We are hoping to have something rather more definite, I think, by early summer. I discussed this with the Administrative Secretary in his capacity as Establishment Officer after his return from Paris because there were a few matters pending and the target is, I think, June or July. We are hoping to have a number of changes brought about and we are hoping to know exactly what the position is going to be. At the moment I can do nothing more than to give a general indication of the lines along which we are moving.

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

The Honourable I Abecasis  
The Honourable J Bossano  
The Honourable A J Canepa  
The Honourable Major F J Dellipiani  
The Honourable M K Featherstone  
The Honourable Sir Joshua Hassan  
The Honourable A P Montegriffo  
The Honourable A W Serfaty  
The Honourable Dr R G Valarino  
The Honourable J K Havers  
The Honourable A Collings

The following Honourable Members abstained:

The Honourable P J Isola  
The Honourable J B Perez  
The Honourable G T Restano  
The Honourable M Xiberras

The Bill was read a second time.

HON A J CANEPA

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

THE MEDICAL HEALTH (AMENDMENT) ORDINANCE, 1978

HON A P MONTEGRIFFO

Mr Speaker, I have the Honour to move that a Bill for an Ordinance to amend the Medical and Health Ordinance, 1973, (No 5 of 1973) to allow Medical Practitioners registered in Member States of the European Economic Community who are temporarily resident in Gibraltar to render medical services therein and to amend the provisions relating to powers of entry, inspection and seizure.

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

HON A P MONTEGRIFFO

Sir, I beg to move that the Bill be read a Second Time. Sir, the first part of the Bill, Clause 2, complies with the requirement under EEC law to allow medical practitioners coming from the Common Market and residing temporarily in Gibraltar to be able to practice in Gibraltar and it lays down how they should go about it in order that they should be able to practice. Clause 3, which replaces Section 49 is, as far as para 2.1 and ii a repetition of what that section now provides. The Attorney-General has, in his wisdom, thought it wiser to do it this way to make a refinement of the drafting, if I may describe it so. (iii), however, is an extension of the powers of the Board in view of the involvement by Government in an expenditure on prescriptions of the Group Practice Medical Scheme. It enables any person authorised by the Board who is usually the Head Dispenser, to be able to make either spot checks on any chemist to see that what is being prescribed is being issued and also to attend to complaints, most of the time probably unwarranted, by customers and we have no means at the present moment of being able to allay their fears or to put the thing right. In any case this follows the procedure in the United Kingdom where

they do have an inspectorate to look at these things but we have got to start with modest means because I am always frightened of increasing too much the bureaucracy. It is a way of trying to check that there is neither abuse by one side or the other in the manner that the items in the prescriptions are being issued by the chemists or at the same time that any complaints that are made by the public can be properly investigated.

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, the first section of this amendment to the law I must view with reservations. First of all, I am not in my own mind quite sure what "temporary residence" entails. As far as the medical profession in Gibraltar is concerned, as far as Gibraltar as a whole is concerned, being isolated as we are, it is most important at all times that we should try to cover all aspects of medical services in Gibraltar. The consequences I see of this Ordinance allowing any medical practitioner within the EEC to come to Gibraltar, I could well see certain difficulties arising where, on a temporary basis, we may have a practitioner coming to Gibraltar and upsetting the system that is in practice at the moment with the Group Practice Medical Scheme and thus putting the whole of that scheme in chaos. I could envisage the possibility of so many doctors coming in even on a temporary basis who might be here but who might well, Mr Speaker, be in a position or might condition the doctors who are here already who are giving a permanent service to leave because patients in Gibraltar might want to make use of a temporary doctor. Therefore I feel that the difference between Gibraltar and a large country is that a temporary resident in a certain area, for example in the United Kingdom, would certainly not cause any ripples in the system whereas in Gibraltar one or two more or one or two less could cause an awful lot of problems and therefore I certainly have my reservations. I agree entirely that possibly temporary replacements for doctors who may be away on leave or for specialists who may be giving permanent service in Gibraltar and who may have to leave and a temporary replacement should be allowed to come in without going through the normal procedure. That, of course, is to me quite acceptable but to allow any practitioner to come in on a temporary basis and upset the system which has already been created I think could cause many problems in the future. On the second aspect of the Bill, I can only agree that there must be most strict supervision on drugs and medicines under

prescriptions. What I feel is perhaps questionable in this Bill, and I know that there is very little difference between what is proposed here and what is in the law already, and that is that any person can be authorised to enter premises, look at books and so on. I think it has been certainly said from this side of the House in respect of other Ordinances that the persons who should be entitled to go in should be nominated beforehand. I think there is great danger in any person of whatever standing in the Department having the authority to enter premises. I think that there should be every provision made for very strict inspection but that strict inspection should be limited to a number of people who are qualified and who are named within the powers of the Board and also, perhaps, passed by this House. To allow the Board to authorise any person to go in, I think, can cause a lot of problems in the future. Therefore, at this stage, I must reserve my position as to how we shall vote on this particular Ordinance until I have heard the Minister reply.

HON ATTORNEY GENERAL

Mr Speaker, the first point which I would make is that clause 2 of the Bill and clause 4, which is consequential on clause 2, is a must. We are required, under the Treaty of Rome, to pass this particular piece of legislation. It is being done in the United Kingdom by Order-in-Council. It could have been done here by Regulation but in the light of the undertaking given by the Honourable and Learned the Chief Minister in this House in 1972 that, as far as possible, legislation which we were bound to take under the Treaty of Rome would not be done by regulation, although it could, should come to this House, we, of course, have honoured this obligation. There is, of course, a reciprocal provision. It means that any Gibraltarian who is registered, and as far as I am aware they are all registered in the United Kingdom, they of course have the right to practice whilst temporarily in a member country of the EEC. I accept that things may be different there but, nevertheless, as I say, we are bound to pass this. On the question of temporary, it is left with the Board to decide how long a practitioner may be temporarily registered and the same provision applies here . . . .

HON G T RESTANO

If the Honourable Member will give way.

Is it registered or resident?

HON ATTORNEY GENERAL

How long he may be temporarily registered. The EEC decided,

not in any member country, to try and define the term, to say if you are there for a month, you could be temporarily registered all that time, if you are there for three months you cannot. So what they have done in every case is to give to the appropriate resident medical authority the power to determine how long it will allow a practitioner from another country to be temporarily registered. So we have not the control here in our own Medical Registration Board. Having said that we have got to have this legislation and we have got the control, it is not really necessary for me to rebut the fears which I accept the Honourable Member genuinely has, that members coming here from other countries might disrupt the health service. I think it is highly unlikely. He must remember that all practitioners coming here would charge a fee and the patient here would, I think, be somewhat averse to going to a practitioner rather than going to a member of the Group Practice Medical Scheme. Some would, of course, but I do not think there could be enough people who leave the scheme and go to a visiting practitioner. I may be wrong, it is a question of opinion and that, I accept, entirely but I would reiterate that we have to pass this legislation, clauses 2 and 4. Clause 3, no, because that is not bound upon us although it is, of course, good Government policy, but 2 and 4 we have no alternative.

HON P J ISOLA

Mr Speaker, I think that it is a bit hard of the Honourable and Learned Attorney General telling us that we must pass Clauses 2 and 4 and we have no authority to do otherwise. I think that it would only be fair to Honourable Members of this House before asking us to pass this legislation if we were to be supplied with copies of the appropriate directive from the European Community so that we can see it. I presume and I imagine that these sections, the actual drafted sections, are in similar phraseology to the United Kingdom legislation.

HON ATTORNEY GENERAL

It is based on the United Kingdom Order-in-Council which is somewhat more complicated than the legislation here but, I can assure the Honourable and Learned Member, the guts of the legislation, if I might put it that way, is the same.

HON P J ISOLA

Mr Speaker, I thank the Honourable and Learned Attorney-General for that piece of information but I think it is only fair that we should see this. I will say why: the directive says a particular thing and I presume the United Kingdom has drafted its Order-in-Council as it interprets



that particular directive having in mind a number of factors, I suppose, that exist in England, one of which is the separation of England from the rest of the Community by a channel. Here, no such separation exists for the time being, anyway, and I think I would like to see the directive and I hope that the Government will agree to leave the Committee Stage and Third Reading of the Bill until the next meeting of the House, next month, so that we can have a look at it because, for example, I would have thought that in Gibraltar we wanted a bit of definition of "visiting", i.e. what is a visiting practitioner in Gibraltar? Is it somebody who comes for a holiday and is in Gibraltar and suddenly there is an accident in the street and he has to attend to it and then he gives his information fifteen days later? Is it a man who comes to Gibraltar specifically to have consultations in medicine? Is it somebody who comes for a couple of months to have the feel of the place, whether it is worth setting up permanently in practice in Gibraltar? Does language have anything to do with it? Does a visiting practitioner, in essence, require some residence in Gibraltar? Does the directive say that a practitioner must be residing in the place a minimal amount of time. For example, so that he can be made responsible for his acts, if nothing else? Or is a practitioner going to be able to come across on this hoped for ferry and hold court in Gibraltar and then disappear the next day? These are matters that I think are of great significance in Gibraltar and of great relevance to our way of living in Gibraltar. My own feeling on this is that we should do not one penny piece more than we are required to do under Article 16(3) of the European Community's Council. I do not know whether there is any language qualification. I would like to know. Mr Speaker I am not for one moment doubting in any way that what the Honourable and Learned the Attorney General has drafted is something that is similar to what is happening in the United Kingdom. I do not doubt that one minute, but what I do say is that we should interpret, in the case of Gibraltar, Article 16(3) of the European Community's Council Directive No. 75 etc as strictly as humanly, legalistically possible. I would certainly ask the Government not to push this through unless they have got some idea that some EEC practitioners are going to turn up very shortly in Gibraltar. If the Minister has one I think that one can wait because I do not think we should all be rushed in this House to pass legislation without at least being satisfied, each and every one of us, on the correctness of the legislation. I think, Mr Speaker, this is quite an important matter as far as Gibraltar is concerned and I do hope the Government does not think it necessary to push this through all its stages, which is not the usual thing for Bills, and that in the intervening period between this Reading and the Committee Stage, that Honourable Members on this side of the House, if it is not too long, will be given a copy of the appropriate directive because

there are aspects of this that are not pleasant. We do not want a doctor coming to Gibraltar practising who cannot communicate with patients, for example, if we can possibly stop it. That is dangerous for the patient. I understand there are doctors in the Government service who find sometimes difficulty in communicating with their patients and that can be very dangerous, Mr Speaker. We do not want that gratuitously thrust upon us so I would ask the Government to consider the obvious implications that there are in these sections and to allow Honourable Members of the House to see this directive before being asked to pass it through in the form that it is drafted. As regards the new section 49, Mr Speaker, this present Government seems to be getting into the habit of giving itself wide powers to do anything it likes in any particular sphere. I do not know whether this is born from frustration or what it is. It is not well done Mr Speaker, not at all well done. It is the easiest thing in the world to Govern by giving everybody powers to do everything under the sun, that is an easy way of getting things done but there is a thing called the liberty of the subject, the liberty of the individual, that comes into it. The next thing that is going to happen in this House is that we are going to have the Honourable and Learned Attorney-General coming to the House with a Bill giving the police powers to enter any house without the need of any warrant from any Magistrate, that is the next thing that is going to happen. We are going to be turned into a police state. Mr Speaker, we vote lots of money for police ambulances and police lorries and police cars and all that, but do not let them think that we are agreeing that we should just become a police state. Mr Speaker, this section 49 is another nail in the coffin of the liberty of the individual and of the subject. Mr Speaker, why does the Government have to say in a Bill, - "may authorise anybody in writing to enter at a reasonable time" if, as the Minister says, it will probably be the Dispenser? Why cannot the Government put a piece of legislation where the Board authorises the Dispenser, somebody responsible. Why must we have these wide powers written into our legislation? I know it is very easy to draft a piece of legislation when you give any Tom, Dick and Harry power to go into people's shops, into people's businesses, into people's lives, just because they feel it is a good thing it should be done. If it has got to be done let us keep it to a minimum and let us only authorise responsible people and let us have it in the legislation. One would not speak like this, Mr Speaker, if this was not becoming an everyday occurrence in the legislation that is coming to this House. Last meeting it was the Price Control, this meeting it is the Medical and Health. I do not know what will be the next one. I do not know whether the Minister of Education has any idea about going into people's houses to see if they have got the wrong text books. I think that the Government should think about the liberty of the individual a little bit more in its legislation.



HON M XIBERRAS

Mr Speaker, I am not, unlike my Honourable Friend who is not present in the House on my extreme left, I am not in the habit of saying I represent people other than the people, generally, in this House but I think as Chairman of the European Movement I should inform the House that I get an awful lot of literature from the European Community's Offices in London and amongst this literature I have found certain documents pertaining to the subject under discussion.

Even though I have often crossed swords with the Honourable and Learned the Attorney-General on this vexed question of what we must do in respect of our Common Market obligations and conversely what we are entitled to receive in return.

If I do make any remarks, Mr Speaker, I assure the House I am not doing it out of any special information that I might have because I must confess that as Chairman of the European Movement the amount of bumph that comes my way is much more than I can consume. In any case, Mr Speaker, I do not recall even from a perusal of the number of pamphlets which I have got that the obligations are as binding as the Honourable and Learned the Attorney-General has told the House now but no matter, I am prepared to accept what he says for the time being until he is able to produce, in answer to my Honourable and Learned Friend, something a bit more concrete which we can mull over but, Mr Speaker, I am concerned with reciprocal rights. I am concerned that once we give rights to people we must be sure that we get rights as well under EEC Directives and this, as the House knows, has not always been the case. We have sometimes spoken about right of entry, for instance, here and we find difficulty about right of entry into European countries. I agree that the problems and so forth of these larger countries in the Common Market are much bigger than ours but nonetheless I think the Honourable and Learned the Attorney-General, the Minister who has presented the Bill, should be in a position to assure the House that doctors from Gibraltar who wish to practice in any EEC country would have no difficulty in their turn if we are going to grant EEC doctors the right to practice here, even on as loose a basis as is proposed by this Bill. The Honourable and Learned the Attorney-General obviously knows his law thoroughly but I doubt whether he knows the psychology of Gibraltar medicine as well and when he mentioned that there was a certain preference by Gibraltar patients to see one particular type of doctor rather than another I can assure him and the Minister for Medical Services can assure him that this might very well not be the case especially if certain changes, which my Honourable and Learned Friend has referred to, come about. Mr Speaker, I do not know what the urgency of this legislation is. As I recall from my European Movement papers the pamphlet which I received on doctors and registration cannot be more than six weeks old and I am sure the Minister for Medical and Health Service would not have brought legislation of this kind to the House unless he had some sort of a problem, if he is the instigator of this

legislation . . . .

HON ATTORNEY-GENERAL

If the Honourable Member will give way. The equivalent legislation came into operation in the UK on 10 June 1977 so we are now ten months behind. I cannot say whether a date was fixed in the Council Directive but my guess is that it would have been so affixed.

HON M XIBERRAS

My recollection from my perusal of that pamphlet is that it was an indication of what the Community would like to see done and I cannot remember a deadline being set for the immediate future. If we are both right on this matter then, perhaps, the question of urgency does not arise and I am reluctant to give my assent to EEC legislation or EEC-motivated legislation unless we are being assured by whoever wishes to put it to the House that we are getting this reciprocal right. I do not think it is being a bad European, I think it is being a very fair European.

HON ATTORNEY GENERAL

If the Honourable Member will give way. I am sorry to keep on interrupting, two things: I think it is probable that the current legislation of which the Honourable Leader of the Opposition is talking is for providing for EEC registered practitioners to have right of permanent registration in another country. It is, so to speak, a follow-up of the legislation which was enacted in the United Kingdom in 1977 giving a temporary right. The second point is, of course, if I am correct and I have no doubt about it that the Directive gives in the United Kingdom an absolute right for temporary practice for a member of another country, it must follow without any shadow of doubt that there is an equivalent right given to United Kingdom registered practitioners which would, of course, include Gibraltarians, to practice in a EEC state. I am absolutely certain that this is reciprocal.

HON M XIBERRAS

I marvel at the Honourable Member's faith, Mr Speaker, in these matters. Statements have been made in respect of free entry into countries, we have found that sometimes we do get squeezed out despite the fact that people registered in Britain are allowed in, so we are not always bracketted in the same way, unfortunately. Mr Speaker, as regards the other part of the Bill, of course I share my colleague's

concern about invasion of privacy and more than invasion of privacy because this is, to my mind, a more serious area than the one which is proposed for price control and so forth. To my mind there are special considerations which weigh in this particular case but I go entirely with the suggestion made by my Honourable Friend Mr Restano that there must be some limitation as to who will exercise these powers of inspection and the House cannot accept carte blanche being given to the Board or to the Minister, as the case may be, or to Council of Ministers, to appoint whoever they or he considers to be the right persons. There might be a question of qualifications, there might be all sorts of questions which might arise here and I am very concerned that in this business of medicine, I am very concerned that somebody who is appointed to inspect should be a qualified and impartial person able to exercise the powers that are given to him properly and impartially and therefore, Mr Speaker, I feel that no other authority than this House should be able to name the people to carry out these duties and do so on careful consideration of what it is doing. I am not persuaded by a promise made by the Honourable Mr Canepa when he was sitting down. He can vote with Mr Bossano as many times as he likes and I think perhaps that is the right order but I am not persuaded that the Government can be trusted to act properly in every case because it might have crossed his mind, as has been said in respect of another Bill, that perhaps the Honourable and omniscient Member may not be there for ever and therefore legislation must provide against the eventuality of a change in Government and that is no way to argue in favour of a Bill which might impinge on human rights.

HON A P MONTEGRIFFO

In the first place, Mr Speaker, I must confess and I think I have said so many times and I did say what I am going to say now a very long time ago on television, that although I am all out for Europe I was not one of those who were elated by that historical accident or incident that occurred when we joined the Common Market. All sorts of benefits were going to happen to Gibraltar and from what I hear from the other side all sorts of dangers are being landed upon us. What I fail to understand is that a piece of legislation which I have been advised is of universal application to all members of the Common Market, and that includes Gibraltar because we went in with the United Kingdom, should worry so much the Opposition or should bring suggestions from the other side that it may wreck the National Health Service. It would not affect by any stretch of the imagination the Government service. It might, if we were flooded, and I think it was the Honourable Mr Isola who once said in this House in a humorous way that there was no fear that we were going to be flooded by thousands of people from the Common Market wanting to come and work in Gibraltar. I do not think any

Common Market doctor would like to work in Gibraltar, at least, in their dozens or hundreds. The only fear is to private practice which I do not want to do away in Gibraltar by any means. I think private practice is good to compete with the Government service but even with this particular piece of legislation they could hardly be affected because it only allows doctors a temporary registration, not a permanent one. We have not reached that stage yet. We may have to, forced by the Common Market law. But in any case I agree with Honourable Members opposite that we shall delay the passing of this Bill for the next meeting of the House rather than at a later stage in this meeting, in order that we will be satisfied that this is required under the Common Market Law. It is a pity that the Honourable Mr Isola being older in this House than I am, though unfortunately I am older in age, has not taken the opportunity in all these years as a member of the House, to do precisely what is suggested that I should do now and I shall do with pleasure. It is a pity that he has not done it in all his years of office. I did not realise that what he did was so bad, to accept this particular piece of legislation where anybody named by the Board could go into a chemist to see that poisons were properly stored, that prescriptions are properly registered, that is the function under this part of the Ordinance which this particular man nominated by the Board is entitled to do, nothing else, and if they look at the Medical and Health Ordinance, at part 7, there they will find what the functions of this man is. I have already said that I will name the Head Pharmacist or the Head Dispenser. But let me say something else, that this myth of the sacred cow that no one can look at books of accounts of businesses etc., etc., is to me unrealistic. There are also other sacred cows and that is the consumer and the people who pay. Why create this fear that big businesses and small businesses can do what they like and one must be careful not to look at their books but the people who pay they are semi-protected. I will allow this Bill to remain dormant, so to speak, until the next meeting of the House.

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

The Honourable I Abecasis  
 The Honourable A J Canepa  
 The Honourable Major F J Dellipiani  
 The Honourable M K Featherstone  
 The Honourable Sir Joshua Hassan  
 The Honourable A J Montegriffo  
 The Honourable A W Serfaty  
 The Honourable Dr R G Valarino  
 The Honourable H J Zammit  
 The Honourable J K Havers  
 The Honourable A Collings

The following Honourable Members abstained:

The Honourable P J Isola  
The Honourable J B Perez  
The Honourable G T Restano  
The Honourable M Xiberras

The following Honourable Member was absent from the Chamber:

The Honourable J Bessano

The Bill was read a second time.

HON A P MONTEGRIFFO

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

THE TRAFFIC (AMENDMENT) ORDINANCE, 1978

HON ATTORNEY GENERAL

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Traffic Ordinance (Cap 154) in its provisions relating to classes of driving licence, disqualification from holding a driving licence consequent upon conviction of certain offences and application for a Road Service Licence and to amend the Motor Vehicles Insurance (Third Party) Risks Ordinance (Cap 110) 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 this Bill be now read a second time. I will, if I may, deal with the Bill clause by clause. Quite recently, when the papers were referred to me, it came to my notice that there was a complete anomaly in sections 16 and 21 of the Ordinance. Section 16 provides: "Subject to the provisions of sections 17 and 18 (neither of which are relevant) and save in the case of a person undergoing the prescribed test of competence to drive a motor vehicle, it should be an offence for any person to drive a motor vehicle of any class upon a road unless he is the holder of a driving licence valid in respect of such class under the provisions of this part." Section 21 lays down the classes of vehicles. It says:

"For the purposes of sections 16, 19 and 20, vehicles are classified as follows", and it then goes on to name five classes of vehicles and these are: motor cycles, motor vehicles used for the transport of passengers with a maximum of eight seats and those used for the transport of goods weighing less than 7,700 lbs, motor vehicles used for the transport of goods exceeding 7,700 lbs, motor vehicles used for the transport of passengers having more than eight seats in addition to the driver's and any one of the last three categories towing a trailer which exceeds 1,500 lbs. There is no provision at all for a person to have a licence to drive, for example, a steam roller, a mobile crane, any form of road-making or constructing equipment and, in fact, the only way in which one can drive one of these vehicles in Gibraltar is to go to a Convention country, it could be the United Kingdom, and obtain a licence to drive one of these classes of vehicle and then come back. That, of course, is absolute nonsense. In fact, the Licensing Authority have been turning a blind eye to the law with, in my respectful submission, complete common sense. They have been issuing licences enabling people after the appropriate test to drive equipment of this nature. All we are doing now is to enable the Licensing Authority to issue licences for these particular classes of vehicle always after the appropriate test. Members will have seen, although this is strictly only relevant to the Committee Stage, there is an amendment to this clause, it has been repealed and replaced by another clause, purely to turn round the classes of vehicle. I will explain this when I come to the Committee Stage because changing certain clause numbers would have difficulty with certain existing printed licences. The second provision, clause 3, deals with the need for a court to disqualify from driving a person who has been convicted for driving under the influence of drink or drugs, being unfit to have control by reason of drink or drugs. At the moment it is possible for the Court merely to disqualify a driver in respect of a particular class of vehicle. That does not seem really to make sense. It means that if I am convicted, for example, of driving my Volkswagen under the influence of drink, I am disqualified for a period from driving private cars, the court can do that. If that is done it means I can go out and I can get a commercial vehicle, I can get to drive that without infringing the disqualification and, of course, if I am given to drink the chances are I get drunk in charge of that and somebody gets knocked down. The next amendment is to section 60 which deals with applications for road service licences. At the moment before you can apply for a Road Service Licence you have to produce to the Transport Commission a copy of the Certificate of Fitness in respect of the vehicle concerned. This is common sense as you do not want vehicles, shall we say taxis or buses, to be given a Road Service Licence when they are not fit to carry passengers. But it does mean that a person who wants to apply for a Road Service Licence must have the vehicle

before he can do so because if he has not got the vehicle, he has not got the Certificate of Fitness. Supposing Mr X wants to apply for a Road Service Licence, he has got his eye on a nice brand new taxi, he has to buy the taxi before he can apply for the licence and then if he is refused this licence it is a waste of money. What we are doing now is to provide that where the applicant does not own the vehicle he can apply for a Road Service Licence but even though the application is approved the Road Service Licence will not be issued until the Certificate of Fitness is granted. Again, as I say, absolute common sense. As regards the last amendment, under the Motor Vehicles (Third Party) Insurance Ordinance it used to be mandatory to disqualify a person from driving for a period of at least one year if he was found driving without his vehicle being insured. This was amended some years ago, before my time, to make a disqualification discretionary but the way the amendment was worded had the effect that the disqualification, if the court decided to impose a disqualification, it could only be for a minimum of a year. It could not impose a disqualification for six months or less, or for any period of less than a year. This had two effects. Firstly, where disqualification was merited, a court might decide not to disqualify, because it felt that disqualification for a year was too harsh or, equally, a court might disqualify for a year, take the other attitude, where in fact it felt in normal circumstances if it had no fetter it could disqualify for 6 months. Either way there was a hardship. In one case the driver was disqualified for a longer period and in another case, perhaps, on the members of the public because a chap who should have been disqualified for a short period was not so disqualified. What we are now doing is removing this period of disqualification so the court now has discretion in any offence to disqualify for such period as it deems fit. My recollection, I apologise if I am wrong, is that my Honourable and Learned Friend Peter Isola was involved in a case of this nature where in fact the Supreme Court ruled that the law was somewhat an ass. Mr Speaker, I commend the Bill to the House.

HON P J ISOLA

Mr Speaker, I would like to say that I welcome this Bill and certainly that amendment proposed to section 5 of the Bill I think is a very good the reasonable amendment. It was an impossible situation where people had to be disqualified for a minimum of twelve months even in circumstances where it was quite obvious that a short disqualification was appropriate. Certainly we would support this Bill.

HON M XIBERRAS

Since licences will be issued now for driving various vehicles, cranes, road rollers, steam rollers etc., who is going to examine people for the various skills required and, if so, does it require legislative change in any other Ordinance? Each time you go for a test for any of these categories, on separate occasions, you are not going to be charged separate too? What is going to happen?

HON ATTORNEY GENERAL

As at the moment you will be charged a fee for whichever vehicle you are being tested to drive and as at the moment licence tests will be carried out by the present Licensing Department. They have been doing it at the moment on cranes, so I am instructed, and road rollers.

HON M XIBERRAS

Are they qualified to do this or not?

HON ATTORNEY GENERAL

I cannot say whether they are qualified. Certainly, according to my instructions, it is being done. Good Gibraltarian common sense.

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

HON ATTORNEY GENERAL

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill will be taken at a later stage of this meeting. This was agreed to.

#### THE CRIMINAL LAW AMENDMENT ORDINANCE, 1978

HON ATTORNEY GENERAL

Mr Speaker, on a point of order. It does seem slightly anomalous that where you have a long long title it should be read out by the Clerk, by the Mover and then by yourself, Mr Speaker. I took off my hat, metaphorically, to the Honourable Minister for Medical and Health Services when he did not read the long title but just said: "I move that the Bill be read a first time."

MR SPEAKER

I passed a comment on that discreetly, but perhaps you are being kind enough to suggest that if you read it this time I will just have to propose it as you have read it. However, I will be quite happy if you propose the first reading of this Bill as read by the Clerk.

HON ATTORNEY GENERAL

Thank you, Mr Speaker. I beg to move that this Bill as read by Mr Clerk be read a first time.

Mr Speaker 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 this Bill be read a Second Time. At the risk of boring the House I think it only right that I should briefly go through the various provisions of this Bill and I would propose to deal with them not necessarily in the order of the clauses but in the order of subject. In so far as coroners are concerned, our legislation follows the English legislation - it applies in England and Wales, it does not apply in Scotland - and what is being done there is that they have done away with the power of a Coroner's Jury to commit a person for trial on the grounds of murder, manslaughter, infanticide, aiding and abetting suicide, causing death by dangerous driving. It is a provision which has never been used in my time in Gibraltar. I do not know when my Honourable and Learned Friend the Chief Minister can remember it, ever happening here, it is a completely anomalous provision, it is always done by the Attorney-General and so we are cutting away the dead wood from the Coroner's Ordinance and also we are taking away one or two other minor pieces of dead wood in that Ordinance. Turning to the question of criminal trials, at the moment there are four criminal sessions a year and a person who is committed for trial by the Justices or the Stipendiary Magistrate, comes up for trial at the next Sessions. If you have Sessions which have started in June and a person is committed shortly afterwards, it means that he cannot be tried until the new Sessions start in October. That is highly unsatisfactory and it is one of the problems which has faced our relatively new Chief Justice and what he is doing is, and he has the right to do this under the Indictment Procedure Rules, he is doing away with Criminal Sessions altogether and having the Court sitting, so to speak, continuously. I am not suggesting that it is going to sit every day but there is one continuous sitting of the Court throughout the year and this will mean that when a

person is committed to the Supreme Court he comes up for trial considerably more promptly than is, or may be, the case at the moment and the amendments to the Criminal Justice Administration Ordinance which we are effecting by this Bill is to do away with the provision by which the Magistrate commits to the next Sessions of the Supreme Court. There will not be such a thing as the next Sessions of the Supreme Court, he will merely commit to the Supreme Court and indictment rules will be made by the Chief Justice to provide for swift filing of an indictment by the Attorney-General once the man has been committed and provisions for bringing the man to trial on direction shortly thereafter. There are certain other amendments to the Criminal Justices Administration Ordinance which I should mention. One is that the Bill now provides that when a person is arrested he has the right for somebody whom he shall name to be informed of his detention. I do not think it is likely to happen in Gibraltar but it means where most people know what is happening and if a person is arrested the word goes round and his relatives are told. In the United Kingdom it is very different, a man coming from London might be arrested in Birmingham and there the Birmingham police must inform anybody he names of his arrest but it is better to follow that procedure here and to give this right to an arrested person. Still dealing with Criminal Justice Administration where a person is arrested and it is felt that he should be allowed out on bail, he cannot at the moment lay down or put down a sum in cash as bail. He has to find sureties, i.e. reputable persons who would bind themselves to pay over a sum of money if he does not appear when he is ordered to do so. You might have a visitor to Gibraltar, perhaps, somebody on a yacht and nobody here will go surety for him for the simple reason that they do not know him. He has got plenty of money so why should he remain in prison because he cannot find sureties provided he puts down some cash which is itself a security for his turning up to attend his trial. It seems a logical and common sense provision and we are proposing to put it into the law. Another provision in the Criminal Justices Administration is that at the moment if a person fails to turn up for his trial there is a somewhat complicated procedure laid down in the Criminal Justice Administration Ordinance where a report is made to the Attorney General when information is issued. What in fact has happened, and this is an inherent power of the Supreme Court, the Court issues what is called a Bench Warrant and the police go and look for and if they can find, arrest and bring back the man to the Court. What we are now doing is taking away the antiquated procedure and introducing or giving statutory effect to the inherent common law right of the Supreme Court to issue a Bench Warrant. There is one provision relating to jurors which I should mention and that is clause 20. This will enable, in fact, jury summons to be served by post. I am instructed that a considerable time of the Court staff is taken up in serving persons for the jury panel personally.



In future, summons will be allowed to be sent by registered post. We now come back to the new provisions of the Criminal Offences Ordinance and we start with clause 10. To a large extent this re-writes the existing section of the Criminal Offences Ordinance but it takes out of that section the present provisions regarding conspiracy to murder because we have a new part in the Ordinance dealing with conspiracy to murder. Clause 13 widens the ambit of the offence of making threats to kill and clause 14 writes into our law new provisions relating to conspiracy. By and large, in the United Kingdom, conspiracy was a common law offence. That means there was no statute determining the offence of conspiracy with the exception of conspiracy to murder which we have both in Gibraltar and they have in the United Kingdom, you charge the person who conspires with conspiracy contrary to common law. That has now been abolished in the United Kingdom with one or two small exceptions. There is still a common law offence of conspiracy to fraud, there is still a common law offence of conspiracy to corrupt public morals. But with the common law offence of conspiracy largely abolished in the United Kingdom, it means that a person who conspires in Gibraltar, unless we introduce this legislation, cannot be charged because you could only charge a man with a common law offence here if it is a common law offence in the United Kingdom and the provisions of this part relating to conspiracy follow very closely on the recommendation of the Law Revision Committee the provisions of the English Criminal Law (Amendment) Act of 1977. The last clause to which I will refer is clause 16 which, in the light of what has happened quite recently in Gibraltar, makes a necessary provision in the law, it relates to bomb hoaxes. Both in the United Kingdom and in Gibraltar until the 1978 Amendment, a person who had a bomb hoax, who rang up and said there was a bomb in the House of Assembly, which caused the House to be evacuated and caused the police to come in and search, virtually the only way you could charge him was wasting the time of the police. For the first time, and I cannot think why it has not been done before, it puts it on a sensible, everyday footing. It sets down the offence and I think, with respect, the chap who commits an offence under this section is thoroughly deserving of all he gets. Mr Speaker, I commend the Bill to this House.

HON J B PEREZ

I would like to say that I welcome the Bill as proposed by the Honourable and Learned Attorney-General, in particular, the clause removing the four Criminal Sessions we had every year. I think the problem has been outlined extremely well by the Honourable Member but I think the problem can be highlighted by a man, a defendant, who has to wait three or four months before he appears before the Judge and that particular man is in fact remanded in custody. There have been cases in which a man has been refused bail, has been

imprisoned from 3 to 4 months and then when he comes to trial he is found not guilty by a jury. I welcome this new clause and I think it will do away with any injustices that our old method could have given to any individual. In connection with the cash bail, I also welcome this. There have been cases, I believe, as the Honourable Member pointed out, of non-residents coming to Gibraltar and having had to be remanded in custody since they knew nobody in Gibraltar. There is one point and I wonder if the Honourable Member could give me an explanation. I do not really see the necessity of clause 8 which provides for the right to have someone informed when arrested. I do not really see the point, Mr Speaker, of having this particular clause here in Gibraltar. Perhaps the Honourable Member might give some thought to that. I think it is normal practice in Gibraltar when somebody is arrested that he is allowed to contact his solicitor and I do not see any real need, in view of police methods here in Gibraltar, to have this clause. Apart from this I welcome the Bill.

HON P J ISOLA

May I add something to what my Honourable and Learned Friend on my left has said and start off by that particular clause. The problem, I think, of non-notification of relatives or whatever, is caused when the police do not allow somebody to get in touch with a relative because they say that technically he is not arrested, that he is being held for questioning. I have had some experience of people held for questioning and because they are not technically arrested they are almost in a worse position than when they are arrested. I think the procedure is one of: "You are free to go when you like but if you go then we arrest you." I think one should be a little more reasonable especially in cases where people are held for quite a considerable time. I have had cases when people have been held for some hours questioning and relatives are trying to get in touch and they have not been able to get in touch with them. I think there should be some provision under which, when somebody is held for questioning, people are informed. I do not know what the objections are to it but I think that is a problem that I find has arisen. The other one, Sir, is the bomb hoax section. I am not quite sure whether this provision where it says that they are liable on summary conviction to imprisonment for a term of three months and to a fine of £1,000, whether what is intended is not rather and/or a fine of £1,000. I would have thought that there can be cases of hoaxes, none of them can be funny, but there can be the odd occasion where it is not necessary both to imprison and fine a person who has committed the hoax. There may be cases, I do not know, but there should be some modicum of discretion in the trial judge. Apart from that, Mr Speaker, I agree with what my Honourable Friend on my left has said that this Bill is



welcome and it streamlines certain parts of our law.

HON ATTORNEY GENERAL

Mr Speaker, the Government will certainly consider between now and the Committee Stage, which will be at a later stage of this meeting, the point made by the Honourable and Learned Mr Peter Isola about being held for questioning. The problem has been very fairly stated. Strictly speaking, there is no such thing as being held for questioning. The chap has got a right to go, he is either under arrest or he is not but we do know that people are questioned, it is a necessary function of the police. Consideration will be given to this before the Committee Stage. On the bomb hoax section, it means no more, and this is under the Interpretation and General Provisions, where it is either/or. He can be fined up to a £1,000, he can be sentenced to prison for up to three months or both. This is a general provision throughout our Criminal Law.

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

HON ATTORNEY GENERAL

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill will be taken at a later stage of this meeting. This was agreed to.

MR SPEAKER

We come to the next Bill on the Order Paper which has not been circulated. Do we wish to leave it and go on with the others?

HON ATTORNEY GENERAL

Mr Speaker, the Bill will, in fact, be published on Thursday. The reason it was put in is that I had hoped that we could publish it at an earlier stage and when Mr Clerk came to see me I included this particular Bill. In fact, it has not been possible to publish it but it will be published on Thursday so at this stage I think we can do no more than pass it by.

THE COMPANIES (TAXATION AND CONCESSIONS) (AMENDMENT)  
ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Companies (Taxation and Concessions) Ordinance (Cap. 155) by granting exemption from estate duty and stamp duty on certain policies of life insurance issued by exempt companies, be now read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that the Bill be now read a second time. As the Ordinance stands at the present moment, Section 9 only grants exemption from estate duty to shares in or loans made to or debentures held in companies registered under the Ordinance and I should here say that when in the next few moments I use the word companies I mean those companies which are registered under this particular Ordinance and not companies generally. The amendment contained in this Bill which the Government is proposing, will widen the scope of that exemption so that it will include life insurance policies which are issued to non-residents by such companies. It will also exempt from stamp duty the policies and any annuities payable by the companies as well as any dealings with these, whether by way of mortgage or sale or otherwise. In practice, the amendment goes no further than to recognise what already exists for the liability to the duties which I have mentioned can already be avoided if the documents are executed under seal and are held physically outside Gibraltar, provided, of course, that the insured at the time of death is not himself or herself domiciled in Gibraltar. There is therefore very little if, indeed, anything which this amendment will give away. On the other hand there is, in the view of the Government, something to be gained from it because the insurance companies which are registered under the Ordinance can quite properly claim that their policies are not subject to any duties, particularly estate duty, in Gibraltar. Moreover, the Government believes that the exemption will encourage companies to execute their documents in Gibraltar and thus to generate management activities on the Rock. In essence, therefore, the amendment contained in this Bill is directed to providing a little extra stimulus to Gibraltar's use as a financial sector. Mr Speaker, Sir, I beg to move.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I give notice that the Committee Stage and third reading of this Bill will be taken at a later stage of this meeting. This was agreed to.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that a Bill for an Ordinance to amend the Imports and Exports Ordinance (Cap. 75) 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.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that the Ordinance be now read a second time. The Imports and Exports Ordinance has been on the Statute Books of Gibraltar for a good many years and it contains within it a great many references to the word "ship" but, quite surprisingly, nowhere in the Ordinance is "ship" defined and, therefore, the first amendment in the Bill which I am now moving enters a definition of the word "ship". Clause 3 of the Bill relates to manifests, or as it is technically called in the Bill itself, "report of cargo". The clause very largely re-enacts the existing provisions of section 3 but it now includes a requirement for the submission of manifests in respect of cargo taken on board in Gibraltar, in other words, outward manifests. It also sets out the particulars which manifests must generally contain and for the purposes of the amendment the word "cargo" is being defined so that it does not include goods which are shipped as stores or for consumption on board. I feel certain that there is no need for me to emphasise that outward manifests greatly facilitate the control, generally, which is exercised over exports. In the past such manifests have been supplied by the customs, so I am informed, on request, but there is now, in this container age, a pressing need to formalise matters because the rental charge which has been introduced requires that the movement of containers are kept under proper control. As the House will recall, rent only becomes payable from the fifteenth day onwards for containers which arrive by sea and from the seventh day onwards for those which arrive by air and it is therefore essential to know precisely when containers leave the port and the only way in which this can be done effectively is by means of an outward manifest procedure. I should like to assure the House that this matter has been discussed with

the Gibraltar Shipping Association and other interested parties who have co-operated fully and I can assure the House that there will be no difficulty in implementing the requirement and I think it is an appropriate moment to put on record the Government's appreciation of the co-operation which has been so readily forthcoming. Clause 4 relates to a TIR carnet. The TIR carnet, I have to confess, I do not know precisely what those three initial letters stand for, but it is issued under the Customs Convention on the international transport of goods and under the cover of TIR carnets and hence the general description the TIR Convention, notwithstanding that the final declaration is not declared prior to arrival in Gibraltar as required by section 34 of the Ordinance. The aim of the Convention is to facilitate the transport, duty free, of goods by road in sealed vehicles through countries en route between the country of departure and the country of final destination. The Convention is obviously advantageous for those countries through which through-traffic is moved. At the moment, of course, it has little relevance to Gibraltar but who can tell, there could well come a day when the adoption of this amendment could indeed be advantageous. Clause 5 of the Bill repeals section 85 of the Ordinance which has become spent and replaces it with a new section which will enable the order granting relief from duty to be made where such relief is obligatory under any Convention or Treaty which has been extended to Gibraltar. It is therefore a procedural one and would enable the requirement of any convention or treaty to which it has been extended to Gibraltar, that there will be no untoward delays in granting the provisions of relief. Such an example, for instance, would be the temporary importation of packing convention, the term packing being used to describe all articles used as packing in the state in which they were imported. Like the TIR Convention, at the moment that has little relevance to Gibraltar but for the same reason who can tell one day in the future it might. The remaining amendments in the Bill are of a technical nature. Clause 6 repealing the words "City Council or other" which at present appears in items 24 and 25 of the First Schedule and are clearly no longer appropriate, and clause 7 repeals the Fourth Schedule which became spent when section 3 of the Ordinance was repealed as long ago as 1973. Mr Speaker, I beg to move.

HON G T RESTANO

I think it is commendable to have the Imports and Exports Ordinance streamlined and put up to date. I only have one comment and that is about what I feel is possibly an omission as far as manifests are concerned. There is one aspect which is not included in this amendment which I feel affords certain loopholes in manifests and that deals with ships' out-turn report. A cargo ship which arrives in

Gibraltar with cargo must supply a manifest which, incidentally, has to be signed and I do notice that in the draft here there is no specific mention of a manifest having to be signed and I think that is important in so far as I will go further on to mention the out-turn report in the manifest. Cargo is unloaded in Gibraltar and it is sometimes found that there may be pilferages, there may be goods missing and an out-turn report is made by the vessel after consultation with the unloading authorities and an out-turn report should be made and signed by Masters of vessels. At the moment, as the law stands, the out-turn report is made out but it does not necessarily have to be signed and therefore by the non-signature of these out-turn reports there arises certain discrepancies as to where the responsibility lies for pilferages or missing cargo so I do feel that the Government might, perhaps, consider this point as a possible addition within section 3 of this amendment.

HON P J ISOLA

I think I heard it said that the Government is making provision for the first time for the requirement of an outward manifest for cargo loaded in Gibraltar. Is this going to apply to every little ship that leads in Gibraltar? Will this not bring practical difficulties to our already overburdened Customs staff? As I understand the position there are a number of exports carried in small vessels out of Gibraltar and I would have thought a manifest would not be necessary in such circumstances but I notice that under this Bill it will be obligatory and this will add to the burden which I hope will not result in extra staff being employed by the Revenue Department of the Government. Mr Speaker, the other thing is the definition of ship and vessel. Does this include hulks and barges and all sorts of odd things lying around in Gibraltar? I do not think whether the definition should not contain "or anything that floats".

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, we will certainly consider between now and the time the Bill comes into Committee the two points which the Honourable Mr Restano has made. First of all the question of signature of the manifest itself and also the requirement that Ships' Masters should hand in an out-turn report and that such report should be signed. We will consider both these points between now and the time we come to Committee. In response to the Honourable and Learned Mr Isola's point I am advised firstly that any ship outward bound which has loaded cargo in Gibraltar and is exporting that cargo will be required to file a manifest. In regard to the second point I am advised that the definition of "ship" or "vessel" is taken from the United Kingdom legislation.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

THE INCOME TAX (AMENDMENT) ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that the Bill be now read a second time. The House will recall that during the Committee Stage of the Income Tax (Amendment) Bill in May of last year, the Honourable Mr Bossano sought to exempt from tax a capital sum paid by an employer to a dismissed employee being an award by an industrial tribunal. In response to that proposal the Honourable and Learned Chief Minister undertook that the Government would look into the matter. First of all, I think, Mr Speaker, we should establish the legal position and the Government is advised that a sum paid by an Industrial Tribunal as a result of wrongful dismissal must be construed as being covered by the term "gain" for the purposes of section 5(1)B of the Income Tax Ordinance and is, therefore, chargeable to tax. The question of exemption can be argued in two ways as a policy question. It can be considered as an award of the consolidated pay which the employee would have received had he not been dismissed or, conversely, it can be argued as compensation for the loss of employment. The Government is in favour of the latter and therefore proposes, in clause 3 of this Bill, to amend section 7, sub-section 1, to exempt from tax this class of payment, i.e., awards by an industrial tribunal. As the House is aware, recent issues of Government debentures have carried an ~~interest~~-free coupon, i.e., the interest in the hands of the recipient, whether it be an individual or a company, is free of tax. If the Company wishes to pass on that tax-free benefit to shareholders or directors, of course, in their hands as the law stands at the moment the interest is taxable. The

response which the Government had to the last interest-free debentures, the 7½ 1992 loan, the response was modestly favourable. It could hardly be described as enthusiastic. Moreover, in general, the subscribers were individuals with relatively small sums to invest and corporate investors, especially holding companies, displayed little interest. On enquiries, and indeed one or two of them made actual representations, it was quite clear that the reason why they were displaying so little interest was the fact that the tax-free benefit could not be passed on to the shareholders. In the forthcoming next development period, between now and 1981, the Government will be faced with the task of borrowing a very substantial sum of money over the three years, something of the order of £850,000, <sup>in 1978/79</sup> and the response which reaches the 1992 tax-free debenture issue and the previous one, does not suggest that this borrowing requirement is likely to be met without recourse to the Government's own internal funds. There is no reason, of course, why those funds should not play their part, indeed they should, but if the borrowing requirement could be fully met, or even substantially met by public subscription, then obviously it frees the Government's own funds for other purposes. Moreover, as we all know, there is a substantial amount of what I might call Gibraltar-based money customarily and currently invested, in the main, in London in United Kingdom gilt-edged securities and the Government feels that by making it possible for companies to pass on the interest-free benefits from a subscription to the Government's own paper, we might be able to attract for investment in Gibraltar's development needs some of the money which at the present moment is invested in the United Kingdom and, perhaps, elsewhere. The new sections 2(a), 2(b) and 2(c) which appear in clause 3 of the Bill will make this possible but it will be subject to two conditions. First of all, that the company wishing to take advantage of the benefit makes a distribution in the accounting period in which the actual earnings accrue and, secondly, the amount which is available for distribution is paid out in full and that nothing is withheld. The next... amendment relates to interest on loans applied for the purchase or development of a residential property. Section 15(A) of the Ordinance grants relief for such interest which is payable or paid by any individual who occupies a property for residential purposes but as it is framed at the moment it is irrespective of where that property is situated. The Government sees no justification whatsoever for relieving interest payments on a loan which has been used to purchase property outside Gibraltar and the purpose of this amendment is therefore to confine the benefit to interest relating to property in Gibraltar. The current practice of the Income Tax administration is to allow contributions paid by employees under the Social Insurance Ordinance to be given relief. It has been advised now that that is not covered by statutory provision and is, in fact, an administrative concession. The Government sees every justification in continuing the practice but at the same time,

quite obviously, the law should so provide. That, Mr Speaker, is the object of clause 6. The next amendment, which is in clause 2 of the Bill, relates to maintenance payments and the Ordinance as it stands contains an anomaly in that the allowance is given to an individual who makes maintenance payments to his wife from whom he is separated. It makes possible an allowance where the individual is separated from his wife and such an individual is entitled to £550 or the amount actually paid, whichever is the greater. As a result, therefore, an individual who pays as a result of a Court Order £200, is entitled under the income Tax to an allowance of £550. Clause 5 of the Bill proposes therefore that this should be amended so that the allowance granted for tax purposes is the actual amount of the maintenance payment irrespective of whether this is more or less than £550. It is ~~both~~ advantageous to some and it will be not so advantageous to others. Clause 2 rectifies an existing anomaly whereby alimony is chargeable to tax and maintenance payments made under an Order of Court or under a Deed of Separation are not chargeable. It does not seem to the Government that there is any justification for distinguishing between the one and the other and in future such payments will all be chargeable to tax. Now for Clause 7. The Income Tax Ordinance grants ~~relief to public investment companies which would otherwise be payable by non-resident shareholders and~~ section 31A(4) of the Ordinance defines a public investment company as a company which is resident in Gibraltar and which is principally engaged in buying, selling and holding of securities and which arranges for its shares to be quoted and made available for purchase in Gibraltar by members of the public. The objective of the section of the Ordinance stems from the concept of attracting to Gibraltar non-resident investment ~~and to~~ confine the advantage to public investment companies as at the present moment defined in the Ordinance, is somewhat restrictive because you can have companies which are wholly-owned subsidiaries but which themselves do precisely what the principal companies as defined in the Ordinance are doing, yet if the company concerned is a wholly-owned subsidiary of another company ipse facto its shares are not available for public subscription and again ipse facto it gains nothing. The amendment, therefore, is designed to extend the present arrangements to wholly-owned subsidiaries of a public investment company. Mr Speaker, I have already given notice of the Government's intention to move, at the Committee Stage, an amendment immediately after clause 6 of the Ordinance. The object is to ensure that the net income of pensioners will not be harshly reduced by the income tax clawback. With that, Mr Speaker, I beg to move that the Bill be now read a second time.

relief from tax which would otherwise be payable by non-resident shareholders of Gibraltar public investment companies

HON J BOSSANO

Mr Speaker, the Bill, although amending the Income Tax Ordinance has a number of clauses which affect, shall we say, different entities in the community and I would like to confine myself, even though talking on the general principles to a couple of sections where it is more directly the working class that is likely to benefit from the introduction of the amendments proposed by the Government and to welcome in particular the fact that there is going to be a statutory provision to allow employees who are given compensation for unfair dismissal to receive that compensation free of tax. I would like the Government to consider whether it is possible to enlarge that provision to take into account the fact that very often it is possible in a case of unfair dismissal to reach agreement with an employer before the case goes to a tribunal and in the provisions of the Regulations of Wages and Conditions of Employment Ordinance, it states that the Labour Department, on receiving a complaint about an unfair dismissal, should first try and see if it is possible to reconcile the party to the dispute before the case goes to a tribunal and out of such reconciliation an agreed amount can be arrived at sometimes. Given that that is the case it would seem to be unfair to discriminate against those who are able to reach agreement for a sum of compensation and I would like the Government to consider whether it is possible to make provision to cover such instances without opening a loophole which would enable artificial payments to be made in a way that would get round the Income Tax Ordinance which I understand is one of the preoccupations the Government has had in this matter in not wanting to widen the terms of reference which would enable the payments to be made free of tax. I think also it is important to consider, Mr Speaker, another type of payment which, in my view, should be free of tax and this is compensation for loss of employment arising not out of unfair dismissal but out of redundancy. In the United Kingdom there is a statutory obligation on employers to make redundancy payments depending on the length of service which are free of tax. In Gibraltar there is no statutory requirement but there have been occasions in the past when employers have agreed to make payments for compensation both in the public and in the private sector and this is something that is still taking place in Gibraltar. I would like the Honourable Member to give consideration to that point. On the question of the exemption from Social Insurance contributions, I would like the Honourable Financial and Development Secretary to clear up for my benefit whether the situation is that the exemption from Social Insurance contributions from income tax is within the limits placed on the maximum that can be paid in premiums for insurance and pension funds or not and, if so, I think one consideration that the Government might look at there is that where, for example,

someone is contributing to a life insurance policy and there is a premium, the fact that social insurance contributions are increasing annually may mean that at some stage an increase in the Social Insurance contributions can no longer, in practical terms, be claimed because it would go over the limit if in fact the life insurance is a static one. Perhaps the Government can give some thought to the relationship between these two. The only thing I can say is that I support fully the improvements being brought in this area and I welcome their extension.

HON P J ISOLA

Mr Speaker, I would like to say a few words on this new provision for exempting from tax any compensation received from unfair dismissal. It seems to me that if the object of the Government in exempting such sums from tax are to be achieved, the object being, presumably, that the person who has been hard done by by an employer should not consequently be hard done by by the Income Tax Office taking tax on the amount he collects. It seems to me that if the Government is going to be fair in this matter it should extend it, and in fact it must extend it, unless it wants to invite unnecessary litigation, it must extend it to the class of case that the Honourable Mr Bossano has referred to and that is the case where there is an unfair dismissal or an unfair dismissal alleged, the Labour Department intervenes, and as a result of their conciliation efforts a settlement is arrived at and the worker receives an amount for unfair dismissal. It seems to me logical that this is a necessary consequence. This may be a loophole in the law but it is a loophole that the Government is now providing and therefore it seems to me unfair that a person should have to go right through the rignarole of an Industrial Tribunal hearing, wait a few months for his judgement, possibly, before he can claim freedom from income tax when employer and employee are agreed as to what he should receive. So clearly, any amount received or paid by way of agreement for unfair dismissal should also be free of tax. But, Mr Speaker, there is another class of case that I must refer to the House whose claims I would have thought were even higher to the person who is being unfairly dismissed. What about the person who has been wrongfully dismissed? Not unfairly, but wrongfully. For example, there is provision in the Regulation of Wages and Conditions of Employment Ordinance which requires an employer to give somebody, say, eight weeks notice, or four weeks notice if he is on a contract before he can be dismissed and the employer dismisses him. That person is entitled, according to law, to compensation equivalent to an amount equal to half the number of weeks left in his contract of employment. That man has been wrongfully dismissed, so he gets an amount. It seems to me wrong to take tax out of that man and not out of the man who has only been unfairly



dismissed. Then there is the other example of wrongful dismissals that can occur when an employer without any justification sacks an employee, not just unfairly but illegally, unlawfully, and the employee then claims his damages and gets them. Why should these be subject to tax? I think if the Government wants to recognise that a compensatory payment made to an employee for having been unfairly, or using the word the Financial and Development Secretary used in moving the motion, "wrongfully" dismissed, it would seem to me that that compensation should be free of tax equally if the Government wants to be fair in this and is not just taking up a suggestion made by an Honourable Member of the House in isolation. It seems to me that an employee who has been illegally dismissed, wrongfully dismissed, and therefore possibly entitled to more compensation than a person who has been unfairly dismissed, his compensation should be equally free of tax and I think that that particular sub-section should in fact cover any compensation received by an employee for unfair or wrongful dismissal whether awarded by the Industrial Tribunal, the Court of First Instance or the Supreme Court of Gibraltar. They are all in the same class of case and if the Government is going to be consistent in this and fair to all the classes of employees who might be dismissed then, I think, it should have the consistency or the courage to apply it equally to all kinds of compensation received as a result of an unfair or wrongful dismissal between master and servant. Otherwise, Mr Speaker, this law is not equally fair to all, it is only fair to that person who is dismissed unfairly and who may go to the Industrial Tribunal and who waits for a judgement of the Industrial Tribunal. That man gets it free of tax, but a man who is reasonable about it and after the efforts of the Conciliation service of the Government comes to a settlement, he does not get exempt from tax and the man who has a dreadful employer and the power of the Union cannot even stop that in a particular case, who just picks him up and says, "Out you go", that fellow pays tax to the full after he has had a long and, possibly, costly experience in the courts for compensation. That man has to pay the full amount of tax. That seems to me unfair and therefore if the Government is going to introduce legislation such as this, or thinks it is fair to pass this sort of legislation, and none of us are quarrelling with it, then it should be logical and apply it to all forms of dismissal as between master and servant. It is going to cost a lot more money, I agree, but that is the only way you can be fair to the taxpayer or to the worker or to the master and servant situation. That is the main comment I have to make on the Bill, Mr Speaker. The other comment I would make on the question of interest received by companies from Government debentures that are free from

tax. It seems to me that if the Financial and Development Secretary wants to encourage people to invest in Government debentures that are free of tax he must surely make them truly free of tax. I do not see the reason why it will only be free of tax if it is distributed in the same year as it is received. As long as you can identify the amount that has been received free of tax and continue to identify it by virtue of tax computation or whatever it is done by the Income Tax Office, I do not see why that money that the Government has said should be free of tax should become liable to tax. You either make it free of tax or you do not. I would suggest that again there if Government is to encourage people to invest in their tax-free loans, then they should make it the same for everybody. Mr Speaker, apart from that there is nothing else I would like to say on this Bill which has not already been said by the Mover and the Honourable Mr Bosseno in reply.

HON A J CANEPA

My experience in the House, Mr Speaker, in the last few years with regard to amendments to the Income Tax Ordinance that come before the House is that invariably points are raised by Members on the opposite side and that it can be somewhat dangerous on the Government side to give, as it were, a definitive answer. I think the best practice experience is now proving is that we should take these points away for quiet consideration, reflect on them, have them thoroughly looked into and then perhaps bring whatever amendments we could agree to in the proper form and therefore what I am going to say is really only by way of an initial reaction to two of the points in particular that have been raised and one may have to change one's mind in the light of further reflection. I agree that in the case of a settlement being reached arising from an alleged unfair dismissal without having to have recourse to the Industrial Tribunal, that provision should be made if possible for such a compensatory sum to be tax-free, provided, of course, that this does not lend itself to abuse. I think that if the Government were to be satisfied that an amendment could be sufficiently watertight I think in principle we would probably have no objection to agreeing to that. As regards other forms of compensation which the Honourable Mr Isola mentioned arising from wrongful dismissal, not giving sufficient notice to an employee, I am not so sure about that. I say that because where, as a result of an employee having been employed say for ten years if he requires to be given eight weeks' notice by the employer, my understanding of that is that those eight weeks' notice are really by way of wages. Wages are going to be paid for those eight weeks to that employee and therefore if what the employee is receiving are wages, in my new wages should be taxable. It is not the same sort of compensation as is pay as a result of a case going before an Industrial Tribunal where the



employee has been deprived from earning his living for a certain period of time. If notice is given, if someone is told: "I have to dismiss you three months from now, but here you are, you are going to remain in employment during those three months and I must pay you the wages", I think my reaction is that those wages should be taxable. The only other point I wish to mention briefly is that raised by the Honourable Mr Bossano with regard to increases in social insurance contributions over the years whether because of the feeling whereby only one-sixth of the assessable income is allowed as an allowance against insurance premiums, whether therefore that needs closer examination. With wages and salaries increasing, assessable income is also going to increase, surely, from year to year and therefore unless the premium to a life insurance policy which the payee of tax has is a very high premium which very closely approaches one-sixth of his assessable income, unless that is the case, then obviously the increase in assessable income from year to year should be enough to cover the increase in the social insurance contributions. That is my reaction to that one. It is just a point I wish to make which I do not know whether he may have thought of. Other than that Mr Speaker, I support the motion.

#### HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, my Honourable Friend on my left has, I think, dealt as far as it is possible to deal today with the various points which have been raised and I think one can sum up, really, that we have taken note on this side of the points. Our minds are not closed and they will be looked at. There is one, however, which remains and that is the Honourable and Learned Mr Peter Isola's uncertainty about the conditions which have been imposed in the new section 2C for any company to claim exemption from tax derived from a Government debenture which it passes on. That is in relation to the distribution being made within the single accounting period and the total sum available for the distribution being distributed. Again, whilst it may be that we can go further, my immediate reaction to that is that unless those two stipulations are made and adhered to it will be virtually impossible to identify the actual interest flowing through.

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

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

This was agreed.

#### HON CHIEF MINISTER

Mr Speaker, I move the adjournment of the House to Monday the 10th April, 1978, at 10.30 a.m.

This was agreed to and the House adjourned to Monday the 10th April, 1978, at 10.30 a.m.

The adjournment was taken at 6.00 p.m. on Monday the 3rd April 1978.

MONDAY THE 10TH APRIL 1978

The House resumed at 10.30 a.m.

PRESENT:

GOVERNMENT:

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

The Hon Dr R G Valarino

OPPOSITION

The Hon M Xiberras - Leader of the Opposition  
The Hon P J Isola, OBE  
The Hon J B Perez  
The Hon G T Restano

INDEPENDENT MEMBER:

The Hon J Bessano

ABSENT:

The Hon Major R J Peliza

IN ATTENDANCE:

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

HON CHIEF MINISTER

Honourable Members may have heard with some regret that the Speaker suffered a slight accident over the weekend and is in bed in hospital and will not be fit for a few days. Section 42 of the Constitution says that: "there shall preside at any sitting of the Assembly the Speaker or in his absence a member of the Assembly elected by the Assembly for

the sitting." I therefore propose that for the rest of the official side of the agenda we should appoint the Attorney General to preside over our proceedings.

HON M XIBERRAS

The Chief Minister did inform me about the accident the Speaker had suffered and other than signifying my agreement that the Attorney General should take his place for as long as he is not fit and other than wish the Speaker a prompt recovery I have nothing else to add.

HON CHIEF MINISTER

I should like to point out that the appointment is for each sitting as it is required.

The Clerk of the House then put the question in the terms of the Chief Ministers motion which was resolved in the affirmative and the Attorney General was elected to preside.

PRAYER

Mr Speaker recited the prayer.

MR SPEAKER

Before we carry on with the business, I would like to thank Members of this House for the honour they have conferred upon me. I shall do my best to preside and to uphold the dignity of this House and I only trust that if I make any errors Members will be reasonably conciliatory.

THE SUPPLEMENTARY APPROPRIATION (1977/78)(NO.6) ORDINANCE, 1978.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to apply further sums of money to the service of the year ending on the 31st March 1978 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.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that the Bill be now 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 £203,592 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 £3,235 out of the Improvement and Development Fund. The purposes for which these further sums are required are set out in detail in the Schedules of the Supplementary Estimates of Expenditure which I tabled at the commencement of this meeting. The House will I am sure appreciate that it has not been possible to seek these Supplementary Appropriations before the end of the last financial year and that, accordingly, unless the sums are now voted, any over-run on the items in question will stand as unauthorised expenditure. That, in my submission, Mr Speaker, in the circumstances in which we were faced last month, would be unfair on the controlling officers since these supplementary estimates which are now before the House were submitted in time for a supplementary appropriation to be sought before the end of the financial year had the House, in fact, sat. I beg to move.

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

This was agreed to

THE PENSIONS (INCREASE) AMENDMENT ORDINANCE, 1978

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker. I have the honour to move that a Bill for an Ordinance to amend the Pensions (Increase) Ordinance, 1973 (No.30 of 1973) be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that the Bill be now read a second time. The Pensions Increase Ordinance enacted in 1973 provides, inter alia, for the restoration by periodical increases of the purchasing power of pensions payable to Civil Servants and their dependants to the level of the pension when it first became payable. The provision for increases is limited to officers who retired at the compulsory age of 60 or who retired at an earlier age on medical grounds. In the case of officers who retired after the 1st November, 1973, the increases in pension are frozen until the date the pensioner attains the age of 60. Representations were made on behalf of an officer who retired prematurely shortly before the 1st November, 1973, and one of the grounds adduced for the increases of pension to be applied to him was that while the officer concerned submitted his application to retire prematurely some six weeks before the 1st November, actual approval for his retirement was not given owing to administrative delays until after that date and hence the officer concerned was penalised. This matter was fully investigated and it was established that the administrative delay arose from the need to refer the officer's application to retire prematurely . . . .

MR SPEAKER

Is the Financial and Development Secretary speaking on an amendment to the printed Bill or on the Bill itself?

HON FINANCIAL AND DEVELOPMENT SECRETARY

On the Bill itself, Mr Speaker. The point is that the Ordinance as it stands, as I shall explain, excludes certain officers who in the opinion of the Government were inadvertently . . . .

MR SPEAKER

I understood the Financial and Development Secretary was referring to one officer only which I believe to be the case for the amendment not for the Bill itself. The Bill itself refers to four officers.

HON FINANCIAL AND DEVELOPMENT SECRETARY

That is perfectly correct, Mr Speaker, as I shall explain. The one officer who gave rise to this investigation, when the investigation was carried out, revealed that there were also three other officers so that in all four officers are concerned who had given notice prior to the 1st November, 1973, but whose retirement was not approved for reasons quite outside the officers' control until after the 1st November, 1973, and therefore they were, in the opinion of the Government, inadvertently and inequitably penalised. Sir, since that situation arose a further officer has been discovered as falling in the same category and it is in relation to that officer that I shall speak on an amendment when we come to the Committee Stage of the Bill, but for the moment the Bill seeks to rectify what was in the Government's view clearly an inadvertent omission in choosing the date of 1st November, 1973. I might add that in investigating this the House will probably recall that the particular Pensions Increase Bill in 1973 was rushed through the House through all its stages in great haste and the date of 1st November, 1973, followed that very fast passage of the Bill through the House. Had the Bill been taken more leisurely, had the first two readings been taken and subsequently the Committee Stage and Third Reading been taken as is frequently the case in non-urgent matters, then it is possible, and I would like to think that it would have revealed, that the 1st November was an inequitable date for the purposes of these four officers who clearly should have been included in those it sought to benefit. Mr Speaker, I beg to move.

HON M XIBERRAS

In a Bill of this kind which seeks to have retrospective effect, one should be, I think, as Members of the House, wary, despite the Honourable Financial and Development Secretary's explanations as to exactly what the House is doing in supporting such a measure. The Honourable Member has told us, I hope I have got his point clearly, that the need for this Bill arose out of a particular officer's case and that subsequently three other cases were found that that subsequent to that another case was found to be deserving, in the Government's view, of the same treatment. I feel that we are dealing with sufficiently small numbers as to reasonably be able to ask the Financial and Development Secretary who are the individuals concerned in this matter. I remember, in fact, the case of, I believe it was one Mr Suarez, where a particular Bill was passed in the House and it was considered that Mr Suarez at that time had a good case and the House gave the Bill its support. I believe that in this particular case the House should also be aware of who was the original officer making the representations and the other officers involved. Mr Speaker, I say this not purely out of curiosity nor do I say this because I doubt the

Financial and Development Secretary's word on this matter and the reason for bringing this to the House, namely, that there were administrative delays in considering the cases of the application for retirement of this officer or all officers. The reason why it was not included in the Bill which I do recall was rushed through the House were beyond the control of the affected officers but nonetheless this is a Bill, in my judgement, in which the actual examples amount to the principle of the Bill and therefore the Financial and Development Secretary should be in a position to tell us in replying to the Second Reading of this Bill, who are the officers involved in this. I think the House should know because it must guard against arbitrary treatment of officers. I do not know whether there could be a difference in the dates proposed in the Bill or not and therefore the cases of individuals, in this instance, should be given to the House. In general principle I would support the Bill but I would be much more satisfied in supporting the Bill if I knew of the individual cases involved.

HON A J CANEPA

Mr Speaker, I think there is some element of confusion in the mind of the Honourable Leader of the Opposition. From time to time, over the years, this House has through a specific Bill which has usually carried the name of the officer so affected, made provision for either a pension to be awarded specifically to an individual or for a period of service which that individual may have had outside the direct ambit of Government employment to be reckonable for pension purposes. The last occasion that I remember that being done was, I think, a couple of years ago when the House passed the Joaquin Bensusan Bill in order that the Curator of the Museum should have a period of service in the Museum and also a period of training in the United Kingdom reckonable for pension purposes as an employee of the Government. The House will, in the not too distant future, also be considering a similar Bill in respect of one of my own officers in the Department of Labour and Social Security who between 1970 and 1976 was actually in the employment of the Department of the Environment but seconded to the Landport Construction Industry Training Centre and whom it is desirable should now have this period of six years counting for pension purposes now that the Government is taking him over under its wing. That is one matter. What we have before the House now in respect of this Bill is quite another matter. It has got nothing to do with periods of service. What it is proposed to do is, through this amendment, to unfreeze the pensions that would otherwise be frozen in respect of five Government officers whose names I do not think for the reasons that I am stating need to be revealed to the House, five Government officers who gave notice of intent to retire before November, 1973. Very often, when an individual gives notice to retire, apart from

any delays that there must be locally in some cases if the individual wishes to retire before the age when he is entitled to retire, I understand that cases have to be referred formally for approval to the Secretary of State since the pension of Government officers is not a defined domestic matter. But there is bound to be some delay between the time when an individual applies to retire on those grounds and the application is formally and finally approved and that is what happened in these five cases. I was aware myself of three of them concurrently, the three that later came to light following the very first one who had written in to Government and after seeking legal advice did not come to light a period of time afterwards. I was aware of two or three of them concurrently at the same time. The other one was brought to my notice after publication of the Bill. Again the individual had applied to be retired before November, 1973, but approval had not been given until after April, 1974. The date of 1 April, 1974, was put into clause 2 after some research had been done by the Establishment and the Treasury in the belief that all affected cases were being swept in by that date. In fact, this one other case has come up and I believe the effect of the amendment will be to meet that case and in fact any others that could come up but it is very, very unlikely, to my mind, that any other case will come up because that would mean a delay of well over six months in actually dealing administratively with an application. If the date is left open we can deal with any case that may come up but in practice I am almost certain that no other case is going to come up. In fact, I have just had a note from the Chief Minister that one of the persons affected has actually died already but, no doubt, the Estate of the person concerned will receive whatever increases are merited.

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

The Honourable I Abecasis  
 The Honourable J Bossano  
 The Honourable A J Canepa  
 The Honourable Major F J Dellipiani  
 The Honourable M K Featherstone  
 The Honourable Sir Joshua Hassan  
 The Honourable A P Montegriffo  
 The Honourable A W Serfaty  
 The Honourable Dr R G Valarino  
 The Honourable H J Zammit  
 The Honourable A Collings

The following Honourable Members abstained:

The Honourable P J Isola  
 The Honourable J B Perez  
 The Honourable G T Restano  
 The Honourable M Xiberras

The Bill was accordingly 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 today if we reach that stage.

This was agreed to.

COMMITTEE STAGE

HON CHIEF MINISTER

I have the Honour to move that this House should resolve itself into Committee to consider the following Bills clause by clause: The Price Control (Amendment) Bill, 1978 The Industrial Training (Amendment) Bill 1978, the Traffic (Amendment) Bill 1978, the Criminal Law (Amendment) Bill 1978, The Companies (Taxation and Concessions) (Amendment) Bill 1978, The Imports and Exports (Amendment) Bill 1978, The Income Tax (Amendment) Bill 1978, The Supplementary Appropriation (1977-78)(No.6) Bill 1978 and the Pensions (Increase) (Amendment) Bill 1978.

THE PRICE CONTROL (AMENDMENT) BILL 1978.

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

Clause 3

HON A J CANEPA

Mr Speaker, I have given the House notice of an amendment to this clause but before I move the amendment I would like to refer to something that I mentioned during my speech when I exercised my right of reply. I made reference to the fact that the powers which we were seeking to obtain in clause 3, the machinery which we were seeking to implement in order to be able to implement these powers, emanated directly from a recommendation in the Dame Elizabeth Ackroyd Report and when I said that it was received with some degree of scepticism so, with your leave, I would like to read two paragraphs from the Dame Elizabeth Ackroyd report which will indicate to the House in no uncertain terms, in my view, that when we moved an amendment to the Price Control Ordinance in 1974 whereby we introduced section 3A which we are now repealing, we were acting directly on the basis of the recommendations in the actual report, but which we are enlarging on through

an improved machinery in clause 3. These are paragraphs 128 and 129 of the report. "The Price Control Ordinance authorises the Governor to fix maximum prices for any goods or services and also to require a trader to produce documents relevant to the pricing of any goods or services. Investigations by the Enforcement Officers into the prices of non-controlled goods are made in the knowledge that these powers exist but one wonders how effective the background threat really is. It is true that most traders readily enough agree to produce documents and put right any pricing mistakes but some have refused to play ball. There are no powers in the Ordinance which could be invoked to require reductions in price except in the case of price controlled goods and it must be made clear to most of the businesses about whom complaints are made that the Government would be highly unlikely to impose controls on a miscellaneous and indeed haphazard collection of goods just because there were one or two complaints about the prices at particular shops. The consumer organisations were sceptical of the extent to which the Government could, under their existing powers, effectively deal with exorbitant but uncontrolled prices. I share their scepticism. If there were a big increase in the number of complaints about particular prices of non-controlled goods, the weaknesses in the policing powers of the Government would become more generally apparent. The remedy would not be for the Government to indulge in an orgy of price control orders covering whole new classes of goods. As I have said I do not recommend this. A more sensible policy would be to take new powers which would authorise the Governor to require any supplier to produce documents if there were reason to believe that his prices might be exorbitant and to order a particular retailer or wholesaler to reduce his prices by a stated minimum amount for specified goods". It was directly because of this last recommendation in paragraph 129 that in 1974 the Government introduced section 3A of the present Price Control Ordinance which we are repealing today and amplifying as in clause 3. During the second reading of the Bill, Mr Speaker, fears were expressed by the Honourable Members opposite about the fact that as the clause stands the Consumer Protection Officer could authorise any person. We explained that it was not the intention to authorise just any person but that in practice only very senior officers of the Consumer Protection Department would in fact be entrusted with these powers. So I am moving an amendment to this clause which will only authorise the Consumer Protection Officer or his assistant who are both senior officers in the Department, we are not talking about Clerical Officers, or even Supervisory Officers, we are talking about very senior officers in the Government, and these powers will be limited to them. So, Mr Speaker, I formally move that clause 3 of the Bill be amended by the deletion of the words "and any person authorised by him in writing may, on production of evidence of

his identity and authority" appearing in the proposed new section 5(1) and by the substitution therefor of the words "or the Assistant Consumer Protection Officer, may, on production of evidence of his identity". This is really a two-part amendment, Mr Speaker, because in sub-clause 5(2) there is a need for a similar amendment.

Mr Speaker proposed the question in the terms of the Minister for Labour and Social Security's amendment.

HON M XIBERRAS

Mr Speaker, if this amendment brings the Government, and the Minister for Labour in particular, nearer to the position of some Honourable Members on this side, then, obviously, Honourable Members, as expressed in the second reading of the Bill, will welcome this, but whereas it can be seen as a step in the right direction, it is not the sort of step which would take the Minister and the Government and this House over the safety line which all citizens in this community, be they rich or poor, are entitled to have as their protection. I do not think that the Bill goes anywhere near far enough in protecting individual rights. The excerpt that the Honourable Member has quoted from Dame Elizabeth Adroyd's report on price control and prices, generally, if anything, emphasises the point that was being made by Honourable Members on this side of the House. The Honourable Member, in quoting the lady, spoke of Orders and spoke of the Governor in respect of those goods that were not price controlled. He also made the point which we on this side of the House fully share and that in respect of those goods, namely those that are not price controlled, there is every reason for the Government to have reasonable machinery to deal with abuses. But to use the Report in support of these wide powers even if the Minister's amendment was carried is a quite different kettle of fish. There is no objection from this side of the House to prices of any kind being investigated. The Minister already has certain powers in this respect but there is objection to having anybody having such powers as to be in a position, despite the Minister's assurances, to use these powers indiscriminately and arbitrarily. That is why this House defines when dealing with exceptional legislation which do signify an incursion into human rights and privacy, this House is careful to delimit the area of operation of these rights. It is not enough to say so and so and so and so can do it, we are also talking about the areas in which so and so and so can exercise these rights. We are not talking solely of the big traders, we are not talking solely of the profiteer, we are talking of lawyers, Mr Speaker, we are talking of teachers, we are talking of small businesses because goods and services of all kinds would be open to investigation in



depth if the Minister's amendment is carried by two people in the Government, but if the Bill had been left as it was then by anybody working in the Price Control Unit who was authorised by the Head of Department. A Head of Department who may be aware of what the Minister had said in this particular meeting of the House but the successor of the present incumbent of the post might not be aware because the present incumbent is a man on secondment from the United Kingdom. Therefore, I cannot place any reliance on the assurances of the Minister and the manner in which these powers are to be exercised, not because I do not trust his word but because there are a series of circumstances that might very well change and it is bad law if it depends for its implementation on assurances of this kind and I will not refer to the Traffic Control Ordinance and the question of parking tickets and the way that the Government said they were going to deal with these matters and what has actually been the case. Mr Speaker, bearing in mind that we do want to protect the community against profiteering, both in price controlled goods and in non-price-controlled goods, we have in the Parliamentary Group, this general approach to propose to the Minister for his further consideration. First of all, in respect of those goods that are price-controlled at any particular time and the Government is free to enlarge the scope of the Price Control Ordinance for price controlled goods, we say let the Minister have his powers as he wants them now, that is, to be exercised by the Head of the Department, the Consumer Protection Officer, and his Deputy, in writing, and with identification being produced. That is reasonable. If there are any difficulties about that, if he wants to eliminate any question of warrants from the Governor and so forth, that is reasonable, to my mind, because this area of goods are goods which are considered essential by this House or by the Governor, the scheduling of goods, essential to the community and therefore we in this House are willing to risk an infringement of individual rights and privacy in respect of those essential articles. Let us go to another category of goods, those goods which are not price controlled but about which there are complaints. The Minister already has powers that if there are complaints then his officials can go and investigate those particular goods. They can go to the shops and investigate the position there. This is done by warrant and I refuse to believe that there are so many cases that the Minister cannot apply for a warrant to investigate these complaints. Even in this area we are prepared to look towards a streamlining of the machinery so long as it is reasonable and it safeguards the position of individuals and the privacy of individuals. Let us move now to the third category of goods, those goods which are not price controlled about which there have not been any specific complaints but about which the Government, or this House or the public might be rather worried that margins of profit, generally, are abusive or indeed too high. In this area, nothing short of an in-depth investigation of the

matter is going to yield a positive result. I would draw a parallel, Mr Speaker, between the procedure which I am going to propose now and the Statistics Ordinance in this. In the Statistics Ordinance, if I may, there is also the danger that individual rights may be trampled on, namely, that information may be released, that information may be given to competitors and so forth. Therefore this House must know what the Statistician is doing in any specific area and therefore if there is an exercise needed as we had for tourism or for airlines, then in that particular area the Financial and Development Secretary will come to this House and say: "I want powers to obtain statistics in this particular area and this House has not to my knowledge refused the Financial and Development Secretary. But Honourable Members in this House can discuss whether it is right and proper that the Government should have these powers in this particular area and then, with the vote of the House, the Government would have the support, presumably, of the majority of people that it is a reasonable proposition to go into a detailed study of any particular area, with the support of the community as a whole, as it were, limiting itself its own right of individuals. Let us talk about pharmacy, let us talk about spare parts in garages, let us talk about a good number of things. If there is, and I do not state specifically that there is, but if there is any difficulty in this particular area, if there is the rumour of public concern that there should be some form of investigation of prices for a particular area let the Minister bring an Order to this House and say: "I am going to do an in-depth investigation of that particular area", and I can give the Minister an assurance that I will support something of that nature, I would certainly support it, that if there is abuse, if there is some evidence, if his Consumer Protection Unit is worried about a particular area, well, let the matter be brought to the House. And it need not be just one particular Order or Resolution that the Honourable Member might be seeking, it may be a number of resolutions on particular subjects. Mr Speaker, what is the situation at present even with the Minister's amendment? The situation at present is that a man can walk up the street, the Consumer Protection Officer or his deputy as it would be now, and he can decide on the spot without complaints whether he walks into a particular shop, he can look at, let us say, a souvenir, he can look at that souvenir on the shelf and say: "How much does that cost? Where did you buy it from? What is the margin of profit at retail? What are your shipment bills?" Well, the officer concerned could do exactly the same thing, he could carry out an in-depth investigation with the authority of this House but not because he or his deputy or the Minister decides to have a spot check on so and so in Main Street or to have a spot check in Castle Road or anywhere else. I am sure that the Minister is going to tell me: "I am not going to do that. I am not going to ask my officers to do that". I entirely agree, it would be folly

on the Minister's part to do that but is it good law, I ask the Minister, to allow for the possibility of that happening with his successor or with a change in the establishment or the officials in his unit? That surely cannot be good law and therefore it is not on the grounds that we do not want to see price control being implemented properly or that we do not want to see the elimination of unfair profits and abuses in non-price controlled areas. The Minister knows that I have supported him on many occasions in this question I have urged him, in fact, in this direction, but at the same time the Minister must know that there are certain things such as individual liberty and privacy, there are certain constitutional safeguards about the rights of individuals and that people are not going to take it lying down, to my mind, and that therefore he is seeking to go further than he can reasonably go. Therefore I ask the Minister to withdraw his amendment, give the matter further consideration and bring to the House an amendment along the lines which I have proposed, otherwise, Mr Speaker, for the sake of two or three cases which can be tackled in a perfectly reasonable manner, we may be putting our foot in it, as it were, as regards individual rights and privacy.

HON A P MONTEGRIFFO

Mr Speaker, in the first place, I think the Honourable Member is not being fair in the way he interpreted the quotes made by the Minister from the Report by Dame Elizabeth Ackroyd. In the second place I feel the Minister explained originally when he presented the Bill to the House that this is the machinery that was really needed in order to take prompt action whenever there were any complaints. I think it is a fallacy to suggest, if I may say so with the greatest respect to the Leader of the Opposition, that whenever he gets a complaint he should wait until there is a meeting of the House to have an Order made and then go and check.

HON M XIBERRAS

If the Honourable Member will give way I have said no such thing. I have said that when there is a complaint in an item which is not price controlled, then the system of warrant should be continued.

HON A P MONTEGRIFFO

The powers are there now for controlled articles, in any case.

HON M XIBERRAS

If the Honourable Member will give way. I am suggesting that this should be in respect of non price-controlled articles where there is complaint.

HON A P MONTEGRIFFO

And now we are seeking to do it for non price controlled articles. The powers are recommended very strongly in paragraph 129. Dame Ackroyd is telling the Government: "Look, the present legislation is really no good, I share the scepticism of the Consumer Protection Officer that whatever you do it will not be a deterrent and if there were a big increase in the number of complaints about particular prices of non-controlled goods, the weaknesses in the powers of the Government could become more generally apparent". Then she very categorically states that we should not indulge in an orgy of price control orders covering all classes of goods. As we do not want to do that we are now seeking powers for the non-controlled goods too. The picture the Leader of the Opposition has presented to the House is one of individual rights. We are all concerned about individual rights but there are individual rights for the whole of the community, individual rights of traders and individual rights for consumers. They have also got their rights and there was a big hullabaloo at the time of Dame Elizabeth Ackroyd's report because the accusation was that the Government was not doing their job properly, that the consumer was not being protected and even today, Mr Speaker, we know very well by experience that there are still accusations against the Government about the discrepancies in prices and that nothing is being done about it. I think the consumer has got a right to be protected and the background history of the Consumer Protection Unit shows that nothing of the kind of picture the Honourable Leader of the Opposition has presented is going to occur. If there is one accusation still being levelled at the Consumer Protection Officer it is that few people are taken to court with all the things that people say are going on. The reason is because the Consumer Protection Office has taken the attitude throughout its short history of trying to co-operate, of trying to persuade and not persecute people. To me it would smack of persecution if we were to have orders on a specific subject every time we wanted to investigate something. I think the powers that are being sought will be used by any reasonable Minister and I am perfectly satisfied that not only my colleague on my right, the Minister for Labour, but all Ministers and all members of the House would use the powers in a reasonable manner. It is true that Government is intruding in more spheres because it is giving more and more service and more and more protection to people and I think, Sir, that no freedom is going

to be undermined by the mere fact that we are trying to protect the consumers and in no way trying to persecute the traders.

HON P J ISOLA

I am quite surprised by what the Honourable Member who has just spoken has said, with the aplomb that he has said that nobody is going to be persecuted and this is not going to happen, and that is not going to happen. But, of course, he cannot give us any guarantees on this, Mr Speaker. The section gives the Consumer Protection Officer wider powers than the police have, much wider powers. As the Leader of the Opposition has already said, it gives the Consumer Protection Officer a right of entry into any business premises in Gibraltar or anybody providing services and a right to demand on the spot books and so forth. I would correct the Minister for Medical and Health Services on one point. There is already a right as I think the Minister for Labour has already mentioned for the Consumer Protection Officer on hearing a complaint, to get a warrant and going into premises and investigate. The Leader of the Opposition, if I recall his address properly, was saying that there is that legal position to protect the consumer in respect of complaints, that somebody who complains goes to the Consumer Protection Officer, and the Consumer Protection Officer if he feels there is some case in what he has heard from the complainant then gets a warrant from the Governor and goes to that shop and is able to look and inspect books. This, of course, is in relation to non price-controlled goods, we are not talking of the price controlled goods at this stage. Therefore it seems that the position that Ministers on the other side have outlined, is already safeguarded in the legislation. What is wrong in this piece of legislation, or what we say is wrong, is the sweeping powers that are given to the Consumer Protection Officer, the right of entry into anybody's shop at any time and the right to demand. We do not think that this is necessary to protect the consumer, we do not think it is right for the Government to give any officer of the Government such sweeping powers and, Mr Speaker, we certainly think that it is against the spirit of the Constitution, because we have a Constitution which I agree makes so many reservations that I wonder whether it gives any right to anybody, but there is a section in the Constitution, Section 7 I think it is, where it says: "Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others in his premises....." Then, of course, it goes on to qualify this. It says; "Except to the extent the law in question may make provision in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public

benefit". You have got to give these things some meaning. I personally do not think that it would be within the provisions of the constitution to pass this legislation but it is not for me to decide, Mr Speaker. I just call the House's attention that I think it is as much the duty of the Government as to all members of this House to ensure that the spirit of the constitution is upheld unless there are some terrible circumstances that demand that it be looked over. At the end of that clause, Mr Speaker, it says; "except so far as that provision or as the case may be the things done under the authority of that law, is shown not to be reasonably justifiable in a democratic society". And we are talking here about a democratic society, Mr Speaker, but I think any court would interpret the word "democratic society" as a democratic society of the one known to us in the West and not necessarily through the democratic society so-called of the East, because there are Democratic republics in the East and I think Honourable Members on this side of the House and I would hope all round the House, do not regard them as true democracies. So here we are talking of what is reasonably justifiable, Mr Speaker, in a democratic society. We are not talking of the right of A or B or C, we are talking of what is reasonably justifiable in a democratic society, and I ask, Mr Speaker, have we had a case made out in this House for giving powers to an officer of any Government department to walk into any premises belonging to anybody and have a look at his books and so forth. That is the principle that is involved in this section 5(1). We are not fighting the right of the Government or a Government officer, when he has had complaints to go to the Governor, ask for a warrant because of what he has heard in a particular place and going there. We are not objecting to that, although even that might be suspect, we are not trying to stop the proper supervision of prices in Gibraltar, but what we are saying is that the powers that are being sought today are very wide powers which in the hands of an over-enthusiastic Consumer Protection Officer could very much affect the rights of individuals. I do not think I could put it better than the Leader of the Opposition has done, Mr Speaker, I think he put the position clearly and very well indeed and I think that if there is an individual case you can have your Governor's powers through a warrant. If the Government, as a result of information which they receive, as a result of all sorts of complaints they receive, they reckon there is required a survey to be done on a particular pricing for a particular range of goods, well, then let them come to the House and get the authority of the House and I am sure it would be willingly given. It is terribly easy, Mr Speaker, and this is the problem with Government, it is easy to pass legislation that will cover in the Government's view everything they might require and then come to the House and say they will not use these powers. Well, they may not be there in two years time and the powers

will be there and somebody else will say when any Member of the House objects, it will be quite reasonable for the Minister concerned to reply: "But all I am doing is acting in accordance with the law. This is the law that has been passed by the House of Assembly of Gibraltar and this is our law and I am entitled to apply it and you cannot stop me in the manner that I apply, my rights are there, I follow them." Mr Speaker, I would certainly ask the Government to reconsider this Bill, take it back, keep it possibly till the next House of Assembly and see, having regard to what Honourable Members' feelings are on the Bill and on the general powers whether they can come back with a better Bill. We think, as my Honourable Friend the Leader of the Opposition has said, the amendment suggested does go some way because it will be the Consumer Protection Officer and the Assistant Consumer Protection Officer who will have to go and inspect and, hopefully, they are busy people, they have got a lot of work to do in their own office, so they will not be rushing up and down Main Street and saying: "Let us go into this shop today and let us go into that shop and do that", so to that extent the individual is going to be protected because it may not be physically possible for the Consumer Protection Officer to do what perhaps he might have liked to have done if he could authorise anybody to go along and inspect books and premises. Mr Speaker, I would urge the Government to reconsider their attitude to this Bill and to leave the Committee Stage to another meeting of the House where they can possibly take into account what has been said. In the meanwhile certainly I would have thought that we cannot vote in favour of the Bill even as amended.

HON A J CANEPA

Mr Chairman, the Government has given an undertaking that these powers will be used responsibly. Of course, I can understand justifiable fears amongst members of the Opposition that if there is a change of Government the powers may not be used responsibly, but if there is a change of Government there is nothing to stop any future Government from introducing legislation in the House not only along these lines but even seeking far wider powers. The Opposition can never stop any constitutionally elected Government with a majority from passing through the House whatever legislation it wishes to pass and exercising its powers under the law in whichever manner it wishes to do so provided that that is not unconstitutional. That is not to assuage their fears, obviously, but I am just giving a commitment. I am just explaining how these powers will be exercised by the present Government. What happens in the future, really, it is up to the electorate or up to change in circumstances. Let them not come and say that because there is a change in administration, or because there is a

change in the incumbent of the post that these powers will not be exercised in a reasonable manner. This is in accordance with what the previous Consumer Protection Officer would have wanted. The present Consumer Protection Officer goes along with this, two different people who feel about it the same way, two persons with wide experience in the field of Consumer Protection, both in the United Kingdom and elsewhere, and Dame Elizabeth Ackroyd, the Chairman of the Consumer Society in the United Kingdom.

HON J BOSSANO

Mr Speaker, when the Bill first came to the House, I disassociated myself from what the Honourable and Learned Mr Isela had to say on the subject except to the extent that there was some validity in identifying exactly who was going to be employed on the exercise of these powers and I think that was, to my mind, the only valid argument that was put against the Bill and the amendment brought today by the Minister for Labour meets that point and, therefore, I support the amendment because I think it is an improvement and I would have supported the Bill unamended as it was, even though I think it is better that it should be specified there. I do not think that this measure is a sudden urge to the left on the part of the Government, I think it is merely one more example of the sort of measures that the Minister for Labour has been bringing to the House which reflects the sympathy that he feels for the cause of labour and I am happy to associate myself with it. I do not think that it will mean a great infringement of individual rights and privacy. I think that, if anything, the Government will continue to find itself criticised, as the Honourable Mr Montegriffe said, for doing too little, for not controlling enough and for not keeping a tight enough rein on prices even after this Bill is passed. All that the Bill seeks to do is to make it administratively easier for the Government to do a job that it believes politically or ideologically it should do. I think that it is a mistake for us to try and run the machinery of Government from the House of Assembly. The role of the Opposition is limited to either criticising Government policy on bread policy considerations or attempting to influence that policy and change it. I think the essence of the criticism that is being made on the Government is not on the detailed exposition of what is going to happen when somebody walks into a shop in Main Street and starts asking for the invoice of a snirt, the essence of the Opposition is an ideological and political opposition and it is precisely because of that that as a socialist I identify myself entirely with the ideological and political position reflected in the Bill but not because it is going to transform Gibraltar into a socialist society overnight, but because I think it is a step which is consistent, in my view, with what a demo-

cratic Government is entitled to do because one of the most important functions of Government is to exercise control over economic activities. It is all very well in the name of freedom defending the right to a laissez-faire economy and the right of people to freely price their goods but the reality of the real life is that there is no system yet devised in the western capitalist world that is capable of keeping itself in check. In every western democracy governments have to interfere with the rights of some individuals in order to protect the rights of other individuals and I think this Bill seeks to protect the rights of consumers and I believe it is right to do so.

HON M XIBERRAS

Could I put to the House the proposition that if there were a change of Government and the Chief Minister became the Leader of the Opposition, without recourse to the House then the Chief Minister of the day could ask his Minister of Labour without bringing the matter to the House, that Sir Joshua Hassan's own private matters should be investigated as a matter of urgent priority first and foremost, followed by those of the ex-Minister for Labour, followed by those of any other member of the House and so I put it to the House that to do this without any reference to the House, without the House of the day considering that proposition specifically, could be a most unfair way of dealing with the ex-Chief Minister of Gibraltar and ex-Minister for Labour of Gibraltar. There would be no need to bring the matter to the House, it could be done by the Consumer Protection Officer or his Deputy, if the amendment goes through. And the people of Gibraltar whose interests we are all talking about need have no clue that the Government was taking such steps and the matter need not be debated in the House and such a Government that would act like that, in such an unscrupulous way, in such an undemocratic way, would not be accountable unless the individuals concerned objected to this happening and even if they objected, I would submit, as my Honourable and Learned Friend has said, that they would probably lose the case in court, if that amendment came through. Could I take another case, Mr Speaker, that of a worker about whom Mr Bossano, amongst others, is concerned, who performs part-time jobs. Such a man could have his particular business investigated as well. He has rights as much as Sir Joshua Hassan has rights and Mr Bossano has rights and the Transport and General Workers' Union have rights and these rights should be protected in the law and if we had a law which enabled the Government of the day to take steps infringing those individual rights without reference to the House then democracy as I know it, and as I would hope Honourable Members opposite would know it, democracy would not be the same. I can understand all this soft-seeping of the Honourable Mr Bossano on this

matter. I can understand him pleading the cause of the workers and so forth and I would add, in the next breath, that Honourable Members on the same side of the House as he, a matter of pure coincidence no doubt, do not at all object to abuses being corrected, in fact, we think that perhaps with less talking about this controversial Bill and more action on the part of the Consumer Protection Unit then, perhaps, the real injustices would be corrected where they exist. So it is not an argument as to what the Consumer Protection Unit or the Government is doing for workers or for anybody else. It is a question of the kind of law which is acceptable in the kind of society we live in and we wish to continue to live in. So why, Mr Speaker, talk about the laissez-faire system? Is the Honourable Mr Bossano paying homage at the altar of socialism again, and clouding the issue thereby? It is not a question of a laissez-faire system. Mr Bossano feels apparently perfectly at home in a laissez-faire system. That is the laissez-faire system that we have today if it can be considered a laissez-faire system. And why, Mr Speaker, does the Honourable Member have to remind the House that the Government has a right of intervention if he has heard me propose the Housing Special Powers Bill or the Statistics Ordinance in my time? I have no fear of Government intervention in the affairs of individuals so long as it is a reasonable intervention and so long as the people of Gibraltar, through this House and the House of the day, has its proper safeguards. Many honest men have taken the people into their confidence and many honest men, in the name of democracy and in the name of socialism and in the name of many other things have trampled upon rights. This is, in fact, as my Honourable and Learned Friend has said, a matter of constitutional importance. There is no doubt at all about it. It may very well be challenged in the courts. If this is so, Mr Speaker, and if in this House there is a consensus that there needs to be done a great deal about prices and there is a difference as to how it might be done, then surely we should be talking about not ends but of means and the means proposed by my Honourable Friend on this side of the House are, to my mind, perfectly reasonable and proper. They have been used in respect of other Government Ordinances, they go beyond the present position, they afford the Government more powers, they create an effective position to work from and at the same time they safeguard the position of individuals, be they workers, middle class people or rich people, it still safeguards the position. Let me put it the other way, Mr Speaker. Supposing this law were passed and the Minister of the day did not require to bring these matters to the House and the Minister of the day was not as concerned as the Honourable Mr Canepa is about these matters, then the Government might perfectly well sit back and take no action at all on the control of abuses in prices. Not because we have this law does it mean the Government is going to use



it and therefore I ask Honourable Members on both sides of the House to consider whether this is really necessary or whether it is a question that the Minister for Labour, on the advice of several people, has got himself into the position where he finds it difficult to reconsider it carefully. I have not heard the Honourable and Learned the Chief Minister, a man who has attacked me, for instance, in respect of the Housing Special Powers Bill and who has expressed grave misgivings about the Statistics Ordinance, I have not heard him contribute to this debate. I shall listen with interest to what the Honourable Member has to say, with great interest, to what he has to say both to myself and to those other people who might have an interest in this matter. Mr Speaker, I put it to the Government, through the Chair, that it is not really necessary to go to this length, there is at least a risk involved. The way my colleagues and I propose there is no risk and it can be equally effective or more effective because a Consumer Protection Officer with the powers of this House, with a Resolution of this House, dealing in a survey of a particular area would feel much more confident of dealing with abuses, would have much more confidence in going to a particular area - I mentioned two already - and saying; "Well, it is not just myself, it is not just the Minister of Labour who has a bee in the bonnet about this particular article, it is not the Chief Minister, it is not Ministers as a whole, I am not victimising you, I have brought this to the House and there is consensus in the House that this matter should be dealt with as one where the Government might have to interfere in the interests of the community as a whole? But if the Consumer Protection Officer moves in on the basis of this law, then he will be open to question. Individual traders might very well say; "Why me? Why do I have to be dealt with when so and so is not dealt with? Are you sure that everybody of reasonable mind would be, in fact, supporting you in what you are doing?" Therefore as far as the effect of the law is concerned I wonder which of the two might be more effective in non-price controlled items. I put that for the consideration of the Government and the Honourable Mr Bessano.

#### HON CHIEF MINISTER

Mr Speaker, it must have strained the imagination of the Leader of the Opposition to refer to an immediate change of Government. I do not know whether his Parliamentary Group would have been able to gather the necessary strength to be able to command a majority on this side of the House whatever his efforts may be. The other thing that occurs to me is, why all this fuss on the part of the Opposition suddenly? Why all this ringing to Chamber of Commerce people immediately after the meeting for support and so on? I have had the Chamber of Commerce as late as Saturday morning and I would explain to you what I told the Chamber and what I propose

to say here. Why all this great importance attached to this Bill? Why were they so cold about it and just abstained from the Second Reading and did not fight like tigers like they are doing today over this amendment because this was a Bill which produced principles which were completely unacceptable? No, at that time as they did not know what to do, they did what they always do when they do not know what to do and when they have no policy, they abstained. They abstained in another Bill this morning over the pensions because the Leader of the Opposition did not have his way, and then he talks about Government by consensus. That, I think, is a dilution of democracy, Government by consensus, that is leading to Government by one party and that is what we are not prepared to do, however big our Party may be or further become in the future. Why all this excitement when the second reading of the Bill was passed with the abstention of the Opposition other than Mr Bessano who has been consistent in his outlook in this matter and about whose propositions in this matter I have nothing to say except that I have listened to them with great interest and I notice that he is gradually coming round to our way of thinking. If we talk about the Constitution, the Honourable Mr Isola like the good lawyer that he is only reads that part of the Constitution that suits him. Section 7 spoke about: "except with his own consent no person shall be subject to the search of his person or his property or the entry of others on his premises. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent of the law in question makes provision (a) in the interest of defence, public safety, public order, public morality, public health, town and country planning, development or utilisation of mineral resources or the development or utilisation of any other property in such a manner as to promote the public benefit". But there is a little one over the page which says: "For the purpose of protecting the rights or freedoms of other persons". That is also rather significant though I know that it has been said that if this Bill passes as it is, it is going to be questioned in the Courts. I shall be very interested if that is so to hear what the courts have got to say about the right of this House to manage the economy of Gibraltar in the best interests that it considers proper. I was in sympathy with the Opposition at the last hearing on the question of the kind of people to carry out this very important investigation and I suggested then, and it has been made Government policy, to have this amendment. There was also talk here about the fact that the Minister may say some things and then there may be a change of incumbent. I do not know whether all Honourable Members opposite know but certainly those who had connection with Government should know that any undertaking given by a Minister in this House is not only recorded and minuted but the persons who are bound to carry it out are so informed



and so directed and, in fact, sometimes it is Heads of Department who remind Ministers of their commitments because they are too busy to be able to do that and that therefore it is not just words at any particular time but the policy of the Government. I agree of course that if there is a change of Government, there could be a Government that could start investigating the plumbing of somebody or the law fees of others. It is not likely to happen not because they could not be investigated or could be investigated but because the sudden change which no doubt the Honourable Leader of the Opposition dreams is not likely to become practical. I was in favour of limiting to whom these powers were given because they are wide powers but they are meant to carry out the directives of the Ackroyd Report and that is how they will be exercised. I saw the Chamber of Commerce early after the last meeting and they made representations more or less on the lines that they have made now, but they made them more forcefully on Saturday and they urged me to amend this amendment to the Price Control in the way that has been advocated by Honourable Members opposite and I said the Government had considered the matter seriously and that we could not do that. Though some people may think it has no particular importance, I did give them two assurances, assurances which I now make public in order that they should be on the record and we will be answerable to that to the House. One of them was that if there was any concrete evidence of any abuse of the use of these powers, that we would investigate it. Any evidence of abuse, not the use of the power because that is what we are seeking in this House to have. The second one is that in any case, and I am sure that there might not even be one case, but in any case if, in fact, the power had been exercised, we will be prepared to review the position in the light of the experience gained by the exercise of this power either after six months, if there had been a use of the power during that time, or in case it had only been used very sparingly, within a year and that, of course, I do now formally because I did that on Saturday and said that that would be our approach to the matter today. Let us not get too excited about democracy and about this and the other every time there is a slight amendment or an amendment that can be made a lot of when, in fact, there is very little substance in it. Let us have much more concrete alternative policies and not seek to try and govern on a consensus basis in order to say that it is the House. Of course, the House decides what is the law of this land. The House, preferably with as wide agreement as possible but if not, with the mandate given to the people who are entitled under the Constitution to govern this territory.

HON P J ISOLA

I would just like to say that the Opposition abstained on

the Bill at the last meeting of the House for reasons which I would have thought were quite clear. We did not object to these powers being used in respect of price-controlled goods and that was part of the Bill. We objected to these powers being used in respect of non-price-controlled goods so we abstained on the Bill but we made quite clear our opposition to those particular paragraphs and when you, Mr Speaker, propose the particular sub-section we will vote against this. We are not afraid of it. The other point, Mr Speaker, that needs to be put right is the question of the Chamber of Commerce. The members of the Opposition have not been running around after the Chamber of Commerce. As I understand the position, I was asked to attend a meeting in which the Chamber of Commerce were interested in hearing our views on Price Control and we gave them our views in no uncertain manner. We repeated what we said here and no doubt that encouraged them and strengthened them in their stand when they went to see the Chief Minister. I notice the Chief Minister has given them an assurance that this will be reviewed in six months. But, Mr Speaker, we have got experience of these assurances - they tend to be forgotten, no reviews are made, and the law is there and it is a law that seriously interferes with the individual's liberty. The Chief Minister has referred to this particular section of the Constitution which says: "for the purpose of protecting the rights and freedoms of other persons". Well, Mr Speaker, one might as well not have that section at all, one might as well not have rights in the Constitution if it is going to be possible for every Government to get up on any Bill and say "but this is a protection of the others". This is what is done in all sorts of countries, Mr Speaker, in Ethiopia, in protection of the rights of the invasion of Somalia, in protection of the rights of people, this is going on all the time, this is the usual excuse used by tyrannies, if I may use that word, to protect other people. I would remind the Chief Minister of that little thing at the end; "except so far as provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society". Therefore the standards we have to apply, Mr Speaker, are the standards of a democratic society. I think the Honourable Member will recognise there is some distinction between democracies of the west and democracies of the east. I think there is no question about it, that in a reasonably democratic society you would not trample on people's rights, you would not give freedom to walk into people's property and inspect people's books, except on good, solid, justifiable grounds and what we have said in this House is that if you have got a complaint, if you have got a justifiable ground, use the procedure that you have, go for the Governor for a Warrant and go and visit that trader's premises but do not have the situation which we are going

to have, Mr Speaker, that as soon as the Consumer Protection Officer goes to shop A, that shop is going to say: "What are you coming to me for? What about shops C, D, E? They are friends of friends, that is why you do not go to them. Is it because so and so has complained, a high official or even a Minister, that you come to this shop and not to the other shops selling the same kind of goods?" That is why we say that in a small place like Gibraltar, if somebody has a complaint to make about a shop, let him make it, let him go to the Governor and let a warrant be issued but let us not have the Consumer Protection Office going around particular shops for reasons which we may not know. Let us have reasonable democracy, Mr Speaker, and that is why we object to this clause. We are not objecting to the powers of going into shops, we are saying, use the procedure of the warrant and on a justifiable complaint. Do not just give the Consumer Protection Officer the right to wander around Gibraltar and go in where he pleases or where he is directed to go in either by Ministers or by pressures from the pressurising bodies that exist in Gibraltar. Protect the individual, give some meaning to the spirit of the Constitution but do not just say; "Other people's rights are involved so, carte blanche". That is not what the Constitution says, we are talking of reasonable democratic society.

#### HON CHIEF MINISTER

I am just going to clear one point which the Honourable Mr Isola has just mentioned. I did not say here that I told the Chamber that we would review the law in six months' time. Let there be no misunderstanding about it. All I said was that we would review the position in the light of the working of the law in six months' time.

#### HON M XIBERRAS

I would like to make two very brief points. First of all, it is quite untrue for the Chief Minister to say that these points were not raised at the Second Reading of the Bill. I would refer him to pages 13 to 28 of the Hansard and in substance, Mr Speaker, every single argument that has been brought up now was brought up then. Our reason for abstaining, in fact, was to allow the Government time to reconsider and whatever happens to the Honourable Mr Canepa's amendment, at least they would have had that chance, that we do not vote against the Bill. Mr Speaker, on the question of the Government having the majority and the Government ruling, the Government is, of course, entitled to do that and it is up to the people to judge whether they consider their actions right or wrong but at the same time it is not

Government by consensus that I am asking for, it is reasonable Government and that is quite a different sort of thing. I am not asking for Government by consensus. In those areas where there has been Government by consensus it has been on the own free will of the people involved and even that area of Government by consensus can be broken at any moment's notice and the Chief Minister knows this perfectly well. What I am asking for is, in fact, reasonable Government. If the Government feels that because it has a majority it is entitled to do whatever it pleases, then I can only say that it is not in the best tradition of Parliamentary democracy. The Chief Minister should be able to see arguments when they are brought forward and be able to recognise alternatives. If he is not able to do that, that is his own business. We are protecting not the rights of part of the community but the rights of the community as a whole.

#### HON M K FEATHERSTONE

It was interesting to hear the Honourable Leader of the Opposition when he was in Government, say on several occasions when he was instrumental in passing a Bill that we had to put some teeth into the Bill. It seems that when this Government wishes to pass any Bill that has any teeth in the Bill, before the teeth can be used they have got to come to the House of Assembly as a dentist to have the tooth put in so that it can then be used. As I understand it, if the item is price-controlled then, of course, an investigation is OK. I wonder that the Honourable Leader of the Opposition who feels that either this Government or some future Government may be very unscrupulous in the way it wishes to use this power could not easily resort to the device of saying "We would like to investigate so and so. The easiest way to do it if we have not got the power as such is that we will make it a price-controlled article and we can immediately have our investigation." So if a Government were unscrupulous they could easily get round the situation. They are also willing to have an investigation if there have been complaints but, of course, these complaints have to be lodged by somebody and somebody has to come forward and give the grounds for the investigation, the Warrant to be applied for. There are a number of people who possibly might have cause for complaint but who are not able to come forward and I speak of the tourist to Gibraltar. They may go away and they may say to somebody on the way: "I went into such and such a shop and I bought such and such an article and it cost me £15. When I got back to the boat I met my friend and he has got exactly the same article and he only paid £10 for it, I think I have been done". He has not got the time to make an official complaint, he only comments this, it may be heard by somebody in Gibraltar who says; "It seems that

this poor tourist has been done". That would eventually, perhaps, get to the Minister concerned and the Minister might then say to his Protection Officers; "It seems that something is going on, why don't you have a look into it". This is where the powers in this Bill could be used and I would submit, Sir, that six pennyworth of prevention is going to be worth £1 of cure. We do not want Gibraltar to get a bad name from the tourists. There have been instances in the past in which tourists have made these complaints that prices in Main Street seem to vary very considerably from one shop to another and there may be some justification for some investigation but there will not be an official complaint to back it up, which complaint would have had the acceptance by the Honourable Leader of the Opposition but it cannot be made because the person concerned is not in Gibraltar for long enough to go through all the procedure.

HON M XIBERRAS

Mr Chairman, on that point, I made it quite clear that if the Government feels that there is a particular area where investigation for any reason should take place, including the tourist industry, it can come to this House as it has done specifically about tourism and the Statistics Ordinance, ask for a resolution of the House and investigate those areas.

HON J BOSSANO

I think it is important, Mr Speaker, to distinguish between the sort of arguments that are being put now and the arguments that were put earlier by those who opposed this Bill. It seems to me that the latest position is that the infringement of individual rights and privacy is OK provided it is sanctioned by the House of Assembly. To me it is not, of course, because I cannot see why the infringement of individual rights and privacy, the introduction of a totalitarian state and all the other things that the last Hansard will show were being stated was going to be produced by this Bill, would be OK provided the Members in the House suddenly decided that it was OK and it is not OK if the Government, and one Member, thinks it is OK. It appears that the cardinal and relevant factor is the position being adopted in the House of Assembly, I think, politically. I would remind the House that there are Members here who were quite willing to associate themselves with me in 1976 when I moved an amendment to an Ordinance for the introduction of legislation to enable close shop agreements to be signed and that was defeated but those same Members then, politically and ideologically, were willing to accept that that was an

infringement of individual rights which is consistent with what is reasonably justifiable in a democratic society. I think that the powers in the Consumer Protection Ordinance being introduced by the Minister for Labour are reasonably justifiable in a democratic society. I think, Mr Speaker, the fact that so many people in Government would presumably fall into the category that is going to be penalised by this Bill shows that if in fact that were being done they themselves would be the first ones to shout, but of course if the Leader of the Opposition or other Members in the House feel that there is likely to be a consistent pattern where the businesses of the Government's political enemies are going to be investigated by the Consumer Protection Unit and the businesses of the Government's political friends are not going to be, then this pattern should become visible very soon and no doubt we will be able to have a motion in the House criticising the Government for using the Consumer Protection Bill to persecute their political enemies through their businesses.

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

The Honourable I Abecasis  
The Honourable J Bossano  
The Honourable A J Canepa  
The Honourable Major F J Dellipiani  
The Honourable M K Featherstone  
The Honourable Sir Joshua Hassan  
The Honourable A P Montegriffo  
The Honourable A W Serfaty  
The Honourable Dr R G Valarino  
The Honourable H J Zammit  
The Honourable A Collings

The following Honourable Members voted against:

The Honourable P J Isola  
The Honourable J B Perez  
The Honourable G T Restano  
The Honourable M Xiberras

The amendment was accordingly carried.

HON A J CANEPA

Mr Chairman, I have the honour to move that clause 3 of the Bill be amended by the deletion of the words "or by a person authorised by him" appearing in the proposed new section 5(2) and by the substitution therefor of the words "or by the Assistant Consumer Protection Officer".

Mr Speaker proposed the question in the terms of the Minister for Labour and Social Security's amendment.

MR SPEAKER

I will remind Members that this is a consequential amendment upon the amendment previously passed and I will not allow the same matter to be reintroduced into this particular motion.

HON M XIBERRAS

This, I understand it, would be in respect of only price-controlled goods or is it in respect of all goods? Because if it is in respect of all goods we will vote against it.

MR SPEAKER

It is in respect of all goods.

HON M XIBERRAS

It is in respect of all goods. I would like to make clear, Mr Speaker, that whereas we think that this is an improvement on the Minister's original position, yet, having voted against the Minister's first amendment, not because it was not an improvement, but because we do not agree with the principles on which we thought the thing was based, we will now vote against the second clause on the same grounds, whilst recognising that it offers some improvement on the Minister's original position.

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

The Honourable I Abecasis  
The Honourable J Bossano  
The Honourable A J Canepa  
The Honourable Major F J Dellipiani  
The Honourable M K Featherstone  
The Honourable Sir Joshua Hassan  
The Honourable A P Montegriffo  
The Honourable A W Serfaty  
The Honourable Dr R G Valarino  
The Honourable H J Zammitt  
The Honourable A Collings

The following Honourable Members voted against:

The Honourable P J Isola  
The Honourable J B Perez  
The Honourable G T Restano  
The Honourable M Xiberras

The amendment was accordingly carried and clause 3, as amended, 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.

THE INDUSTRIAL TRAINING (AMENDMENT) BILL, 1978

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

Clause 2

HON M XIBERRAS

Since this is the next stage in the discussion of the Bill, has the Minister any further information for the House which might assist in giving its support to it because any position, generally, on the Bill is opposition in that it is a matter of administrative decision, in fact, and one which has already been in practice for some time. Has the Minister any elucidation to offer on the remarks he made about a Civil Service Department? I have had a number of questions asked by members of the service, generally, and of people interested in the service as to what it was that the Minister said about the creation of a Civil Service Department or what they interpreted as political control of the Civil Service. I offer the Minister the opportunity of making a few comments on that to clarify the position.

MR SPEAKER

I do not think that the Honourable Minister for Labour and Social Security is bound to make any statement but if he would like to do so in order that the Committee Stage may progress more smoothly.

HON A J CANEPA

Mr Chairman, this is what happens sometimes when one is to be helpful, and, perhaps, giving too much information and something is read into the information that one gives which should not be read into it. I was referring to the future of the Productivity and Training Unit and I said that it was going to be the subject of staff inspection and I also said that as a result of some restructuring which is envisaged in Secretariat affecting also the Establishment Section, it could be that the role of the Productivity and

Training Unit might be widened to include, for instance, staff inspection and then, in doing that, its role might in the future be more along the lines of the Civil Service Department in the United Kingdom than what it is at the moment. Even if that were to happen, I do not see how there would be any political control of the Civil Service. Whatever restructuring there might be in Secretariat will not affect the position of the Civil Service. That is a constitutional matter. The conditions of Civil Servants are, under the Constitution, not a defined domestic matter. That position will not change at all.

HON M XIBERRAS

I thank the Honourable Member for that explanation which I think will be welcomed in certain circles. On the rest of the clause, Mr Chairman, I would not propose to put forward amendments because we feel that this is a matter as to how the Government of the day wish to run its affairs and simply reflecting the position in the law.

Clauses 3 to 13 were agreed to and stood part of the Bill.

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

THE TRAFFIC (AMENDMENT) BILL, 1978.

Clause 1 was agreed to and stood part of the Bill

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, the Honourable Attorney-General gave notice of an amendment in this clause. It has been found that a great stock of licence forms have already been printed conforming with section 21 which this clause seeks to amend, as it stands. That is to say, the forms relate to the existing classes A to E. Clause 2 of the Bill has the effect, and I know that Mr Chairman will correct me where I go wrong, has the effect of transposing the present, is the existing form E into J. If, therefore, the clause as it stands in the Bill before the House were passed unchanged, a large quantity of printed material would be rendered useless and would be undoubtedly commented on as a nugatory expenditure and I cannot believe that the Honourable Members opposite are going to object if the Government endeavours not to

incur nugatory expenditure. It is, therefore, proposed to amend clause 2, as Members see it there, as follows:

That there be substituted for clause 2 of the Bill a new clause as follows:

"Amendment of 2. Section 21 of the Traffic Ordinance  
Section 21. (hereinafter referred to as the Principal Ordinance) is amended as follows:

(i) in subsection (1) by the addition immediately after paragraph E of six new paragraphs as follows:

"F. Motor Vehicles designed, constructed and used for the purpose of trench digging or any kind of excavating or shovelling work;

G. Motor Vehicles designed and constructed as mobile cranes;

H. Motor vehicles designed and used as fire engines;

I. Road rollers;

J. Motor vehicles of any description not included in categories A to D or F to I;

K Motor vehicles of categories F to J inclusive towing a trailer the laden weight of which exceeds 750 kilogrammes (1600 lbs)";

and

(ii) in subsection (2) thereof by the deletion of the letters and words "B, C, and D" appearing therein and by the substitution therefor of the letters and words "B to D" inclusive and "F to J" inclusive".

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

Mr Speaker then put the question which was resolved in the affirmative and new Clause 2 was agreed to and stood part of the Bill.

Clauses 3 to 5 were agreed to and stood part of the Bill.

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

THE CRIMINAL LAW AMENDMENT BILL, 1978.

Clauses 1 to 4 stand part of the Bill.

Clause 5

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, the Attorney-General gave notice of an intention at this stage of the Bill to move an amendment to clause 5 in the words "that clause 5 be amended by the deletion of the figures, letters and words 19(d) and (e), 21, 22 and 32" appearing therein and by the substitution therefor of the figures, letters and words 19(b), (d) and (e), 21, 22, 32 and 34." Mr Chairman, this amendment is necessitated with reference to the Coroner's Ordinance and it repeals two minor provisions of that Ordinance.

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

Mr Speaker then put the question in the terms of the Honourable Financial and Development Secretary's amendment and Clause 5, as amended, was agreed to and stood part of the Bill.

Clause 6

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, following the amendment of Clause 5, there is a consequential amendment to clause 6 of which notice has already been given. The amendment reads; "that clause 6 be replaced by a new clause as follows:

"6. Section 33(2) of the Coroner's Ordinance is amended by the deletion of everything after the words "with that matter" where they first appear therein."

This as I said, Mr Chairman, is I think consequential on the previous amendment because Section 34 of the Coroner's Ordinance has now been repealed by virtue of the previous

clause of this Bill.

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

Mr Speaker then put the question which was resolved in the affirmative and new Clause 6 was agreed to and stood part of the Bill.

Clauses 7 to 12 were agreed to and stood part of the Bill.

Clause 13.

HON M XIBERRAS

Mr Chairman, I am probably speaking out of turn but the Honourable and Learned Mr Isola raised a point, I believe, in respect of the right of having someone informed when arrested. I wonder whether any consideration was given to the point that he made.

HON ATTORNEY GENERAL

The point made by the Honourable and Learned Mr Peter Isola was whether we could enlarge the section to give a right to a person who has been questioned in a Police Station the right to have somebody informed.

HON M XIBERRAS

Has any consideration been given to this point?

HON ATTORNEY GENERAL

I think consideration was given to it. I have hoped in fact to see the Honourable and Learned Peter Isola outside the Chamber and to explain why this was not practical. I am quite prepared to do after I have descended from this Chair.

HON M XIBERRAS

Thank you, Mr Chairman.



Clauses 13 to 21 were agreed to and stood part of the Bill.

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

THE COMPANIES (TAXATION AND CONCESSIONS) (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 IMPORTS AND EXPORTS (AMENDMENT) BILL, 1978

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

Clause 2

HON M XIBERRAS

Mr Chairman, at the second reading the question was put as to whether "ship" and "vessel", in fact, meant smaller boats as well, such as yachts and so forth.

HON ATTORNEY GENERAL

I think it is a question of construction but it means anything made or used for the conveyance, by water, of human beings or property. It would seem to me that this would include small rowing boats and barges.

HON M XIBERRAS

Does this mean that there would have to be manifests for each of these vessels when they leave?

HON ATTORNEY GENERAL

Yes, if they are carrying anything other than stores for their own consumption.

HON M XIBERRAS

So if it is a question of a pleasure jaunt and so forth in

the small boats the skipper would not have to have a manifest, but if the boat was being used to go from Gibraltar to another part of the world then it would require one.

HON FINANCIAL AND DEVELOPMENT SECRETARY

If the Honourable Leader of the Opposition would read Section 3(1) as it appears in Clause 3, I think that will answer his question.

HON M XIBERRAS

Mr Chairman, is the Revenue Service geared to give effect to this?

HON ATTORNEY GENERAL

Perhaps, the Honourable Financial and Development Secretary can answer the question.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I am not very sure how I could answer that in relation to clause 2, in what respect is the Revenue Service unable to distinguish between a ship or a vessel or something else?

HON M XIBERRAS

I am quite sure the Honourable Financial and Development Secretary is quite able to communicate this knowledge to the rest of his Department, Mr Speaker. The question I am asking, generally, is whether the Revenue Service has sufficient people to deal with this law?

HON FINANCIAL AND DEVELOPMENT SECRETARY

In respect of this amendment as a whole, the answer is yes.

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

Clause 3

HON J BOSSANO

Could I ask the Financial and Development Secretary under

Clause 3(1)(b) where it says that the proper officer can ask for information relating to the cargo, stores, crew or passengers in the case, say of a ship, would this be the Revenue Department in all cases? For example, in the case of crew, there is a situation in fact where a number of ships calling in Gibraltar may be in difficulties with their employers. Where there are problems affecting the ship's crew, who would be the proper officer who would be in a position to require documents regarding, for example, whether they have been paid their wages or whether they have got a proper contract and so on which presumably, would be covered by this Section? Who would be the proper officer in that case, would it be the same officer in all cases or would there be somebody different to deal that sort of situation as distinct to dealing with cargo, stores, or passengers for example?

#### HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I will do my best to provide a common sense answer to that. Proper officer is defined in the Imports and Exports Ordinance, as I recall it, but in relation to the Honourable Member's question, my common sense tells me that the proper officer can only act under that in relation to cargo and the ship's business. I would find it difficult to believe that he would have any authority to go beyond what is essential for the purposes of customs but I would stand to be corrected by my Honourable Colleague if he were here.

#### MR SPEAKER

Proper officer is defined in the Ordinance as, "an officer duly appointed to carry out or assist in carrying out the provisions of this Ordinance". I think the Honourable the Financial and Development Secretary is quite right in saying that under this particular section, it would only relate to matters connected with cargo. I do not think it would relate to matters relating to payment of wages or matters of that nature but that does not, of course, mean that under other legislation there would not be the right of investigation in other officers.

#### HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, the House will recall that when this Bill was under discussion at the Second Reading, the Honourable Mr Restano did suggest that the Government should consider two amendments to this particular clause, the first in relation to manifests, the other in relation to out-turn. Mr Chairman, we have investigated manifests and the majority

indeed are signed either by the ship's agent or by the Captain or the Chief Officer of the vessel concerned and it would seem that it is necessary to make this specific because the Collector of Revenue does give instructions and he proposes to re-enforce those instructions to say that no manifest will be accepted by him unless in fact it is signed. However, if the Honourable Member feels strongly about this the Government will have no objection to having a suitable form of words in paragraph (a) and (b) to make it a statutory requirement but I am going to put the onus on the Honourable Mr Restano because the Government is quite satisfied with the words as they stand but would not object to their being expanded. On the second point about out-turn, again we think on this side that the use of the powers conferred upon a proper officer by a paragraph (d) can require the ship to make an out-turn because that is strictly related to the ship's cargo, the amount of cargo which it has discharged and, as the Honourable Member has quite rightly said, there should be a check between what the ship's out-turn and what the agents say is its out-turn and this is where we can have discrepancies but at the same time the collector of Revenue is again taking administrative action on this. It is, however, something that we would want to consult with the shipping agents themselves and others concerned before we legislate. However, I still give the Honourable Member an assurance that if we consider that the existing legislation is not sufficient to require a ship's out-turn to be made, then we will come to the House and produce the necessary amendment to the legislation to make that a statutory requirement.

#### HON G T RESTANO

The reason for wanting an inclusion of the out-turn is in order to be able to pin-point the actual place where any possible pilferage or any missing cargo may have occurred and although out-turns are produced at the moment they are in many cases unsigned by the ship's captain. I certainly feel that if amendments are going to be made to the Imports and Exports Ordinance, then as many loose ends as possible should be properly tied up. On the question of the signed manifests, again I think the same principle occurs. If in the Ordinance it says that a manifest has to be provided, let it be a signed manifest which does at least put responsibility on the ship's personnel. If, as the Financial and Development Secretary has indicated Government is prepared to make a suitable amendment for the signature to be required, then we will be very happy about that and also we take note that he will be looking into the out-turn report and its implications in consultation with the Shipping Association and we would hope, perhaps, that at the next meeting of the House he might let us have the results of his investigations.

HON P J ISOLA

The Financial and Development Secretary has said that there would be no need for any additional staff to deal with this new requirement that all vessels leaving Gibraltar will now have to produce outward manifests and put down the contents of what they are carrying. Am I right in assuming that this will be applicable to any ship no matter what the size of the ship?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, yes, provided that that ship is carrying cargo as opposed to ship's stores or other goods for the ship's consumption. If it is carrying cargo, yes, it will have to be manifested.

HON P J ISOLA

And who is going to decide, may I ask, whether it is ship's stores or cargo? One knows a number of small ships take ship's stores but it is really cargo. Who decides, the Collector of Revenue.

HON FINANCIAL AND DEVELOPMENT SECRETARY

If necessary, yes, he will decide but I would have thought that there was seldom any doubt as to whether the stuff taken on board a ship was for the ship's own use, as ship's stores, or whether it was actually goods being shipped for export to some other place.

HON P J ISOLA

Does the Financial and Development Secretary have any idea of how many ship's manifests will now have to be produced to customs a year as a result of this?

HON FINANCIAL AND DEVELOPMENT SECRETARY

No, Mr Chairman, I am afraid I have no idea.

HON P J ISOLA

The reason why I ask, Mr Chairman, is because it seems to me that either the Revenue Department must have certainly a lot of spare capacity if it can deal with this new side of the Port of the requirement of an outward manifest in respect of

every single ship that leaves Gibraltar without the need of additional staff.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, it does seem to me that the Honourable and Learned Member is suggesting that Gibraltar is a major port of export of cargo. If the Customs can cope with inward manifests, considering that everything we consume in Gibraltar comes in and is already manifested, it can surely cope with the modest trade that goes out of Gibraltar.

HON P J ISOLA

The reason why I ask this is because there are ships and there are ships, and if I remember rightly Gibraltar was quite a big export port some years back and, who knows, it might revert to that. As I understand the position quite a lot is still exported on small vessels and that is why I was asking.

HON FINANCIAL AND DEVELOPMENT SECRETARY

If, as we hope, export trade may grow, I suggest, Mr Chairman, that we jump that hurdle when we get there.

HON G T RESTANO

I would suggest, Mr Speaker, that at the end of subsection 3(1)(a) and (b) we add the words "signed by the Captain".

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, may I make my own amendment to that. That paragraph (a) and paragraph (b) of Clause 3(1) be amended in each case as follows: by the deletion of the semi-colon and the addition of the words "duly signed by the master, or agent as the case may be;". I think, Mr Chairman, and the Honourable and Learned Chief Minister will correct me if I am wrong, the clause starts off with "the master or agent" and therefore I think it is logical that the signatory must be one or the other.

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

HON M XIBERRAS

What my Honourable Friend was saying was, in fact, to put responsibility for this document on the people whose responsibility it is, viz; the master or his representative as a member of the crew and as opposed to the agent. Unless I have misunderstood what the Honourable Member has said at this stage, that his agent is the agent of the master and not the agent of the ship. Perhaps the Honourable Member will let us into his thoughts.

HON FINANCIAL AND DEVELOPMENT SECRETARY

I think, Mr Chairman, that we are asking now to amend considerably more than merely requiring the document to be signed because the clause as it reads says: "the master or agent of every ship, and the commander of any aircraft or his agent". One or other of them must deliver to the proper officer an inward manifest or an outward manifest as the circumstances will require. If the amendment now is to pin responsibility specifically on the master of a ship, logically on the Commander of the aircraft, then the whole thing will have to be amended and that I am not prepared to do in Committee.

HON G T RESTANO

The point is, Mr Chairman, that it is necessary to have that manifest signed at the time when the ship leaves and not, perhaps, days later. It is the responsibility of the master to state what he has unloaded or offloaded and therefore the signatory must be himself.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I am sorry but I do not understand the Honourable Member's proposal. I understood his insistence was that the manifest should be signed and I believe that the amendment which I have suggested will make that a statutory obligation on one or other of the persons who are specified in paragraph 1 of clause 3.

HON CHIEF MINISTER

The agent may be more than one agent, it may be the local agent or it may be the master's agent, so that so long as somebody signs it on behalf of the master or on behalf of the agent if the agent is a different person from just a master's own agent, it is a local agent, then it is a different matter. The master himself need not sign it so long as somebody signs it on his behalf. The agent, in the

sense of a different personality, need not sign if if somebody signs it on his behalf because under the Interpretation and General Clauses Ordinance there is a provision that people can do things vicariously.

HON G T RESTANO

We are probably confusing the two issues, one of the manifest and one of the out-turn report. The local agent would have nothing at all to do with that manifest. That manifest is of goods coming into Gibraltar and that manifest, I would imagine, should have been signed by the master who has received that in the first place. It has got nothing at all to do with the local agent. The out-turn report is a different issue altogether but the manifest itself is what the master carries on high seas and which needs to be signed.

MR SPEAKER

We have the amendment proposed by the Honourable Financial and Development Secretary proposing the addition of the words: "Duly signed by the master" and I would invite the Financial and Development Secretary to add the word after that ", commander, or agent as the case may be" be inserted at the end of 3(1)(b) after the words "on board". I will now put the question that clause 3 of the Bill be amended by the insertion in the new section 3(1)(a) and (b) immediately after the words "on board" appearing in each of those subparagraphs, of the words "duly signed by the master, commander or agent as the case may be".

The question was resolved in the affirmative and clause 3, as amended, was agreed to and stood part of the Bill.

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

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

THE INCOME TAX (AMENDMENT) BILL, 1978

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

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY

I have already given notice of my intention to move an amendment to clause 3. The House will recall that during the debate on the Second Reading the Honourable Mr Bossano made a strong case for expanding the sub-paragraph (G) as it stands to include payments made by way of compensation for dismissal but agreed outside an industrial tribunal where it is the result of conciliation between the employee concerned and the employer and he also raised the question of payments of that nature arising out of redundancy. The Government accepts both points and the amendment which I will now read seeks to make both types of payment covered by this clause. The amended clause, Mr Chairman, reads: "That sub-clause 3 of the Bill be amended by the deletion of sub-paragraph 1 thereof and by the substitution therefor of a new sub-paragraph as follows: "(i) in sub-section (1) by the addition immediately after paragraph (g) thereof of three new paragraphs as follows: (g.g) any sum paid as compensation for unfair dismissal which has been awarded by an Industrial Tribunal under the provisions of the Regulation of Wages and Conditions of Employment Ordinance; (g.h) such amount paid in respect of compensation for unfair dismissal which has been agreed between the parties which the Commissioner considers, after consultation with the Director of Labour and Social Security, would have been awarded by an Industrial Tribunal if it had adjudicated upon the dismissal; (g.i) such sum paid upon redundancy which the Commissioner, after consultation with the Director of Labour and Social Security, considers to be appropriate having regard to the employee's length of service with the employer who made him redundant and his rate of pay".

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

HON J BOSSANO

Mr Speaker, I would like to support the amendment brought forward by the Financial and Development Secretary which meets in full the points that I made initially. I am grateful to the Government for being able to do this and I think the provision that the Commissioner should consult with the Director of Labour and Social Security should be sufficient in practice, once enough cases are built up to establish what the average pattern is, to be able to spot if advantage is being taken out of this to do a settlement which is not really a way of compensating other than a way of giving a tax free gift to somebody which is not what the law intends should happen. I think that the safeguard is

sufficient, in my view, and may well prove sufficient with practice to meet the possibility of a loophole being created.

HON P J ISOLA

Mr Speaker, the Government has gone completely in meeting the point raised by the Honourable Mr Bossano and some of the points raised by me in this matter. There is no question about it that this will be a tax loophole and I presume Government is doing this with the full knowledge of that. I do not see how that can be avoided. I agree that once one accepts that compensation for unfair dismissal should be exempt from tax and it is logical also to leave free of tax any compensation paid by agreement between the parties and I suppose it is also logical to go one further and that is payments upon redundancy. I would like to remind the House that as far as I understand the position of unfair dismissal and with redundancy, these are payments to be made as a result of dismissals or redundancies that the employer is entitled to make but which in the circumstances of the case, as far as dismissal is concerned, is thought by a Tribunal to be unfair and in the case of redundancy it is just a straight redundancy. I agree that in such cases as these one should allow the payments to be made free of tax. Mr Chairman, I mentioned in the last meeting of the House that I thought there was another category of case that deserved similar treatment and that is the employee who has not been legally dismissed but unfairly dismissed, and the employee who has been illegally dismissed or wrongfully dismissed and receives a payment in respect of this either by agreement between employer and employee or as a result of an order of a tribunal who, in this case will be a court and would give the damage for wrongful dismissal. How these damages are made out, whether they could be a number of weeks' compensation and so forth is the same principle, in fact, as unfair dismissal. I think there is in unfair dismissal a maximum of £3,000 odd. Perhaps it could be a similar limiting figure in the case of wrongful dismissal or a year's salary. There are very few cases, may I say, Mr Speaker, except in the case of a tycoon managing director who is sacked by his board. I can only think of one tycoon managing director in Gibraltar who if sacked by his board, if they could do it, which would be an impossibility because he controls the company, but if they could do it, would probably get more than one year's salary. Most wrongful dismissals, I would say, would get a maximum of damages up to, roughly, the same amount possibly that there is provision for in the Unfair Dismissals Ordinance. I think that if we are going to exempt payments from tax made as a result of unfair dismissals, it is only fair to exempt payments from tax that are made by far more difficult circumstances because they are illegal and unlawful and payments that are received from that should be, in my submission to the House, equally free from the payment of

tax. I propose a further amendment to the question as put, Mr Chairman, in which I seek to exempt from the payment of tax any sum paid as compensation for wrongful dismissal whether by agreement between employers and employees or by an order or judgement of a court.

MR SPEAKER

Could we perhaps first vote on the amendment proposed by the Financial and Development Secretary and then deal with your additional clause?

HON P J ISOLA

Yes, Sir.

Mr Speaker then put the question which was resolved in the affirmative and the Honourable Financial and Development Secretary's amendment was agreed to.

MR SPEAKER

Mr Isola, have you considered the law on the point of the amendment which you are proposing? I, before I knew I was going to sit here today, looked it up and it seemed to me that damages awarded in the circumstances which you are proposing should be exempt, are exempt already. The case law does appear to be that these are not liable to tax.

HON P J ISOLA

I am very grateful for your guidance on this. If that is the case, of course, then there is no need for this amendment but I was not aware of it.

MR SPEAKER

I certainly looked up the tax cases on this one.

HON P J ISOLA

If there is a certainty in the matter than I would certainly not move the amendment.

HON FINANCIAL AND DEVELOPMENT SECRETARY

That was going to be my response to the amendment that we do not think it is necessary, because case law - and outside the Chamber I can inform the Honourable Mr Isola of the particular case that we would rely on - but I can say in such circumstances the Commissioner would be guided by case law and would regard that as a capital payment and therefore outside the scope the Income Tax and Income Tax would not be charged on payment of the kind which the Honourable and Learned Mr Peter Isola has in mind, namely, wrongful dismissal which is compensated by damages and that is quite clear in case law.

HON P J ISOLA

In that case, Mr Speaker, I will not propose my amendment.

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

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

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, I think this is the appropriate time to rise to put the amendment of which I informed the Speaker's office, namely, a new clause, immediately after clause 6, before we come to clause 7. I will read it first.

"Amendment of Section 23B of the Principal Ordinance is amended by the deletion of the figures in the First and Second Columns and by the substitution therefor of the following figures -

£1001 to £1400	10%
£1401 to £2000	30%
£2001 to £3000	40%
£3001 to £4000	50%
£4001 to £5000	65%
£5001 upwards	60% "

Mr Chairman, you will recall that I did mention this when I was speaking to the Bill and informed the House that some adjustment would be necessary following the increase in Elderly Persons Pensions with effect from the 1st January and it would therefore be necessary to amend that section of the Bill



so far as the clawback was concerned. This amendment which I have now read out gives effect to that intention.

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

HON G T RESTANO

Mr Speaker, what would the difference in income to the Government be from this proposed amendment if, in fact, all Elderly Persons Pensions were included in the Elderly Persons revenue and tax under the normal tax principle? What will the difference be in terms of income to the Government?

HON A J CANEPA

Mr Chairman, we do not know accurately how much tax we are clawing back in respect of the £1m in the next financial year that we are paying out in Elderly Persons Pension, I do not think that it has been computed accurately.

HON M XIBERRAS

Mr Speaker, there are certain principles involved which I do not think is the right place now to consider, but I would remind the House that the Government originally went too far in one direction, in my view, and now appears to be going too far in another direction as regards taxation of Elderly Persons Pensions, I was going to ask the Minister, however, since he cannot give my Honourable Colleague the information required, whether this is in fact, harkening back to January of this year or whether this is looking forward to any increases that might come as a result of wage movements and so forth in the foreseeable future. If it is looking back only, does he not feel that this would be an appropriate moment either not to deal with the matter or to deal with the matter in such a way as to take account of whatever increases he might have in mind for the coming year, otherwise this will require another amendment, also in the figures again, I would imagine, to reserve the present spirit of it in the near future.

HON A J CANEPA

Mr Chairman, I can explain in some detail what the amendment seeks to do and thereby set the matter in perspective. At the moment, the clawback on the Elderly Persons Pensions

begins to operate at the rate of 20% when a pensioner has a taxable income in excess of £401. It is a progressive clawback and when he has an income in excess of £2001 then the whole of the pension is clawed back and that means that any pensioner now having a taxable income over £2000 would pay the whole of that pension back in income tax. What the amendment seeks to do is to make the extent to which the clawback bites much less sharp and so the clawback will only begin to operate at the rate of 10% for a taxable income in excess of £1000, namely, £1001, and the whole of the pension will be paid back if the pensioner has a taxable income in excess of £4001. We are making the extent of the clawback much less sharp and it is therefore a forward looking measure because not only will it ensure that the increase which pensioners received last January, namely, from £3.80 to £5.00 a week, that that increase will be a real increase, but also by setting the figure at which the whole pension is clawed back at £4001, we are taking some account of increasing incomes in the future. The amendment, I think, should not require any further amendment for, I would say, at least a couple of years.

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

Clause 7 (Renumbered Clause 8) was agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1977-78) (No.6) BILL, 1978

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

Schedule

Schedule of Supplementary Estimates No.8 of 1977-78

Item 1 Head 3 Customs, was agreed to

Item 2 Head 4 Education, was agreed to

Item 3 Head 5 Electricity Undertaking, was agreed to.

Item 4 Head 11 Judicial (2) Supreme Court, was agreed to.

Item 5 Head 14 Law Officers, was agreed to.

Item 6 Head 15 Medical and Public Health

HON M XIBERRAS

Mr Speaker, has the Minister anything to add in respect of that particular vote?

HON A P MONTEGRIFFO

When we made the projection round about November, we found that the supplementary required would be of the order of £25,000 which, as the House will recall, was voted at the previous meeting of the House. As bills start coming in for December and January, they were round about £6000 and we thought that, this was a peak period. Unfortunately, it appears that this is going to be a permanent feature, the £6000, because there are many more people attending the Centre than there used to be in the last six months and, in fact, if it does remain in the same figure that you will get later on in these proceedings for next year may be completely out. The fact is that we are spending £6000 though I must say that the price per item, in fairness, has not gone up all that much. The number of people attending the centre has increased from an average of 1,500 to 2,000.

HON M XIBERRAS

Perhaps a better time to discuss this is when we consider the Estimates of Expenditure. I think it is a matter for concern the escalation that has taken place in this vote.

HON A P MONTEGRIFFO

I will amplify on this at Budget time.

Item 6 Head 15 - Medical and Public Health was agreed to.

Item 7, Head 19 - Prison, was agreed to.

Item 8, Head 21 - Public Works Annually Recurrent.

HON G T RESTANO

Would the Minister inform the House whether the refuse destructor was under any guarantee from the manufacturers? Apparently the aluminium sheets have been blown away. How long after the installation of the Refuse Destructor did these sheets start being dislodged?

HON M K FEATHERSTONE

Sir, the question of the guarantee is the reason that we are holding the retention money of £19,000 odd. We are stating that this fault in the cladding that has blown away is the fault of the constructors and they have to put it right. That is why we are retaining the £19,000.

HON G T RESTANO

And is the claim, in fact, for £28,000?

HON M K FEATHERSTONE

Yes, it will be for the full amount that we have spent on it.

Item 8 Head 21 - Public Works Annually Recurrent was agreed to.

Item 9 Head 23 Recreation and Sport.

HON M XIBERRAS

I wonder whether the Minister can tell the House how this is progressing? This was the subject of industrial action as the House knows and I would like to know whether use is being made of it now or whether we have lost a lot because of the stuff being blown away at the North Mole and so on.

HON H J ZAMMITT

Mr Speaker, what happened here was that the nortex was ordered in 1977 and because of the blacking we had hoped to have been able to pay it over two financial years but it all arrived in 1978 and therefore we have had to seek provision for £4000 to pay the total sum within this year. All the nortex has now arrived and it is now being laid and the ground is now available for use.

Item 9 Head 23 - Recreation and Sport, was agreed to.

Item 10, Head 26 Tourist Office (1) Main Office, was agreed to.

Item 11, Head 27 Treasury.

HON M XIBERRAS

Mr Speaker, in respect of this one, I gather the £250 have now been paid to all officers?

HON FINANCIAL AND DEVELOPMENT SECRETARY

The answer is, yes.

Item 11 Head 27, Treasury, was agreed to.

Schedule of Supplementary Estimates No.8 of 1977-78 was agreed to.

Schedule of Supplementary Estimates Improvement and Development Fund No.5 of 1977-78

Item 1 Head 110 - Public Lighting was agreed to.

Item 2, Head 111 - Electricity Service Account, was agreed to.

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

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

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

THE PENSIONS (INCREASE)(AMENDMENT) BILL, 1978

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY

In the course of debating this Bill this morning it became clear that in addition to the four officers who were overlooked originally a fifth, as my colleague the Minister for Labour and Social Services pointed out, has also been revealed as being entitled. This officer, incidentally, gave notice of retirement on the 23rd May, 1973, but his retirement was not finally approved for one reason or another until the following April. April 30th to be precise. In the light of that, if he is to be brought within the scope of this amendment, I move that the word "April" appearing in the last line of Clause 2, be deleted and there be substituted therefor the word "May".

Mr Speaker put the question in the terms of the Honourable Financial and Development Secretary's amendment which was resolved in the affirmative and 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 House resumed.

### THIRD READING

HON CHIEF MINISTER

Mr Speaker, I have the honour to report that the Price Control (Amendment) Bill, 1978, with amendments; the Industrial Training Bill, 1978; the Traffic (Amendment) Bill, 1978 with amendment; the Criminal Law Amendment Bill, 1978, with amendments; the Companies (Taxation and Concessions) (Amendment) Bill, 1978; the Imports and Exports (Amendment) Bill, 1978, with amendment; the Income Tax (Amendment) Bill, 1978, with amendments; the Supplementary Appropriation (1977-78) (No.6) Bill, 1978, and the Pensions (Increase) (Amendment) Bill, 1978, have been considered in committee and agreed to and I now move that they be read a third time and passed.

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

HON CHIEF MINISTER

Mr Speaker, I propose that the House be now adjourned until

Friday the 14th April at 10.30 a.m. and in doing so I am sure I am voicing the feelings of all Members in sending our regular Speaker best wishes for a speedy recovery.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned until Friday the 14th April, 1978, at 10.30 a.m.

The adjournment of the House to Friday the 14th April, 1978, was taken at 1.45 p.m. on Monday the 10th April, 1978.

FRIDAY THE 14TH APRIL, 1978

The House resumed at 10.30 a.m.

PRESENT:

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

GOVERNMENT:

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

The Honourable Dr R G Valarino

OPPOSITION:

The Honourable M Xiberras - Leader of the Opposition.  
The Honourable P J Isola, OBE  
The Honourable J B Perez  
The Honourable G T Restano

INDEPENDENT MEMBER:

The Honourable J Bossano

ABSENT:

The Honourable A Collings  
The Honourable Major R J Peliza

IN ATTENDANCE:

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

MR SPEAKER

May I take this opportunity to thank the House for their expression of good wishes for an early recovery. As you see your hopes have been realised. I do not know how well you will receive this but you will have me, if you wish me to be here, for several years to come. Thank you very much indeed.

#### PRIVATE MEMBERS' MOTIONS

HON P J ISOLA

Mr Speaker, I have the honour to move the motion standing in my name which reads: "This House wishes to express its confidence in and appreciation of the manner in which the Chief Minister and the Leader of the Opposition have acted on behalf of the people of Gibraltar in the talks both in Strasbourg and Paris and considers that the process started at Strasbourg should continue bearing in mind, however, at all times, the motion on the subject unanimously passed in this House in November 1977." Mr Speaker, if I may commence, in moving my motion, to be slightly irrelevant to the terms of the motion by welcoming the return of you, Mr Speaker, to this House, I am sure I am voicing the feelings of all the members of this House to say how glad we all are to see you sitting in the Chair once more. Without in any way, of course, denigrating, Mr Speaker, the Honourable and Learned Attorney-General.

MR SPEAKER

May I express my appreciation and thanks to the Honourable and Learned the Attorney-General for the able way in which he stood in for me.

HON P J ISOLA

May I attend that part of my speech, Mr Speaker, by tendering you a word of advice. You are always tendering advice to Honourable Members of the House, and that is simply "look before you leap". Mr Speaker, when the Chief Minister announced in this House in the course of a motion moved by the Honourable Mr Joe Bossano in this House in November 1977, when the Honourable Chief Minister informed the House that he had suggested to the British Government that there should be exploratory talks with Spain at which the Chief Minister and the Leader of the Opposition should represent the people of Gibraltar and that this suggestion should be put to Spain, he was, of course, taking quite a momentous step in the history of Gibraltar and, certainly,

in the history of the dispute between Britain and Spain over Gibraltar. At that meeting all members of the House stood and welcomed the initiative taken by the Chief Minister. Of course, I am sure as experienced people in the problem of Gibraltar, Honourable Members, when agreeing to this initiative by the Chief Minister, fully realised what it meant and what it meant, Mr Speaker, it was obvious to us all, that for the first time in the process of talking etc., between Britain and Spain, Gibraltar was going to be in the front line, Gibraltar representatives were going to be in the front line. We were going to be there talking and having to answer questions directly put to them rather than the more comfortable, if I may put it that way, position we had up till then under which Britain and Spain talked. The results of the talks were communicated to Gibraltar leaders who were then able to reflect on what had been said or what had been brought back and advise accordingly. But there was no question at all that in Gibraltar there was strong feeling that as it was our future that was being discussed in these Anglo/Spanish talks, it was important that our voice should be heard there and therefore Honourable Members on both sides of the House agreed that it was essential that we should be represented at these talks, knowing full well that this also had its risks, its problems, and put on us rather more serious responsibilities than probably we had hitherto had. In agreeing to hold these exploratory talks obviously all members of this House knew that at the very first meeting that these talks were held, Spanish representatives would be following up their traditional claim of sovereignty over the Rock. This is something we all knew and something we all knew was bound to occur. But I think we also knew that Gibraltar is a problem, almost an intractable problem, but a problem that affects primarily the people of Gibraltar but, secondarily, inevitably affect the people of Britain or the British Government, and the people of Spain, the Spanish Government. Accordingly, we all know in our heart of hearts that somehow or other this intractable problem cannot be challenged unless all the parties in the dispute are able to discuss freely and frankly between them. This, I think, is the process that commenced at that historic meeting, a meeting that I am sure will prove very historic, in Strasbourg, and I think the Honourable the Chief Minister and the Leader of the Opposition, faithful to their pledges in this House, were able to survive the first meeting. In other words, there was not a breakdown. It was not the Spanish Government suddenly saying: "Well, that is it, boys, either we talk on the basis that sovereignty returns to Spain or you better go home". That did not happen. The Spanish Government for the first time listened to elected representatives of the people of Gibraltar, not all those people that keep slipping across the frontier or going on and talking to different people, here, there and Spain, telling them how

people in Gibraltar feel, but speaking to the elected representatives of the people of Gibraltar and recognising the legitimate aspirations of the people of Gibraltar. In fact, their agreement even to speak to the Chief Minister and the Leader of the Opposition was in itself substantial recognition of the Gibraltar position as we know it, as we understand it and as we have put it forward. Accordingly, Mr Speaker, I think it is a matter, certainly for congratulation, that the Chief Minister and the Leader of the Opposition survived Strasbourg, were able to put forward the Gibraltar point of view clearly, were able to put it forward with dignity, in a manner that the Spanish elected representatives again, for the first time, at one of these meetings, were able to understand and appreciate. Following these talks there was the second process in Paris where, I am sure, the matter was slightly more difficult in a way because by the time the Paris talks came the Spanish Government had apparently restored telephonic communications (though not permanently) but they had done something and perhaps they were expecting the Chief Minister and the Leader of the Opposition to do something likewise which of course we cannot do because all the restrictions that have been imposed on Gibraltar have been imposed, as we all know, unilaterally, but there again the meeting went on in Paris, the talks went on, the elected representatives of the people of Gibraltar as we all know made no promises whatever as to the basic requirements as far as Gibraltar is concerned or, possibly, the basic requirements as far as Spain is concerned, in relation to the solution of the problem but went on with the process of trying to make the Spaniards understand how we feel and what we feel our interests are and where we feel our wishes lie and I think this process was successful. I think this process continues to be successful in so far as the Spaniards, certainly judging from what they say and what they do, the Spaniards are beginning to realise that they cannot just steamroller over the genuine feelings and aspirations of the people of Gibraltar and realise that they must put into reverse the process that they commenced as far as Gibraltar is concerned of trying to take it by economic force, psychological force, economic strangulation, call it what you will. It is a delicate process, I do not know whether the Chief Minister and the Leader of the Opposition have ever walked on tightropes, but it is a bit like it, Mr Speaker, you can just say one word and it can then be interpreted by people as meaning something else. It is a very delicate operation. At the end of these two rounds of talks in Strasbourg and in Paris, the Gibraltar position, I have no reason to disbelieve in any way or form, anything that the Honourable the Chief Minister and my Honourable Friend the Leader of the Opposition have said in relation to these talks. I have no reason to believe and I am sure there is no ground for any belief on the part of anybody that anything has happened in Strasbourg and Paris, in

general terms, than what we have been told. It is not possible, nor I think would it be right or proper for the Chief Minister and the Leader of the Opposition to take a tape recorder with them to Paris and Strasbourg and then to give a public statement on every single word that was uttered on tape so that nobody should have any doubts about it because if we did that talks that are of course obviously essentially confidential could just not continue. Just imagine if every time there was a meeting between interested parties in any dispute from the highest form of dispute to the lowest form of dispute they had to record and publish every single word that was spoken so that it could be analysed. This is just not possible and I do not think we expect it and no reasonable person would expect it but I think what we all know is that these talks are important, that these talks are a genuine attempt on the part of the people of Gibraltar and we hope, certainly we know on the part of the British Government, and we hope on the part of the Spanish Government but of that we cannot be certain because we cannot speak for them at all, a genuine attempt to lessen the tension there is over the Gibraltar problem and I think that that has first to be achieved, the tension has to be lowered. People have to recognise how wrong, how unnecessarily incensed the situation has been over the last fourteen years. So, Mr Speaker, I think it is important that in this House we should say these things and not just keep quiet. I think it is important that in this House we should show leadership to the people of Gibraltar by saying how we feel on this situation and how we feel the matter should continue because obviously as all Honourable Members know, there is scheduled another meeting before the end of this summer where this process, commenced at Strasbourg, will continue. We have heard of joint Working Parties being set up to consider the administrative problems involved in the areas that perhaps there could be some co-operation. All these things will, of course, be watched I am sure very closely by all the elected members of the House and, of course, more particularly by the Chief Minister and the Leader of the Opposition whose direct responsibility they will be. I am not saying and I do not think anybody can talk of seeing a solution of the Gibraltar problem in the foreseeable future, I certainly cannot see it, I am sure Honourable Members cannot see it because the two parties seem to have fairly decided ideas as to the final solution and we cannot see it but we can hope that we can learn to disagree and that we can get the tension out of the situation and live as neighbours, as they live in other parts of what we like to call the civilised world. If we can get to that stage we will have succeeded but there is no question about it, Mr Speaker, that if there is going to be some way of removing the impasse that exists today in our relationships and in our relations then, clearly, the process of talking



must continue and the attempts to lessen the tension must also continue. As we are aware, Mr Speaker, Spain has applied for entry into Europe and we are sure that all these matters, the democratic approach to problems, may bring one day a solution to the Gibraltar problem. I certainly would like to say that I am most impressed by the way in which the Chief Minister and the Leader of the Opposition have represented Gibraltar and I hope will continue to do so. On this question whether talks with Spain should continue or not, Mr Speaker, I am glad to see that the members of this House have a very valuable ally, no less a personage than Mr Jack Jones, who was in Gibraltar recently, appears, if the Gibraltar Chronicle report is correct, and I am sure it must be, appears to have supported the idea of talks. He said to the Chronicle: "I feel this process can help Gibraltar and it is important that the present round of talks on the Gibraltar question continue". I notice he also said "as far as we are concerned" - referring to the Transport and General Workers' Union Head Office in England but I am sure this view is shared in Gibraltar too - "as far as we are concerned the integrity of Gibraltar must be upheld and democracy must be maintained". Both these statements by Mr Jack Jones are not inconsistent with one another. Coming from a man who fought against facism in Spain, who knows the Spanish situation very well, who knows what they are claiming very well, like we do, of course, but who says the process must carry on. In this modern world you have to talk and talk and talk and hope that something comes out of the talking at the end. In the Gibraltar question it is still very difficult to see what is going to come out at the end but at least we can hope to achieve limited objectives like lessening the tension and, possibly, restoring reasonable relations between Gibraltar and its neighbouring country. Mr Speaker, I commend the motion to the House.

Mr Speaker then invited discussion on the motion.

HON A P MONTEGRIFFO

I am certainly elated by the words of the Honourable Mr Peter Isola who himself is an experienced man in these matters and who, as far back as those fateful days of 1964, gained that experience together with the Chief Minister, when they both went over to the United Nations, to do no less and no more than we are trying to do now, perhaps, in a different manner or with a different approach. But what we were trying to do then, as I understand it, was as the Honourable Mr Peter Isola himself mentioned - survival. The survival of the people of Gibraltar, their identity and the respect of their wishes and that is precisely what we are now calling the "Strasbourg process" and it is being

done in the context of the motion that was passed in this House and which the present motion makes reference, so there is no departure whatsoever of our strength of feeling, if anything, it is symbolic in both steps that have been taken by the Chief Minister and the Leader of the Opposition in having talks with the Spaniards, it is both a challenge and a bold step which stems not out of defeatism but out of strength and the confidence of the people of Gibraltar. Therefore it is a great pleasure to any member of the Government to stand up and support a motion put forward by the Opposition. It is not always easy to do that and therefore in circumstances such as this, though it may appear to be a pat in the back society, it should nevertheless make news, because here we are, all members of the House of different political opinions and persuasions, and nevertheless in the main principle, in the main concept of what we want for Gibraltar, we stand together in it and in taking the steps that have been taken in having talks with Spain, in no way has weakened our case. I think it has enhanced it and we have gained confidence as a result of it and we hope that at least if no solution is found barriers will drop, if not the barrier of the frontier, the human barriers will come down so that people, whatever they may feel about a certain problem, will behave in a civilised and humane manner. It gives me great pleasure, Sir, to support the motion.

HON J B PEREZ

Mr Speaker, this is a motion which is like a vote of confidence and appreciation on the Chief Minister and the Leader of the Opposition. It also calls for the talks that have already been started at Strasbourg and Paris to carry on but I think the motion is also important because it will give the opportunity to any member of this House who does not wish these talks to continue to say so publicly now in this forum which I will say is the appropriate forum. Any member who wishes to say he does not wish the talks to continue can state his reasons and obviously this will be recorded, rather than doing it elsewhere in Gibraltar. I am very confident that we are doing the right thing, that it is a path in the right direction which has been taken and I would like to highlight the achievements that have already been obtained. First of all we have had the initial recognition by the Spanish Government, the recognition of Gibraltar participation in talks. I have always been a great believer and I have always strongly objected to the talks which were held years ago behind closed doors, I thought it was wrong that the British Government and the Spanish Government should meet and we would not participate in these talks. I think this is the first achievement. Now, they recognise both the Chief Minister and Leader of the Opposition's participation in the talks. The second

achievement, I think, is the visit we have had from Spanish officials. We have had the visit of Señor Ruperez and other members of Spanish political parties, who have had the opportunity to come to Gibraltar and to see for themselves how we live and what the wishes of the Gibraltarians really are. I think this has also been achieved by the Strasbourg talks. If the Strasbourg talks had not been commenced I do not think this would have been possible, Mr Speaker. The first achievement is the telephone communications and this has also been due to the Strasbourg talks and I think furthermore the idea of the Working Parties is also a step in the right direction. All in all, Mr Speaker, I am very much in favour of the talks continuing and I also wish to express my own personal confidence and appreciation to the Chief Minister and to the Leader of the Opposition.

HON J BOSSANO

Mr Speaker, I assume the invitation the Honourable Mr Perez has made just now was intended to be taken up and I am taking it up. I am glad of the opportunity to debate this in the House although I do not agree that the House is necessarily the only forum where one's views on the talks that are taking place should be expressed nor do I think that the people of Gibraltar will necessarily be best informed about the views of members of the House if one is limited to expressing them in the House. I think the Honourable Mr Perez will remember, if he remembers anything about the days when he used to be a member of the GDM, that the GDM platform, in fact, included a commitment that if we ever thought the situation had got sufficiently serious to warrant it, then our reaction would not have been to bring a motion to the House of Assembly but to get the microphones out of the dusty cupboards where they were put after the election campaign and go through the programme that we fought the election on and go to the people in the housing estates and tell them our views. I still remember that commitment and I still stand by it. The motion I think is a good thing to have in the House because I think the talks should be debated in the House but I am sorry that it has been put in the way that it has been put because, as the Honourable Mr Perez has said, it is a motion of confidence and I am going to vote against it and I would not have put a motion of no confidence, in fact, but I am going to vote against it, Mr Speaker, because I cannot accept that the manner in which the situation is being handled is one which I am appreciative of since I am highly critical of it, nor do I consider that the process started at Strasbourg should continue, notwithstanding the fact that the motion that I moved in the House was passed unanimously and that all members of the House, including the Chief Minister and the Leader of the Opposition are committed to it. I am going

to speak quite a long time on this motion, Mr Speaker, not as long as the Honourable Mr Xiberras spoke in December, 1976, because that was an all time record on a motion also dealing with the question of talks with Spain and the future of Gibraltar, a very lengthy motion which read something like a United Nations resolution - "bearing in mind this, taking that into account and not withstanding the other" - and the sort of conclusions that the Honourable Mr Xiberras came to at that time and has come to on a number of occasions since, in fact, has made me, perhaps, more critical of his position in regard to the talks that are taking place with Spain, than of the position of the Chief Minister. I went recently on television in an interview, nine days after the Honourable Chief Minister and the Honourable Mr Xiberras returned to Gibraltar, to say that I had not yet been informed of what had taken place. I was asked whether I had been consulted before our Leaders went to Paris and I said not only had I not been consulted before, I had not been informed afterwards. The Honourable Mr Xiberras, the Leader of the Opposition was very upset by this. He called it political opportunism, I did not see it as political opportunism, perhaps it is more opportunistic to go with the tide than to fight against the tide even if the tide includes Mr Jack Jones, for whom I have the greatest admiration but with whom I am quite willing to disagree with when it comes to the question of Gibraltar if in my view what he is advising, or what he considers to be right, is not what I consider to be right. I was not being opportunistic nor was I, in fact, Mr Speaker, intending to put in doubt the integrity of either the Chief Minister or the Leader of the Opposition or their good intentions or anything other than their judgement which I am entitled to criticise, because people who do not like to have their judgements criticised have got no business to be in politics. The Honourable Leader of the Opposition then said that he had left a number of urgent messages, which I have been unable to trace, asking me to call him back or to get in touch with him or something although I can say that a few days before, in fact, I went on television, he was sitting down two yards away from me with the Leader of the Integration Party in the Bahia Bar . . . .

MR SPEAKER

May I say something. You are completely and utterly right because it does show an expression of confidence in the manner that both the Chief Minister and the Leader of the Opposition have acted and to the extent that you are complaining at the fact that you were not consulted you are right in showing reluctance to the wording of the motion, but let us not go into an investigation as to whether there was an attempt or there was not an attempt to contact you otherwise we really go into side issues. I do not want to

inhibit you.

HON J BOSSANO

I am just going to state the facts, Mr Speaker, because I think nowadays that I find myself in splendid isolation in the House, I have to try and cover every possible eventuality because I have not got anybody else coming after me to defend me and I can only speak once. Notwithstanding the desire of the Leader of the Opposition to contact me, he was a few yards away from me a couple of days before and he made no attempt to pass any urgent messages to me and, as I say, he was then with the Leader of the Integration With Britain Party who may or may not have been informed about the Paris talks before I was. The reason why I have been critical, in fact, and as I say more critical of the Leader of the Opposition than of the Chief Minister is because I consider the position of the Leader of the Opposition today to be inconsistent with his position in the past. In the past, it seems to me, he has been as critical of the approach of the Chief Minister to the question of talking to Spain as I still am today. It may well be that the Honourable Mr Xiberras has got very good reasons to thinking differently today but these reasons have not been made public, Mr Speaker, and therefore I think, in the context of the reasons that he himself has put in the past, I would put it to members of the House that there is every reason for not wishing the process that started at Strasbourg to continue, putting no new reasons myself, simply quoting the reasons that have been put by Mr Xiberras himself in the past. I think, as the Honourable Mr Montegriffo has said, we are not doing, perhaps, anything different today than we were doing in 1964 when the Honourable and Learned the Chief Minister and the Honourable and Learned Mr Isola went to the United Nations and they said that the people of Gibraltar did not want integration, that was of course before Mr Isola, was an integrationist and I am not sure now if it is still the case or if it is no longer the case because one is not very sure now what is since he did not stand as an integration candidate. I remember then that I objected very violently, Mr Speaker, to the Honourable and Learned the Chief Minister and the Honourable and Learned Mr Isola telling the United Nations what the people of Gibraltar wanted or did not want without finding out first from the people of Gibraltar whether in fact they did want it. I am sure that the British Government did not want integration then any more than it does now. I thought then we had a chance, I do not know whether we did or not but if we had it I am sure we have lost it, and I do not believe in flogging dead horses, I objected then, Mr Speaker, and this was my first involvement in Gibraltar's political life, precisely because of the manner in which the thing was being tackled and I think it is important in the context of the manner the thing

is being tackled today which I agree with the Honourable Mr Montegriffo is very similar to the way it is being tackled in the last 14 years and as unsatisfactory today as it was in 1964. I stood for election with three other members of this House and one of the things that we had in our election manifesto was that we believed in open Government, in keeping the people informed. The people of Gibraltar are not, in fact, fully informed of what is being discussed in Paris and in Strasbourg and I think they are entitled to it, I think if Dr Owen said, as he did in an interview in Paris, that nothing is being done behind the backs of the people of Gibraltar, he may feel that he can exonerate himself simply by pointing to the fact that Sir Joshua Hassan and Mr Xiberras were there with him but I do not think that is sufficient in terms of whether it is being done behind the backs or not being done behind the backs of the people of Gibraltar and I am not suggesting, and I want to make this quite clear, that either the Chief Minister or the Leader of the Opposition are in fact selling Gibraltar down the river or want to see a Spanish Gibraltar or anything of the kind, but I am saying quite definitely that the people of Gibraltar do not know the full facts of what is going on and I think they are entitled to know the full facts. I, unfortunately, cannot make those facts available to them because one of the conditions that the Leader of the Opposition put to me before he told me anything about what went on in Paris and, perhaps, I should say since I have not said so publicly before that I did meet the Leader of the Opposition the day after my television appearance and I got a full and detailed account of what went on in Paris which was more than I had when he went to Strasbourg since in my view, in respect of Strasbourg, he told me nothing in confidence that had not been said publicly and I have said so on a number of occasions in the House of Assembly. Just like I complained when in November, 1977, Mr Speaker, in the course of the motion on the question of not discussing sovereignty with Spain, the Chief Minister suddenly announced the fact that he had taken this new initiative in London with Dr Owen of suggesting talks with Spain which came as a bombshell to me because I was the only one who did not know it and I complained about that then and, therefore, my complaints recently are not an isolated incident, nor is my attitude as regards the question of the involvement of the people of Gibraltar all along the line, I think it is not sufficient to say, as the Honourable and Learned the Chief Minister said in his press conference when he returned, that there would be no question of a constitutional change taking place without a referendum. I do not see where the possibility of a constitutional change arises at all in exploratory talks which the Chief Minister said in November, 1977, were designed primarily to make sure that the Spaniards knew exactly what our position was since they were being misinformed by people who were making spontaneous visits across

the Bay in all sorts of craft where in order to rectify the situation we find out that there are going to be exploratory talks and now we find, a few months later, that the Chief Minister assures us solemnly on television that the constitution will not be changed without a referendum. I should certainly hope not because I do not see how the constitution can even be considered other than as a result of talks between ourselves and the colonising power and the Chief Minister is not prepared to support having talks with the British Government on the Constitution until he has obtained a set of proposals which enjoy the support of all sorts of people in Gibraltar. I think that is going to be difficult to obtain and I certainly think that at the rate at which the meetings are going to take place or have been taking place, I think it is going to be difficult to even make a start on it. Given that, the situation as I see it is that the Spaniards view the Strasbourg process as something much more significant from their point of view than we are being led to believe in Gibraltar. I find it extremely difficult, Mr Speaker, that different parties can go to a meeting and come out of that meeting with such different opinions about what has taken place, particularly when they are able, if they have communication difficulties, always to fall back on the common language that one of the two has as a second language. I understand in any case that Sr Oreja is also bi-lingual so if it is impossible for us to communicate with the Spaniards in Paris sufficiently well given that they are both able to use English and Spanish without being able to come out of that meeting absolutely clear about what has taken place, then I think that there is something very peculiar in the way the talks are taking place that enables the Spaniards to present them on Spanish television as an advance and as a victory for the Spanish cause and enables the Honourable and Learned Mr Isola to present them in the House of Assembly as an advance and a victory for the Gibraltar cause and still maintain that the Gibraltar cause and the Spanish cause are mutually inconsistent. I find that very strange and finding that as strange as I do I can hardly express confidence and appreciation of the manner in which the thing is being handled or support that it should continue. The least that one should do is to clear the air before the thing continues, the very least, and in my view, and that is a view I expressed at the election together with Dr Valarino and Mr Restano and Mr Perez, in my view what we should be doing is seeking to establish our future with the United Kingdom before getting involved with discussions with Spain because, as the Honourable and Gallant Major Peliza once said in the House, if we are not careful we will find the constitutional proposals for Gibraltar's future being put by Spain. Who knows, they might have been put already in one of these meetings. The meeting that took place in Paris in fact took place after agreement had been reached in London on

certain proposals which were put by our side of the delegation. Again, Mr Speaker, I can hardly express appreciation of the manner in which it has been done because those proposals were agreed in London and no one, to my knowledge, was consulted in Gibraltar before the Chief Minister and the Leader of the Opposition went to London. At least I was not consulted, I was not told: "When we go to London these are the proposals that we are going to make to Dr Owen." Of course, I do not know whether the proposals were made by the Gibraltarians to the British Government or by the British Government to the Gibraltarians. I have been unable to establish whether one or the other is the case because even in confidence the Leader of the Opposition was unable to answer that question. I am forced to draw my own conclusions from that and I assume, in the circumstances, and members of the House knowing that a suspicious mind I have will not be surprised with the conclusions that I draw. The conclusion that I draw is that the Chief Minister and the Leader of the Opposition were told by Dr Owen what he wanted them to agree to before they went to Paris and they were not allowed to come back to Gibraltar to make sure nobody rocked the boat. They were swished off directly from London to Paris thus precluding the opportunity of consulting anyone else. It may well not be the case, Mr Speaker, but I am unable to get an answer to the simple question of who proposed the proposals. I refer to the proposal which led to the Working Parties which I am told were agreed in London but I have been unable to establish whether it was us agreeing to a British idea or the British Government agreeing to our idea and even in confidence I cannot get an answer to that question and therefore I assume that I am not being given an answer because it was the British Government that was making the suggestion but this is pure hypothesis on my part which I have no choice but to fall back on in the absence of any detailed information on this. Once we get past the stage of trying to establish whose idea it originally was, we then come to the peculiar situation where the proposal comes from our side of the table and I am told on the return of our delegates to Gibraltar that we have not agreed to it yet, that, presumably, it is still an open question whether we agree to these proposals or we do not. I have little knowledge of how things operate at the esoteric level of international diplomacy. My involvement in negotiations has been at a much more mundane level, Mr Speaker, but in all my experience in negotiations whenever I have made any proposals I have not yet found myself in a situation where I could subsequently disagree with my own proposals if the other side agrees to them. If we make the proposal I would have thought if the Spaniards accepted our proposal we were almost certainly bound to stick by what we had proposed. Therefore, I cannot see how we can be told back in Gibraltar that these proposals have not yet been agreed to although we have made them and on the other hand the Spaniards who did

not make the proposal are busily making all sorts of arrangements and giving all sorts of commitments, for example, that the first ferry boat will go to La Linea and all sorts of things as if the whole thing was already cut and dried, which I believe it is. I believe it is already cut and dried and that we are just going through the rubberstamping process. The nature of the proposals is very interesting because, of course, the statement of the Chief Minister with regard to the original position was that his initiative was limited to exploratory talks and in answer to the question as to what was the difference between exploratory and substantive talks, the Chief Minister said: "In my view the distinction would arise if and when specific proposals of substance were to be put forward formally for discussion and decision". In view of that I take it that either the talks are no longer exploratory or the proposals have no substance, but it is either one or the other. Do the proposals in fact have substance? What is it that the proposals seek to achieve? The position of the Spanish Government in this matter has got to be clearly understood by members of the House and by the public at large because the position of the Spaniards has been adjusted tactically, I believe, without being adjusted in any way in terms of their fundamental position regarding what they consider to be their rights over Gibraltar, has been adjusted tactically to the extent that they now accept that sovereignty is such a sensitive issue that for the time being it should be allowed to lie dormant. If it is a sensitive issue, it is a sensitive issue because we feel very strongly about it and if we feel very strongly about it the way to defend our rights in Gibraltar is not to allow that to be shelved whilst we put into practice all sorts of measures which might appear to be inconsistent with any question of our rights in Gibraltar or Spanish rights in Gibraltar, but for the fact that these rights have never been mentioned. In 1964, Mr Speaker, one of the things that made me make a stand politically for the first time in my life was the question of the visit of the Honourable and Learned Mr Isola and the Honourable and Learned the Chief Minister to the United Nations. But there was another thing, in fact, a thing that made me write a letter to The Times and get me even more involved, and this was the proposals of Mr Seruya for regional co-operation. I opposed that proposal then on the grounds that however much sense it might make economically, if the political problem of our relationship with Spain was not resolved it was lunacy to put ourselves in a more vulnerable position with a potentially hostile neighbour. Mr Xiberras said then, talking about Mr Seruya's proposal of regional co-operation, that it is a matter of great concern that statements of this kind which undermine our economic future and thereby our political future should be on the lips of a British Government Minister because he was saying that the Hattersely answer was consistent with Seruya's approach of regional co-operation but inconsistent

with his own approach at the time and certainly inconsistent with having plastered Gibraltar with notices about "We must know our future now" and having gone round all the clubs and all the housing estates telling people what a dangerous situation it was. I agreed with him then and I agree with him now, the only thing is that I am not sure that he agrees with himself any longer. That is what puzzles me. I certainly have not changed my mind in this respect. Therefore, I am against Gibraltar being placed in a situation where we are saying: "The question of whether Gibraltar is going to be Spanish or it is not going to be Spanish is a very hot potato so let us cool it, let us take the heat out of the situation, let us get rid of the tensions." I feel very tense when somebody wants to take my home away from me and however much I try not to be tense about it I cannot help it, Mr Speaker. But he says: "let us get rid of the tensions". Dr Owen says: "Let us build up confidence, let us get rid of the mistrust". Who are we talking about? Where is this lack of confidence and this mistrust we all want to get rid of and that we have all on one occasion or another, certainly on this side of the House, contributed greatly to building up? We must not forget that in 1972 Mr Isola went to an early election and helped to build up this sort of tension no end precisely on this sort of issue, on the question of whether there was a lease or there was not a lease, or whether there should be talks or there should not be talks. The sort of tensions that exist today, exist today, because people like Mr Isola thought it was right and in the interests of the people of Gibraltar that the thing should be treated in a dramatic fashion and because as recently as a few months ago the Council of Ministers felt that a statement in the Spanish press attributed to the District Officer of the Transport and General Workers' Union warranted a dramatic condemnation of it and taking a stand which is not consistent with removing tensions or de-dramatising the situation or taking the heat out of the views that different people expressed regarding Gibraltar which seems to me the new mood prevailing in the House of Assembly today, Mr Speaker, that the manner in which the whole thing should be approached is the manner suggested by Dr Owen of building up confidence and building up trust. Since I think that the trust and the confidence and the tensions that we are all talking about are the ones that exist in Gibraltar because I do not think the Spaniards have got any reason to mistrust us, we have not done them any harm, we have never shown them any animosity, we have never tried to cripple their economy. In fact they have done more in that direction themselves for their own workers in La Linea than we have ever done. I do not think there is anything that the British Government needs to do or anything that we need to do to build up confidence on the part of the Spanish people or to build up trust on the part of the Spanish people because we have never shown ourselves to be anti-Spanish in the sense that we consider the Spaniards to be our natural enemies or that we consider them to be



inferior to us or that we wish them any harm. We have certainly shown ourselves to be anti the Spanish claim to Gibraltar and I think we are absolutely entitled to be anti that and we are absolutely entitled to not wish to fraternise with people who want to take us over and who have the cheek to tell us so on our own television, like Sr Ruperez did. His interpretation of the achievement of this historic encounter in Strasbourg was that what Spain had failed to do in 270 years without restrictions she had managed to do in ten years of restrictions which was to get us to sit down and talk about the Spanish claim to Gibraltar. That is Sr Ruperez' interpretation which he said in public on GBC television. Sr Ruperez was there and I was not but I find it puzzling, to say the least, that the Honourable and Learned Mr Isola should see that encounter as a tremendous achievement of the Spanish recognition of the rights of the Gibraltarian because, in fact, they are allowed to be present as part of the British Delegation and not as representatives in their own right representing the people of Gibraltar as a third party which the Spaniards do not yet consider to be the case, they have not yet come to that point. They may well wait till we are Spanish before they come to it but that we do not know. And so we find ourselves today in a situation where as I say there are a number of matters being discussed in Paris following the meeting in Strasbourg and there is another meeting planned and we do not know yet where the other meeting is going to take place. We know from Señor Ruperez that the process involves a series of meetings one of which will take place in Madrid. We know from Dr Owen because he said so on television in Paris and I think it is a bit tragic, Mr Speaker, that one should have to wait to hear what Dr Owen said to a French journalist through the medium of Spanish television to try and draw links and try to build up an overall picture of what the situation is. We hear from Dr Owen, as I say, via France and Spain, that there is no reason why the next meeting should be on neutral ground, as it were, because the need for Paris and Strasbourg was to break the ice and the next one need not be on neutral ground which, presumably, means that it could be in London or in Madrid, except of course that in November, 1977, we know that the Leader of the Opposition said: "There is an obvious point, of course, these talks should not take place in Spain." That was what he said in November 1977. Just before he left for London when asked by the Chronicle whether he would agree to attending talks in Madrid he said it was a hypothetical question. Of course it was not a hypothetical question, there was a very clear statement made in the House of Assembly, nothing hypothetical about it, and I would have thought that if the Honourable Leader of the Opposition wants to build up my confidence in him the way to go about it is, in fact, not to avoid an issue like that when the Chronicle asks him but to give the same sort

of categorical answer that he gave in the House of Assembly instead of getting his crony, the Honourable and Learned Mr Isola, to put up a motion because he was upset about what I said on television. So I am not sure any more, Mr Speaker, whether it would be possible for the leaders of Gibraltar, the Chief Minister and the Leader of the Opposition, to attend a future round of talks in Madrid because the Honourable and Learned the Chief Minister has not pronounced himself on the subject, he has not said whether he has objections to going to Madrid or not and the Honourable the Leader of the Opposition said in November, 1977, that it was unacceptable to him, had said to the Chronicle that it is a hypothetical question and has said to me that what he had said before was that he was loath to go to Madrid to hold talks, that is his position today as I understand it.

Mr SPEAKER

I think the Honourable the Leader of the Opposition said that what he said on television was that he was loath to go. I do not think he was referring then to what he had said in the House. <sup>NON S BOSSANO</sup> I am not sure, Mr Speaker, what is his current position but no doubt he will state it when he gets the opportunity. The position today, as I see it, is that the background against which the talks have to be seen and certainly the background against which the Spaniards are seeing the talks, is the background of the Iberplan Report. The Iberplan Report, Mr Speaker, which again caused quite an amount of consternation on this side of the House when it was published. I remember that there was an insinuation, perhaps no more than that, that the Government had co-operated in the production of it, which the Government then denied completely, I remember at the time, but in fact part of the criticism being made was that perhaps the Gibraltar Government had something to do with it and this was absolutely denied at the time. The Iberplan Report made a case, economically, for the integration of the Gibraltar economy into the economy of the Campo area and in my view the economic case made in the Iberplan Report cannot be faulted. As an economist I think that nobody could come along and argue, economically, against that but of course the Iberplan Report said that this is just economists speaking, that this is just the economic case, that the political case is not being looked at. Of course the political case is absolutely vital, Mr Speaker. The position of the Spanish Government today appears to be one of: "Let us forget about the political issues. Just to keep it on record every time we meet, we will say that we are still claiming sovereignty over Gibraltar but we are not going to press you on sovereignty over Gibraltar, we are just going to put that on one side and we are going to go about the practical issues of the nature of the relationships between Gibraltar and Spain". The practical issues, I have no doubt, as far



as Spain is concerned, are means of integrating the economy of Gibraltar into the economy of the Campo Area. This may well produce in the short term substantial economic advantages for Gibraltar, in the short term, but I put it to members of the House that to follow that path without in fact having obtained a satisfactory and permanent solution to the question of Gibraltar's decolonisation and its permanent future, would be a serious error of judgement. I do not want to accuse anybody of anything other than that but it would be a serious error or judgement in my estimation. The Spaniards believe, and if they have not been led to believe this they should be disabused of this belief at the earliest opportunity, that this is what we are prepared to take part in and that this is the process that has started in Strasbourg and that that is what the process is all about, the long term economic integration of Gibraltar with Spain and then whilst that process is completed, then we will start looking at the question of whether there should or should not be political integration with a special status and a special autonomy for Gibraltar. Well, of course, then it will be too late. Who will be able to argue against it then? Nobody anywhere in the world would support a situation or a thesis where Gibraltar was economically dependent on Spain and claiming to have any rights of its own, any more than they would accept such an argument from the people of La Linea for secession from Spain and then the argument that the Spaniards have used since 1964 in the United Nations, the argument about the territorial integrity of Spain being put in danger by a Gibraltar that was not Spanish, would be an absolutely valid one because it would be a true reflection of the reality of the relationship between Gibraltar and Spain. The Honourable Mr Perez said in his intervention, Mr Speaker, that if any Member of the House was not in favour of the process that was taking place and which was started in Strasbourg, he should get sound reasons for his opposition. I think the reasons that I am putting before Members of the House are sound ones. I do not expect it to have any effect at all on the voting on the motion, Mr Speaker, because one of the regrettable things about parliamentary democracy is that however cogent the argument, when the time comes to vote everybody will vote the way they have to vote and I know and I also think it is regrettable that this should be necessary in politics, I know that more than one member of this House in private agrees with some, not all, but some of the things that I am saying and some of the criticisms that I am making but, unfortunately, they feel that they cannot say so publicly and they cannot say so in the House. This is one of the prices that has to be paid for parliamentary democracy. I think it is a price worth paid because I believe parliamentary democracy is worth preserving but I think it is regrettable that that price

should have to be paid and I believe, in trying to bring about a system where it is possible for people to say precisely where they stand, precisely what they believe, to say it in the House of Assembly, to say it in Paris, to say it in Strasbourg, to say it on television and to say it when election time comes and they go all over Gibraltar with a microphone, to say the same thing all the time. And if the same thing is being said all the time then, perhaps, this secretiveness about the talks will not be necessary. If the view of the people of Gibraltar is so well known and if all that the Honourable and Learned the Chief Minister and the Honourable Mr Xiberras are doing is putting the people of Gibraltar's view in Paris and in Strasbourg and wherever they go all the time doing the same thing, then why is it so difficult to tell the people of Gibraltar at least what they are saying, if they do not want to tell the people of Gibraltar what the Spaniards are saying? If all that is being done is that the view of the people of Gibraltar is being put why it is, Mr Speaker, that I am led to understand from one source that there were prepared statements read in Strasbourg and then the Chief Minister says that he cannot make the statement that he made there public because there was no such statement, that all he had were a few notes? How is it, Mr Speaker, that we have now agreement or non-agreement, I am not sure which it is, on three Working Parties and it is possible for Mr Pitaluga, who was present at the talks, to tell me in answer to a question, that nobody yet knows what the Working Parties are going to do, or what their terms of reference are or what their composition is going to be. It is still all very nebulous. But we have made the proposal and surely, if we make a proposal we should know what we want before we make it. It might be nebulous if the other side had made the proposal. It might be nebulous if that is all the Gibraltarian component of the delegation had been told so far by the British Government but it cannot be nebulous to the initiator of the proposal. The person who makes the proposal must know what he wants. One of the most serious elements in the process that is taking place, Mr Speaker, is that the Spaniards seem to have an absolutely clear cut idea of what they want. The British Government seems to have an absolutely clear-cut idea of what it wants. The only people who do not have a clear idea of what they want out of the talks are the Gibraltarian component of the talks. It would be much easier to support this process if one were given an absolutely crystal clear picture and we were told: "We are going along with this process in order to achieve A, B and C and nothing more than that". But, of course, one cannot be given that idea because the people involved in the process do not know. They do not know where they are heading. They do not know where they are going to finish up. They do not know whether they are there and I cannot, therefore, feel confident in those circumstances although I would not, as I have said, Mr Speaker, I would not have moved a

motion of no confidence in this matter because I do not think it is in Gibraltar's interests that however critical one may be of the Chief Minister and the Leader of the Opposition, one should go to that extent and, therefore, my vote against the motion should not be interpreted as a vote of no confidence but I am very critical and I must say that I cannot go to the extent of taking a positive vote in favour and express confidence in a situation where I feel that there are not only a lot of loose ends but, in fact, a lot of things which appear to be inconsistent mutually and certainly inconsistent with the statements that have been made in the House of Assembly on behalf of the Opposition by Mr Xiberras and by myself when I was Leader of the Opposition and, indeed, by members who are now in the Opposition when they were in Government. There is, to me, a very fundamental and dramatic difference between the extent to which the Leader of the Opposition today, Mr Xiberras, is prepared to participate in this process and his attitude to such a process in the past. If, for example, Mr Xiberras were to turn round and say: "Well, my aversion to having anything to do with talks with Spain before was because it was a fascist regime but now that it is no longer one I do not see any harm in talking with them", then I could understand it but not only has he not said that but he himself has criticised people who said to us, like Mrs Hart said in a recent reception, that the reason why the people of Gibraltar were against Spain was because there was facism there. Of course, that is not true. The people of Gibraltar are against the Spanish claim to Gibraltar because they do not feel Spanish and they do not want to be Spanish. That is why. It has nothing to do with facism. Therefore, the accusation that the Honourable and Learned the Chief Minister made against me during the election campaign that my objective was to integrate Gibraltar into a marxist Spain was as false then as it is now. A lot of things get said in election campaigns.

MR SPEAKER

It is out of order as you consider it to be false.

HON J BOSSANO

Therefore, Mr Speaker, the process that is taking place now has brought us to a stage where there are three specific proposals about which I and my party at this stage are not objecting to in principle. Nobody can be asked to support proposals which are in a nebulous stage at this moment because once they cease to be in the nebulous stage one might find that having said yes to them initially, once they take shape one is totally opposed to them. The three areas which have been mentioned publicly so far and I think

Dr Owen made clear in a television interview on BBC that these were the ones that had been mentioned so far, but that there could well be others. I am not breaking any confidences when I say so. I have to make quite clear that some foreign source to Gibraltar has made the information available to me before I can divulge it nowadays. I must say that I made it quite clear to the Leader of the Opposition when he gave me his confidential report at once I obtained similar information from Spanish sources I would feel free to make them public without having broken confidence so I have to wait for that. The situation we have at the moment and I take it that the motion in asking - perhaps the Honourable and Learned Mr Isola, the mover, will clear that up for the benefit of the members who are going to vote in favour, it does not really affect me since I am voting against - but I think to be fair to the members that are going to vote in favour perhaps the Honourable and Learned Member can clear up when he rounds up the motion whether in getting people here to commit themselves to the continuation of the process, he is getting them to commit themselves also to supporting the three proposals that have been made public today and is also getting them to commit themselves to support the other things which have not been made public but which all other members of the House have been made aware of, whether he is getting them to vote publicly here in favour of all those things to which the public has not yet had an opportunity to react. This is very pertinent, Mr Speaker, when one calls for appreciation of the manner in which the Chief Minister and the Leader of the Opposition have acted on behalf of the people of Gibraltar because I am assuming that it is the manner in which they have acted in Gibraltar that we are talking about. The manner that they acted in Paris or the manner that they acted in London or the manner that they acted in Strasbourg one does not know. I assume that they acted in a way that did not let the people of Gibraltar down but the manner that they have acted in Gibraltar certainly leaves a lot to be desired. It is not the first time, of course, that the Chief Minister and the Leader of the Opposition have acted in the manner that they are acting today jointly and it is not the first time they have been criticised for it. One very important occasion when they acted in a similar fashion was when they rushed off with constitutional proposals to London without having made their position public in Gibraltar. They consulted a number of representative bodies, they drew up joint proposals, they took joint proposals to London and the joint proposals that they took to London were rejected by the British Government. But suppose the joint proposals had been accepted by the British Government and rejected by the people of Gibraltar where would that have left the Honourable and Learned the Chief Minister and the Leader of the Opposition? They were criticised then for not sounding out public opinion on those proposals before putting them. To me, that is a very valid criticism and to me it is something that is very wrong in the manner in which these things have

been conducted in the past and are being conducted today. I would put it, Mr Speaker, to the Honourable and Learned the Chief Minister and the Leader of the Opposition notwithstanding the fact that they will get the support of all the other members of the House on this motion, notwithstanding that, that they should give some thought to what I am saying because I can assure the Honourable and Learned the Chief Minister and the Leader of the Opposition that that particular view is one that I am not alone in having in the House of Assembly, although I may be alone in putting it. Therefore, if the Honourable and Learned Mr Isola in his rounding up does make clear that he is asking members who vote for this motion not just to support and give a vote of confidence in the talks that have taken place but also in the working parties that are being planned, then, Mr Speaker, I would like to explore a little bit what these working parties are intended for in the context that it is part of the process that started in Strasbourg. One of these working parties is intended to look at the question of social insurance. I do not know to what extent we are committed to that working party being set up but I know one thing, that we are supposed to have suggested it. I cannot understand why we have suggested that there needs to be a working party on the question of the pension rights of Spanish workers who were deprived of coming to Gibraltar by their own Government. I feel a great deal of sympathy for the case of Spanish workers from our neighbouring town who worked many years in Gibraltar and who, overnight, at a stroke, through the whim of a dictator, were deprived of their livelihood in Gibraltar. But I have no doubt where the responsibility for that action lies, the responsibility for that action lies in the present Spanish Government today who is defending the fascist restrictions against Gibraltar and saying that they are not restrictions, and this was said by Sr Oreja on television again in Paris. He said they are not restrictions, they are simply the legitimate implementation of Article 10 of the Treaty of Utrecht. Perhaps, that tells us more about the reality of democracy in Spain than anything else that we may come across because for me, and I know for many socialists in Spain, in fact, the restrictions against Gibraltar were introduced by a fascist government and were typical of fascist attitudes towards trying to resolve problems. We all know how long the British Government spent in vain trying to convince the old dictator to woo us instead of club us into submission but, of course, that advice was bound to fall on deaf ears when it was being given to the Head of State of a nation where that Head of State was not willing to woo his own subjects, was not willing to woo different interest groups in Spain and trying and reconcile class interests in Spain or trying to reconcile regional interests in Spain but in fact used the cudgel against all dissidents, so how could he be expected to treat the people of Gibraltar any differently if they disagreed with his views as to whether Gibraltar was or should be Spanish. But

today we have a government in Spain that claims to believe in parliamentary democracy, that claims to believe in giving people rights and letting people decide for themselves and yet when it comes to the people of Gibraltar their view is that territorial integrity is more important than what the people of Gibraltar want or do not want. But a piece of rock which will add very little to the size of Spain is more important to Spanish democrats than the views of the people of Gibraltar and their desires. This particular approach, which I think is inconsistent with a belief in democracy and is inconsistent with a belief in socialism, happens, regrettably, to be shared by the socialists and communists who also say that the question of territorial integrity is more important than what the people want which I consider to be a denial of everything that socialism is supposed to stand for. Mr Speaker, I think that we in Gibraltar can say that we welcome the democratisation of Spain for the obvious benefits it is bringing the Spanish people and no doubt they are getting some benefit. We can say that we welcome it for the benefit it is bringing them but so far we have seen little of that reflected in any quarter in the attitude of the Spanish approach to the future of Gibraltar and to what they think that we are entitled to demand and therefore since the process that started in Strasbourg is still a process within that context, I do not think that we can welcome that process with open arms as the motion seeks to make us do. Nor do I think that it is really a sufficient safeguard to tag at the end of the motion which I moved in November, 1977, and which was passed unanimously when we all know that the Spaniards today are prepared to put that on ice but have not changed their attitude in respect of sovereignty one iota. Nor have we. Mr Speaker, I know we have not but we have not changed our attitude on the question of sovereignty but we have certainly changed our attitude on the question of being prepared to sit down with them. I am not aware that the Spaniards were unwilling in the past to sit down and discuss their claim over Gibraltar.

HON P J ISOLA

Mr Speaker, if the Honourable Member will look back on Government records on this, White Papers issued by the British Government on it, the Honourable Member will see that the Spanish Government was not prepared to sit down with Gibraltar representation or even to recognise the representation, even in the United Nations. It is there, quite clear, in public documents. I am sure the Honourable Member must know about that.

HON J BOSSANO

Yes, Mr Speaker, but I am sure the Honourable and Learned

Mr Isola must also know that when he was in the Integration party his Party then put a lot of conditions to Gibraltar participation because Gibraltar participation was being considered then, quite a number of years ago, and there was a lot of soul searching in the party to which he belonged then as to whether even with those safeguards we should go along with it. The change in the Spanish attitude in respect of Gibraltar participation took place a long time ago, it has not been overnight, it took place in Franco's time. It is our attitude that has changed today, in my view. I was talking, Mr Speaker, about the Working Parties and about the fact that apparently we have suggested that there should be a Working Party in order to look at the question of the rights of the Spanish workers who were deprived of coming to Gibraltar. My own view is that if the Spanish workers were deprived of rights in Gibraltar as a direct result of the closure of the frontier, then the responsibility for restoring those rights must rest with the party that closed the frontier, not with the party that left the frontier opened throughout. How come that we have suggested the Working Party? A Working Party to do what, to put their point of view, or to see how administratively we can do whatever it is the Spaniards want us to do, or to make an exception?

HON M XIBERRAS

If the Honourable Member will give way. Is he aware of the proposal made by the Integration With Britain Party in 1971 in respect of pensions, offering a lump sum settlement, is he aware?

HON J BOSSANO

I am aware that the problem has been there for some time and has exercised the minds of different Ministers of Labour and Social Security, how to deal with the problem and with the liability that existed.

It certainly was something that when Mr Xiberras was Minister of Labour was being looked at in the context of whether there was a liability on the funds. I remember in the actuarial review the point being made that there was an unquantified liability there in respect of Spanish workers which had to be taken into account, but what I am talking about today is the proposal that we have made to set up the Working Party, to do what? My understanding of the situation from what I heard in the press conference given by the Chief Minister and the Leader of the Opposition on their return to Gibraltar was that the proposals for the Working

Parties had been made by our side and not by the Spanish side and therefore I am talking about the proposals that we made because publicly I have been told that we made the proposals for the Working Parties.

HON M XIBERRAS

I understood the Honourable Member to have said that Working Parties, who proposed them and why they were agreed, he had not even been told in confidence who started the whole thing. I understood him to say this.

MR SPEAKER

The Honourable Mr Bossano said that the question of the Working Parties was discussed before Strasbourg between the British Government and the Gibraltar Representatives and that he has not been told whether it was a proposal by the Gibraltar Representatives or by Dr Owen.

HON J BOSSANO

The Working Parties emanate from an agreement in London on the areas that were going to be discussed with the Spanish Delegation. The areas that were going to be discussed must have been suggested either by us to Dr Owen, or by Dr Owen to us. I do not know whose initiative it was on this occasion. Although I know that, of course, on the previous occasion, the Honourable and Learned the Chief Minister has told us that it was his initiative, on this occasion I do not know whose initiative it was. I know that by the time that they got to Paris it was our side of the table that put the proposals to the Spaniards because the Chief Minister said so publicly in a press conference. These are the facts as I understand them. If I have got the facts wrong then of course I shall welcome any correction that the Honourable Leader of the Opposition may wish to make just as I would welcome how if I have been wrong in considering him to be inconsistent, he can reconcile what he said in November 1977, what he said in December, 1977 when I brought a motion to the House, what he said in December, 1976, when he brought his own long motion and he put forward a very strong case for not going along with talks with Spain without getting an absolutely clear reading from the British Government as to precisely where our own constitutional development was heading, which we have still not got. He said in December, 1977, that we had to clear up a lot of things before we went into talks, or perhaps it was in June, and in December, 1976, he said that: "there is an element of ordinary prudence in taking the position that before you negotiate with Spain, which is the line advocated

by J E Triay and rejected by the electorate, we must start from the premise that our strength in the negotiating table with Spain emanates from the soundness of our relationship with Britain, and that that soundness of our relationship with Britain depends on correcting the situation that was created by the Hattersley Memorandum". I am not aware that that has been corrected but if he is aware that it has been corrected and his change since, 1976, is a result of that correction having taken place, then I think the Honourable Member should share that knowledge with all of us and certainly he should share it with all the people of Gibraltar, because even if he does not want to tell them the details of what is taking place in Paris with the Spaniards, certainly he should be happy to give them details of anything that puts right the sourness that was created by the Hattersley Memorandum which, as I have said before in the House of Assembly, Mr Speaker, when I have ever had an opportunity to speak to a Minister of the British Government, I have always made a point of asking specifically whether the statement made by Hattersley continues to be the position of the British Government or not and I have always been told that it does and, therefore, because I agreed with the Honourable Member in December, 1976, I hold that view today that he should not be participating in the process for the very reason that he gave then that until we get our own House in order we are in no position to be sitting down to discuss our future with Spain when we have not settled our future with Britain. If all that the Chief Minister and the Leader of the Opposition are going to go to Paris for and to Strasbourg for is to try and persuade the Spaniards to remove their restrictions against Gibraltar fullstop and nothing else, then I think they do not stand any chance of doing it but if they want to do it then by all means let them do it but that, in fact, is the premise upon which the Spaniards should be asked to have talks, not the premise that they have themselves produced which is that we are sitting down to find out what are our practical objections to the Spanish claim, not our theoretical objections, let us forget sovereignty because as Triay is always reminding us sovereignty is an out-moded word. This is not a new idea, this is not a new approach that the Spaniards are putting forward in this so-called new process that started in Strasbourg. Triay has been telling us for years that we should not concentrate on sovereignty, that we should concentrate on other matters, and the other matters that we are concentrating on are the practical things. We have got a Working Party on pensions on Spanish workers which we are not clear yet what it is intended to do and we have another Working Party on maritime communications. What is the nature of this Working Party that the House is being asked to support? We are being asked here to support the Working Party on maritime communications. What is the nature of this Working Party? Are we talking about a situation where

Spain has now accepted that she has to sit down with Gibraltar to discuss bilateral rights of Spaniards in Gibraltar and Gibraltarians in Spain in terms of trade and communications like they do with France and Germany and any other nation? Are they, in fact, saying that if a Spanish ferry calls at Gibraltar then the Gibraltarians have got the right of reciprocal rights in Spain? Is that what the Working Party is going to do, or is it in fact a face saving formula to enable Spain to remove the restrictions that they have placed against Gibraltar, so that they do not appear to have backed down or is it, alternately, that the Spaniards want to concentrate on the maritime communications rather than opening the land frontier in order to have a stronger hold over Gibraltar if in future they want to put the screws on again, because it certainly seems a very peculiar thing to run a ferry from here to La Linea. It seems an odd way of restoring communications with Gibraltar and if that is the way the Spaniards are prepared to do it and not any other way, they must have a special reason for wanting it that way which again I do not know and I do not know whether anybody else knows. It may be, Mr Speaker, that everybody here is as much in the dark about the ramifications and the implications of the proposals that we have made, I put it to Members that if we discuss this before getting to the state of making a proposal we might then not feel duty bound to vote in favour of something which we are not clear where it is leading us and as I say I do not expect that my words are going to make any impression when the time comes to vote. The process having gone this far is programmed, I am told by Spanish sources, to follow a series of steps, a series of stages, so the Spaniards certainly seem to have a clear idea of what the process is all about. The Honourable and Learned the Chief Minister was asked in a Spanish periodical which would be the ideal solution for himself and his answer is that he does not think there is an ideal solution, that the final solution would require concessions on the part of Britain, on the part of Spain and on the part of Gibraltar. I am not going to say that what he is quoted as saying is true because, unlike him, I do not believe everything the Spanish newspapers attribute to Gibraltarians whom they interview. I do not believe everything Ruperez says either but I have no choice but to believe what Ruperez says when Ruperez is the only one who is saying something, Mr Speaker, and when I have a 4-hour meeting with the Honourable Leader of the Opposition and he spends a considerable time telling me that the plane landed there and that the doors opened and that he walked on the steps and that there was a delegation waiting to meet him from the British Embassy and it took me almost as long to get to the place as it took him, and I am waiting impatiently to find out what took place when he got there, which is really what I want to know and when I finally get there with him he says: "Well, when we got there we put the position of the people of Gibraltar and the



Spaniards put their position", and I said; "And that is all?" and he said "That is all". After that, I assume that what Mr Ruperez said in much more detail, true or false at least he is giving me information and, therefore, Mr Speaker, it is not that I consider Señor Ruperez more honest than the Honourable Member, quite the contrary, just by virtue of the fact that Señor Ruperez wants Gibraltar to be Spanish is sufficient to make him a scoundrel in my eyes, so let us have no misconceptions about that. But there was an absolutely cristal clear definition of the process that we are supporting here from the Spanish side. What the process is doing in their eyes is absolutely clear and the process is, as I said, consistent with the approach of the Iberplan report, consistent with the approach of Mr Seruya and therefore inconsistent with the policy on which I stood for election and on which three other members of this House stood for election and certainly, I would say, inconsistent with the statement that Mr Xiberras himself has made in the past and I am not sure whether it is inconsistent with what the Honourable and Learned the Chief Minister has said in the past because the Honourable and Learned the Chief Minister has said so many things in the past, Mr Speaker, that either everything he said is inconsistent with something else he has said or else he can always prove that whatever I am saying now he said before, so it is very difficult to pin down the Honourable and Learned the Chief Minister . . . .

MR SPEAKER

Unless you want to break Mr Xiberras's record,

HON J BOSSANO

No, I am not seeking to break the record, Mr Speaker, I am seeking, in fact, to . . . .

MR SPEAKER

You did start your speech by saying that you did not propose to break Mr Xiberras record.

HON J BOSSANO

I said originally that I was not going to do it, and I am in danger of doing it. I am grateful, although I shall be voting against the motion, for being given an opportunity to be explicit about my own position in this matter. The opportunity I intend to take myself whenever the occasion arises in my view outside the House of Assembly. I shall

not wait patiently for the Honourable and Learned Mr Isola to put another motion and give me another opportunity. I shall raise the matter outside whenever I think it is in the interests of the people of Gibraltar that I should do so and of course, as I say, in political life we are all entitled to question each other's judgement and other members of the House may think I am doing more harm than good by taking the line that I am taking but I have no reservations myself, or doubts, about whether I am doing the right thing or not. In fact, as I said, I made my first attack, if you want to put it that way, on the process immediately after I met Sr Ruperez because, having met him and having listened to what he said, it put the whole thing in a different light so far as I was concerned. What he said to me and what he said on television made it absolutely clear why the Spaniards were so happy with the process and the very reason why they are so happy is the reason why I am unhappy, because the consistency and the logic that there is in their approach of what they are getting us to do, of the path that we are following, perhaps, unaware of the dangers, perhaps, aware of the dangers but confident that there are sufficient safeguards. But that the dangers are there, I think few members of the House can have any real doubts about and that the path that we are following is a path which is absolutely consistent with the latest approach adopted by the Spanish Government in this matter which is, in fact, the approach that has been preached by Mr Triay for very many years, when he has said we should look at practical ways of co-operating with Spain, of restoring normality, of bringing about a different situation and leave the issue of sovereignty on one side, put the issue of sovereignty in cold storage, whereas our stand has been not just that we do not want to talk about sovereignty with Spain but that we want to have that issue put squarely on the table when we talk with Britain because we want to discuss Gibraltar's future when Gibraltar ceases to be a colony. I appreciate that the British Government does not want to do that but that should not be sufficient reason for the members of this House. The fact that the British Government does not want to do it is neither here nor there. The British Government is going to do a lot of things they did not want to do including agree to parity. We should not be put off simply by virtue of the fact that the British Government may disapprove of a particular stand. The process in Strasbourg and Paris and so on, as far as the British Government is concerned, is primarily devoted to building up confidence. It is significant, perhaps, that the same word appears in this motion so no doubt the Honourable and Learned Mr Isola feels that he is doing the British Government a good turn in bringing a motion to the House that seeks to produce a vote of confidence which no doubt Dr Owen will remember when the Honours List comes along and give him something in exchange. I am sure that the Honourable and Learned Member knows that



in my view the distance between what the British Government wants and what the Spanish Government wants is not all that great. I am sure he can have been left in no doubt about that. I think he spoke about ten minutes after I had finished in Flat Bastion Road in October, 1976, where I had put that point of view across to the people and so had, of course, three other members of the House that nowadays I am not sure if they feel as strongly about it as they did then or if they have the same approach to the analysis of the long term intentions of the British Government as we had then and as he himself associated himself with, although I never think he was a great believer in it, but he certainly associated himself with that thesis immediately after Hattersley. Reluctantly, I think, to be fair to the member but nevertheless associated with it through the necessity of party loyalties, I believe. The position is that the British Government is, I think, saying to the leaders of Gibraltar and through them to the people of Gibraltar that they must overcome this distrust of Spain and of Spanish intentions. I think the people of Gibraltar have got every right to distrust Spanish intentions because Spanish objectives are absolutely crystal clear and therefore if we are being asked today, Mr Speaker, to support the process then surely we are entitled to ask where is that process leading us? Do we support a process just because we seem to have become committed to it? Do we support something that started as a purely exploratory venture to make sure that the Spaniards were not being misled by the yachting fraternity of Gibraltar? That is all that there was to it in November, 1977, when the Honourable and Learned the Chief Minister said that his initiative was intended to make sure that the Spaniards were not being misled as to where the people of Gibraltar stood on the question of the claim to Gibraltar. That he was going to go there and tell them that he supported my motion. I do not think any member of the House can turn round to me now and say that we all welcomed that initiative. We all welcomed the initiative of the Chief Minister defined in November, 1977, as being one that he was going to go and tell the Spaniards that he had supported the motion of Joe Bossano in the House of Assembly. What I find difficult to understand is why he should need to tell them that in Paris, in Strasbourg, in London and almost in every corner of the world. Surely, the motion of Joe Bossano is not so difficult to understand, Mr Speaker, that the Spaniards need to be told the same thing over and over and over again. In fact, having been told once, the Spaniards have reacted by saying: "Well, yes, we know that this is an emotive matter. We know how strongly you feel about the question of sovereignty. We know how people react. We know that the feelings of the people today are as strongly against a transfer of sovereignty as they ever were in the past and therefore we are not going to talk about it". Having said that, where does the process now take us to? Because, of

course, if the Spaniards had said "we are not claiming sovereignty" this would have been an enormous breakthrough. They have not said it. I think there is little prospect that they ever will say it. I think there is little prospect that they will ever say it. But that is not what the Spaniards have said. What the Spaniards have said is: "If now is not the right moment to talk about sovereignty, then let us keep that in abeyance". Is our position then that we agree that now is not the right moment? What is our position in the matter? I know that that was one of the strong differences that used to exist between the Integration Party and the AACR in the old days when the, what shall we call it, the Pact of the John Mackintosh Square did not exist. Perhaps I bear some of the blame but I do not think as much as the Honourable Member tries to attribute. What is the position then today, because at that time I recall one of the fundamental things was that the Chief Minister's view was that we could not attempt to tie future generations. I remember the first meeting that I had with him when the Pro-Integration Movement was started and he said absolutely clearly then that in his view we should take a stand today but we should not, in fact, and he was against integration because he saw it as a permanent tying up of Gibraltar's future, which I did not think really was the case because whatever you do constitutionally there is nothing to stop a subsequent generation undoing it. Whatever people may feel about Gibraltar and Spain and Britain today, no one can predict what people will feel like in a hundred years' time and no one will be able to stop them doing what they want whatever constitutional relationships you create at this stage. But to go along with the thesis that today Spanish sovereignty over Gibraltar is emotive and that therefore we should pigeon-hole it until it ceases to be emotive, starts from the premise that perhaps it will not always be emotive. If there are members in the House who believe that, they should have said so during their election campaigns because those who said it did not get elected. Those who asked for a mandate to negotiate did not get the mandate. I do not see how the Honourable and Learned the Chief Minister can say, when he comes back from Paris, as he did in a television interview, that the people of Gibraltar will have the final say and that therefore nothing is being done without their consent or behind their backs but that he has a mandate to negotiate. He does not have a mandate to negotiate because he did not ask for a mandate to negotiate. He should have asked for it. He would have got it. He would still have got the seven thousand votes, Mr Speaker, because he did not get the votes asking for a mandate to do anything. All he got the votes for was because he told the people of Gibraltar "If you want me you have to vote for the right" so on that basis he has a mandate to do nothing or he has a mandate to do everything. He is there because the

people of Gibraltar want him there and I am here because they want me to criticise him. Mr Speaker, the only thing that I feel that I can do now is to round off what I have said on the subject because I think the arguments that I have put today are not new to any member of the House and certainly not new to the people of Gibraltar. I do not think the people of Gibraltar will learn anything about my stand as a result of it being reported that they did not know before I stood up to speak. Perhaps the only way that I can round off what I have had to say on the subject in the spirit of wanting to perhaps blunt somewhat the edge of my criticism, is to say that since I am unable to do anything to interfere with the process that has already been started, let the Honourable Members involved in defending that process and in supporting it at least bear in mind what I have had to say on the subject as the process continues and let some of my criticisms have some effect internally even if externally my criticisms will be rebutted by others who speak after me.

HON A J CANEPA

Mr Speaker, there is really only one point on which I find myself in agreement with the points that the Honourable Mr Bossano has been putting across and I shall come to that in a moment. But before I do so I must disabuse him completely about any notion that the representatives of the people of Gibraltar took over to London prior to the ris meeting, any proposal to set up a Joint Working Party on the question of the rights, in some cases perhaps the so-called rights, of the former Spanish workers in Gibraltar. This was a proposal that was put by the British Government when our leaders arrived in London, it was put to them there, and they immediately asked for material to be sent to them on the subject and when that was done the Ministers who were in Gibraltar then properly constituting by their presence in Gibraltar the Gibraltar Government, the Ministers sent a telegram informing the Chief Minister in no uncertain terms as to what their views were on the question of these pensions and also about the principles which they considered had to be safeguarded and upheld if any discussions were then, in Paris, or subsequently to be held on the question of these pensions. The Chief Minister himself has said that in any case there will have to be an actuarial review conducted in Gibraltar on this matter before there can be any question of discussing the matter with the three parties concerned. There are certainly certain principles that I do not think can be accepted. Let me also assure the Honourable Member, although I did so in a remark across the floor of the House, that the question of the rights of the Spanish workers has not exercised my mind one iota in the last six years. What has exercised my mind in five reviews of social insurance pensions and is already exercis-

ing my mind for the review of next January, is what has been done and what needs to be done about the pensions of Gibraltarian workers and other workers currently contributing to the scheme. I do not know what is going to be the upshot of this Working Party but I can tell the Honourable Member, and other members of the House that if anybody has in mind that the so-called rights of Spanish workers entails increasing their pensions to the level of current pensioners in Gibraltar or to the level which those pensions are going to be at in January, 1979, and that the result of that increase is going to be borne by the existing 11,000 or 12,000 contributors, then that person had better think again. I do not know what is going to emanate, what is going to emerge, and I do not know who is going to pay but local existing contributors are not going to pay for those increases to that extent. That Spanish workers have certain rights which they would be able to exercise if they were allowed to come to Gibraltar and apply for the pensions which they are not getting at the Department of Labour and Social Security, yes, but at the rate for which they contributed before they were withdrawn in 1969 and somebody else is going to have to pay for whatever sum there may be in excess of that because otherwise we do not have a Social Insurance Fund, it will collapse, and otherwise contributors would have to pay an exorbitant increase and already there are going to be very substantial increases next January because of increased average earnings as a result of parity and also because the Actuaries are recommending further increases in contributions to meet the commitment that we are already undertaking. But the Honourable Member, as was indicated in an intervention by the Honourable Leader of the Opposition, should know that in 1972, he joined a political party the leader of which, the Chief Minister of the day, had made a statement in the House here a few months before, I forget whether it was in December 1970 or 1971, I think it was in December 1970, proposing that a lump sum payment should be made to the former Spanish workers in Gibraltar. It may be the Honourable Mr Bossano was not aware of that because he may not have been in Gibraltar at the time, but I can certainly remember that and we certainly dug it out and made it available to our leaders together with the other materials that we had to provide. The point on which I do agree with him is that Mrs Hart made a mistake if she thinks that the people of Gibraltar have been against Spain because Spain was formerly fascist and I remember telling Jack Jones in 1973 in London in no uncertain terms that that was not the view of the people of Gibraltar and that I very much hoped if Spain ever democracised and free trade unions were allowed and so on, I very much hoped that the views of the British working class and British Trade Unions would not change as a result of the fact that Spain was no longer fascist and that they would continue to support the people of Gibraltar if they still did not wish to be handed over to Spain regardless of

whatever regime was in Spain and regardless of whatever economic prosperity there might be there. I think up to a point that continues to be the view of the British working class, I have no doubt that we do have support in that quarter, I am not so sure whether it continues to be the view of the Gibraltarian working class, of some element of the Gibraltarian working class, who because there are socialists and communists in Spain allowed today, properly registered, seem to have more in common with Spanish socialists and Spanish communists than what they have with members of other political parties in Gibraltar, but I will have something more to say about that later on. What is very serious, however, is that the Honourable Mr Bossano should give the impression that the leaders of Gibraltarian public political opinion and members of the House who support the Strasbourg process, do not know what we want out of the talks. I certainly know what I want out of the talks. I want to see the lifting of restrictions and, ultimately, an acceptance by the Spanish Government and a recognition of the fact that the people of Gibraltar have a right to decide what their future should be and have a right to continue to lead whatever way of life they lead. That is what I want to see those talks achieve and I think that that is the view which is shared, generally, by all members, I may be wrong but I am pretty certain that it is. As to the Spanish view of Strasbourg, what does the Honourable Member really expect the Spanish Government in a Spain which is on the way to democracy, thank God, what view does he expect them to put across to the Spanish electorate? Isn't politics the art of the possible and as a result of that do we not have to be realistic and practical as politicians? Surely, he does not expect the Spanish Government to say: "We are undertaking these talks in order to lift the restrictions". Where would that get a Spanish Government that has a smaller majority in the Cortes than what the Gibraltar Government has in this House of Assembly, or the British Government for that matter. We have a bigger majority probably than the two put together. That is not realistic at all, neither can they be expected to tell the Spanish people; "Sovereignty is such a sensitive issue" - as the Honourable Mr Bossano says - "that we really feel that it should be allowed to remain dormant." They cannot do that. What they have told the Spanish people is that they recognise that the Gibraltarians are a separate entity but as regards lifting of restrictions, naturally, they are very worried and very sensitive about it and the Spanish Foreign Minister has had to be very careful in the Cortes about what he has said or has not said about the telephone communications. So let us realise, as we all know, that we are living in a realm of practical politics and not put a different import to what may or may not be said when we know reality behind the situation. I will deal with one point which I think should be said for the record and that

is what our leaders in 1964 said or did not say before the United Nations on the issue of Integration. I think what Sir Joshua said was that integration would be difficult - and remember that this was said in the context of a choice of three alternatives by the United Nations for decolonising a territory - that integration would be difficult because there would be problems about the way in which the wishes of the people of Gibraltar, as such, could be expressed particularly if Gibraltar were to be absorbed by Britain and then find itself represented within the British Parliament. There would also be cultural and economic reasons which would make integration difficult to implement but, perhaps, I should remind the Honourable Member that in 1964, the Chief Minister and Mr Isola went to the United Nations fresh from a general election, there was a general election in Gibraltar in September, 1964, and at that general election no one campaigned for Integration with Britain, and therefore it was correct to say, based on the results of that General Election, that the people of Gibraltar did not wish to be integrated with Britain and what is more I think the history of what has happened since then has proved that that is the case, we have the benefit of what has happened in the last 14 years. To what extent are the people of Gibraltar informed about these talks? I have no doubt to my mind, from what I know about the talks, that the people are fully informed about the essentials of the talks. They may not be informed about every small detail but about the essentials of the talks they certainly are informed and when the Chief Minister said on television that there could be no constitutional change without that being put to the people, that did not mean that constitutional changes had been discussed in Paris, but the trouble is that people are worried about constitutional changes, the trouble is that people are worried about sovereignty and therefore people are constantly wondering whether sovereignty and constitutional changes affecting their future are being discussed, because this is what is happening throughout Gibraltar at every level. So much so, and these worries are being whipped up, that you had for the first occasion ever, a press conference immediately after the return of Mr Xiberras and the Chief Minister, a press conference being broadcast over television, a marvellous opportunity for the people to see and hear at first hand and not have to read it the following day in the newspapers and yet what is the reaction of some people? Not a feeling of relief and satisfaction, the reaction of some people that I heard was that the Chief Minister, who started the press conference very quietly, in a tired manner, if I may say so, they said that the Chief Minister looked dejected and despondent because he has been stabbed in the back by Dr Owen. Not because he had got up at 6 o'clock that morning in Paris and had to travel from Paris to London and be delayed a number of hours in London, when strong constitution that he has, he is no longer a young

chick, no, that was not the obvious reason, people had to find some other reason why Sir Joshua appeared to be tired. They said he had been stabbed in the back because this is what some people like to believe that is happening and therefore no matter what degree of consultation there is, no matter what details are given, no matter what assurances are given, some people just do not wish to know that that is the case, that nothing is going on behind their backs and that nothing substantial can be done without the people of Gibraltar wanting it to be done. As regards regional co-operation, whatever the views of Mr Seruya may have been at the time, the fact is that certainly more so in 1964 and up to 1969, if there was not regional co-operation there was certainly regional inter-dependence and the Honourable Mr Bossano is afraid that if there is some regional co-operation of inter-dependence in the future as a result of restoration of maritime communications and so on, that political dependence on Spain is perhaps going to follow. I do not think that one thing follows logically from another. We were regionally dependent on Spain for our labour, for our produce and yet today we can survive without them. If there were, as a result of talks, to be some degree of dependence on Spain again in these fields in the future, we could survive again as we have done in the last 14 or 15 years. It does not follow that closer political links with Spain have got to be a direct concomitant of any such regional inter-dependence and in any case what nation in Europe, in the world today, is not dependent on its neighbour, be they small or be they large, they are all dependent. Why is it that Europe is moving towards closer union, if it is not because Britain, France, Germany and all the other members of the EEC recognise that on their own they have grave economic difficulties and that it is only by building a much bigger union that they can survive. Those, really, are fears that I do not share. At the next meeting, wherever that may be, before the end of the summer, if there are proposals to be formally discussed which have emanated from any of these working parties, perhaps, it can be said that the talks will have moved from the stage when they were exploratory to some other state, perhaps, as far as those areas are concerned we are entering the realm of discussion and to that extent, perhaps, the talks then become substantive on those areas but not necessarily in respect of wider issues such as sovereignty. As regards the question of building up confidence - the Honourable Mr Bossano quoted Dr Owen - it is no secret that there is a lack of confidence, generally. Perhaps the people of Gibraltar have no confidence in the intentions of the Spanish Government and the more often that they continue to say that their ultimate objective is the territorial integrity of Gibraltar, Gibraltar becoming part of Spain, the more that there will be a lack of confidence. But what surprised me to hear from Señor Ruperez was that the Spaniards do not have any confidence

in the people of Gibraltar and I quizzed him about it, I asked him to develop that because as far as I was concerned this was something new. I agree that this lack of confidence does not manifest itself with regard to the people of Gibraltar in any anti-Spanish feeling, no, it is a lack of confidence about the intentions of any Spanish Government or any Spanish political party that continues to insist, for whatever reason, on the territorial integrity of Spain insofar as Gibraltar is concerned. Do we want bilateral talks between Gibraltar and Spain? I certainly do not think that we do. It certainly is not what the people of Gibraltar voted for in the Referendum in 1967 when they voted for Britain to continue to discharge responsibility for foreign affairs. Britain is responsible for our foreign affairs and if there are talks about Gibraltar between the Spanish Government and the British Government as there have been on and off from 1964, it is definitely a step forward that we should be part and parcel and this is the way I think that it should be and this is the way that the Working Parties must be constituted because I certainly had to tell someone whom the Honourable Member opposite last week described in the House as a high official of the Foreign Office, he was not, he was only the desk man, I certainly had to tell him when he called on me as Mayor - I very often take the opportunity of wearing my Labour and Social Security hat as well - I had to disabuse him when he thought that on Social Security the Working Party would be constituted by Spanish and Gibraltarian representation. I said the British Government must be involved and I think I can leave the Honourable Member in no doubt as to why I think that the British Government must be involved bearing in mind what I had to say earlier about who is going to pick up the bill. I do not think that we want bilateral talks and I think it is clear that our leaders, in forming part of the British delegation, were not representing the people of Dover or the people of Portland, which is even more like Gibraltar, they were representing the people of Gibraltar and everybody knows that and today Mr Xiberras and Sir Joshua Hassan on Spanish television and in the Spanish press are given the status and the attention which they never had before and instead of being abused their views are quoted and statements are made because one thing that does appear to be the case is that there is freedom of the press in Spain these days. That, I think, is a considerable step forward. Both the Honourable Mover of the Motion and the Honourable Mr Perez alluded to other direct benefits that have emerged from these talks and I will not repeat them. But I certainly do say this: that our leaders, when they go to these talks, are talking to the Spanish Government. They are not wasting their time being heard by Polisario, the PLO and other revolutionary movements that have got nothing to do about the future of Gibraltar and, incidentally, Mr Speaker, I seem to recall

that when an Honourable Member of this House visited for a few hours Bilbao some years ago, he got a motion of censure against him but other people, so-called political figures in Gibraltar, are able to go to Bilbao to attend the Conference of the Movimiento Comunista of Bilbao and nobody today in Gibraltar has criticised them. Everyone seems to have received that with amazing aplomb. My goodness, there have been changes in Gibraltar in the last five years: the sheer irony of it all. May I also say, Mr Speaker, that I only went to show my children the "cathedral" of Spanish football, San Mames, I did not go to meet any Spanish political figures or other revolutionary elements. To that extent some people have changed in Gibraltar. I say some people only, fortunately, they are in a minority and if they stand for election in 1980, I do not know whether they will then attend other meetings and tell the delegates there "We carry the support of 500 or 600 votes" because that is all that they are going to get. On that note, Mr Speaker, I wish to associate myself with the Honourable Mover of the Motion to express my confidence and my support for the manner in which both the Leader of the Opposition and the Chief Minister are conducting our affairs in this respect and for the continuation of these talks provided that nothing is going to be done that may affect the constitutional position of the people of Gibraltar unless the people of Gibraltar wish that to be the case and that there is going to be no discussion on sovereignty because that is the mandate that we have in this House and that is the commitment which we solemnly entered into last November.

MR SPEAKER

The House will recess until Monday the 17th April, 1978 at 10.30 a.m.

MONDAY THE 17TH APRIL 1978

The House resumed at 11.00 a.m.

PRESENT:

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

GOVERNMENT:

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

The Honourable Dr R G Valarino

OPPOSITION:

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

INDEPENDENT MEMBER:

The Honourable J Bossano

ABSENT:

The Honourable A Collings

IN ATTENDANCE:

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

MR SPEAKER

May I remind the House that when we recessed on Friday we were debating the motion moved by the Honourable Mr Peter Isola and the Honourable the Minister for Labour and Social Security had just finished his intervention. The floor is now open to any Honourable Member who has not yet contributed to the debate.

HON M XIBERRAS

Mr Speaker, I think I should say at the outset that the views that I will express today are views completely independent and without consultation with the Chief Minister and it is my evaluation of the subject matter of the Motion. I should then go on to express my thanks to the Mover for the kind words he had to say about both the Chief Minister and myself. It is high praise indeed coming from someone who is well versed in the subject matter under discussion and on the general aspects of the Gibraltar situation. I would hope that the House at some time would consider bringing the experience of such members as Mr Isola more to the forefront in the Strasbourg process. I also give my thanks to all those members who will support the motion seeing that I am involved in it myself and it is reinforcement of the position that has been adopted by both the Chief Minister and myself both at the meeting in Strasbourg and the meeting in Paris. Mr Speaker, the House will know that in matters of such great importance it has always been my hope that unity would be possible. It appears that hope of unanimity have been dashed by the intervention of the Honourable Mr Bossano and I would hope that in the course of my address I would be able to put forward some matters for his consideration. I am sorry that he is not present just now to hear them. Mr Speaker, on an evaluation of Strasbourg, which is the subject matter of the Motion, I feel it is opportune to list, as it were, the balance sheet of that particular meeting. I would then go on to talk about Sr Ruperez' visit to Gibraltar and the meeting in Paris. I should try to itemise my points in order to save time. The Strasbourg process, Mr Speaker, I believe gave unprecedented recognition to the people of Gibraltar in the person of their elected leaders. One has only to go back to some of the pronouncements made by the Spanish side in the United Nations in the days of 1964 and 1965 and particularly that intervention by the Mayor of San Roque where he claimed to be representative of the people of Gibraltar, to show what a gain it is to have the elected leaders of Gibraltar represented face to face, as it were, with the Foreign Minister of Spain, albeit the leaders being, and rightly so, part of the British delegation. Secondly, the acceptance of Gibraltar representation at the talks itself. It was formally opposed by Spain. Honourable Members will recall that our petitioners at the United



Nations found great difficulty in getting the Spaniards to agree, even though it was not within their power to refuse, that they represented the people of Gibraltar in the Committee of 24 as in the Fourth Committee later. The House will also recall that the only other meeting which has taken place in which a representative of the people of Gibraltar has seen a Spanish official took place in secret and I refer to the Brussels meeting in February of 1973. A third point about Strasbourg is that it was possible to state uncompromisingly the views of the people of Gibraltar face to face to the Spanish Foreign Minister and not to have him refuse a further round of talks. I believe that such a situation would have been unthinkable before. A fourth point. As a result of the consultations with the Secretary of State and in fact, in the course of the Strasbourg meeting itself, the Secretary of State made a categorical reiteration of the pledges of Her Majesty's Government in that particular context, that nothing would be done against the wishes of the Gibraltarians or behind their backs and as I have already made public that no political or economic pressure would be exercised against the people of Gibraltar to make them change their minds. The fifth point. The exploratory talks at Strasbourg took place, and was accepted by the Spaniards as taking place, within the margins of the Council of Europe. That is, as I understand it, against the background of the Declaration of Human Rights signed by Sr Oreja on 24 November, i.e., the very date of the talks themselves. A sixth point, Mr Speaker, is that the moral injustice of the Spanish Government's methods against Gibraltar were stated forthrightly, as was our view, at the meeting in Strasbourg and despite this there was no breakdown in the talks. I said, Mr Speaker, in relation to the Strasbourg process, that at no time must we drop our guard and I said in my New Year's message that, perhaps, the people of Gibraltar might have to meet their biggest challenge this year. This I say out of an awareness of the undoubted risks involved in the Strasbourg process. On balance and imitating the line taken by my Honourable and Learned Friend Mr Isola, I believe that this tightrope is worth walking and that it is in the interest of the people of Gibraltar that we should walk this tightrope. Mr Speaker, the House will recall that the Strasbourg meeting was supported by all members of the House of Assembly and the results, to my mind, could not be objectionable in themselves to any. I believe that the Strasbourg meeting was generally well received in Gibraltar. I also believe, Mr Speaker, that the risks present in the Strasbourg process cannot be avoided even if the Strasbourg process were to come to an end. I believe that we are in a better position to defend our interests at this stage by being present in the talks between Britain and Spain which, whether we are there or whether we are not, would still have to take place, Britain being charged with the conduct of our foreign affairs, having talked already under the United

Nations resolutions and consensuses and likely to have talked again in any case whether the Chief Minister had taken his initiative or not. I now turn, Mr Speaker, to Sr. Ruperez' visit and that of others. There are certain points that might be listed as advantages. First, Spanish politicians being able to gauge the feeling at first hand in Gibraltar, so that there could be no dispute at Strasbourg or later at Paris as to what the genuine and real feelings of the people of Gibraltar are. Secondly, the effects of the Spanish restrictions can be gauged at first hand by visiting Spanish politicians and proof can be had directly by them that these restrictions are counter-productive even in their own terms since they only serve to make us more strong in our insistence to continue our way of life and to remain British and the inhumanity of the restrictions are also much more readily apparent. Mr Speaker, Honourable Members may have heard, and I say this to show that there is some moderation in the attitude towards the methods used by the Spanish Government on the part of visiting politicians, to the communique of the Central Communist Party of Spain which came as a result of the visit of St. Izcarate. The communique is largely a repetition of the Spanish argument and claim for sovereignty over Gibraltar and an offer of autonomy. But, at the same time, and towards the end, and in my copy underlined in ink, it says: "Destaca a la vez de necesidad de una apertura de relaciones entre Gibraltar y el territorio español ya que la actual situacion de cierre no solo daña intereses humanos evidentes sino que no favorece las nuevas perspectivas que se abren para la descolonizacion y autonomia de Gibraltar". I will attempt a translation, Mr Speaker. "At the same time the Committee wishes to underline the necessity of opening up relations between Gibraltar and Spanish territory since the present situation of closure not only harms manifest human interests but does not favour the new opening for the decolonisation and autonomy of Gibraltar". I say this not as evidence of a change of attitude in the Spanish claim to Gibraltar but as an indication that at least one influential party in Spain is beginning to separate the issue of the restrictions from the question of the claim. Mr Speaker, I believe in relation to this point that it might be perfectly possible for other parties in a Spain that is becoming more democratic, to be able to form a judgement in respect of the restrictions, of the methods, even if the claim is maintained. Thirdly, and talking about Sr. Ruperez' visit, the possibility that the Spanish Government, as I say will begin to distinguish between the Spanish claim and the method of pursuing it. Fourthly, accurate information of the political inefficacy of pressing the claim by these means. I believe all members of the House will have seen for themselves there is one thing visiting politicians are very clearly aware of and that is that with the restrictions Spain cannot possibly convince the people of Gibraltar that they have a future with Spain and that therefore that policy started by Castiella in Franco's

day is in need of revision even if their own interests are to be pursued which, of course, I do not share for a moment. Fifthly, I believe that the de facto difference in climate that will result after this and other contacts will throw up into sharp relief the inhumanity of the restrictions. It is quite clear that when members of the Spanish ruling party visit Gibraltar they cannot do so unaware of the barriers at the frontier, of the lack of communication and so forth. As the climate improves so the restrictions must appear more abhorrent to them than ever. Sixthly, Mr Speaker, the telephones are still operating. There are other points. Sr. Ruperez' statement that he was coming here - and I paraphrase - to see what could be done for the people of Gibraltar on decolonisation, was obviously, in the context of Gibraltar, a ludicrous statement to make. I believe that it was prepared before he came out here and that when he finished his round of consultations and fact-finding his feelings were very different on the matter. Even if they were not at a private level I am sure that politically he must have seen on the reality that this could not possibly have been a realistic aim for his meetings. Secondly, another point; Gibraltar reaction to the presence of Spanish politicians in Gibraltar. A very understandable irritation that after years of restrictions we should have small waves of Spanish politicians coming to Gibraltar with the restrictions still being up. It is an understandable reaction, Mr Speaker, but from what I have said the House will be able to judge that I do not think that it is entirely a productive attitude as far as Gibraltar is concerned. Also, dealing with our people, the general apprehension and uncertainty among Gibraltarians as to the exact implications of the new climate. That again, Mr Speaker, is absolutely understandable bearing in mind the years of restrictions and continuing restrictions and therefore the very natural reaction of apprehension and uncertainty as we struggle on this, as yet, uncharted road. Fourthly, the new attitude as I say, disconcerting after years of moral and psychological pressure and even aggression and the ostracism to which we have been subjected by Spain. Even the changes in Spanish television and the way that they deal with our case is bound to bring home the paradox of the situation to our people here. It is understandable, Mr Speaker, but I think that we must be brave about this new climate which we are facing. There is also a feeling, Mr Speaker, that our case, the Gibraltarian's case, is finally beginning to get home and there is the consequent temptation that, perhaps, a stronger re-assertion of our case is called for, namely, that now that after years of things going the other way we are at least being heard and reported. In Spain, for instance, there is a human temptation to say: "Well, perhaps we should be stronger in the assertion of our rights." Then, of course, Mr Speaker, there was the Honourable Mr Bossano's activities, the public meeting, the

statement that he had learnt more from Sr Ruperez than he had from me, that the Strasbourg process had to be broken and so forth. Mr Speaker, I would simply point out that Mr Bossano's reaction appeared to be more in relation to Sr Ruperez's visit than to the Strasbourg meeting itself. Mr Speaker, many of his points are understandable and many of his points are healthy, they show the determination of people here in Gibraltar, the loyalty of their cause, and I do not think that any will prove harmful. I turn now, Mr Speaker, to the Paris meeting. I could state that about well over three quarters of the meeting was devoted to exploration of particular areas of confidence-building possibilities. Mr Speaker, confidence-building possibilities was queried from this side of the House as denoting a Spanish intention and undoubtedly this is the manner of presentation which the Spaniards would prefer for their own consumption in their own country. But it could be phrased in other words, one could say that over three quarters of the meeting was devoted to examining possibilities of dismantling the blockade. Secondly, it is known that the Spaniards re-stated their claim after the three quarters of the time had elapsed and it is also known that I, for one, the Chief Minister will have his say later, said and I quote almost textually that I was precluded by my mandate and by the terms of the motion of the House of Assembly - and I read out the text of the motion that there should be no talks or negotiations on sovereignty - from taking any further part in the discussion. This point, Mr Speaker, as I also said on television, was immediately responded to by the Secretary of State as a reasonable point to make and there was therefore no discussion of the sovereignty of Gibraltar, much less negotiation, in that meeting in Paris. With regard to the areas which there might be a possibility of setting up joint working parties, three have been mentioned, I would say that as an indication of the nature of the talks, maritime communications, a subject formerly taboo in any manner of discussions even between Britain and Spain, was agreed to by the Spanish Foreign Secretary as one of the subjects that were to be announced as a possibility. I would also draw the attention of the House to the fact that Sr Oreja had said, in fact, already in an interview to PANORAMA and it was clear from the Paris meeting itself, that it was not a question of any quid pro quo in these meetings. Again an important point for us. Also, Mr Speaker, it can be deduced from what has been said about the Paris meeting that there was no pre-condition that sovereignty should be discussed before discussing specific areas of interest. I would ask the House to compare this with statements reported and words written in British Government and Spanish Government publications in Sr. Castiella's time. Lastly, about the Paris meeting, I would say that the meeting was not substantive, it was exploration and discussion of areas of particular relevance, of fun-

ctional areas, and it has been proved that it was not substantive, Mr Speaker, Honourable Members know that when the Chief Minister and myself returned to Gibraltar we were discussing here and had not by any means finished the discussion of what areas are to be agreed to by the Gibraltar side as areas covering the possibility of joint working studies, what the composition of these Groups should be, though we know already that Gibraltar would be represented in a similar manner as to what we are in the Strasbourg process and exactly how we view the situation. I would like to underline this point by alluding to the communique after the Paris talks, which spoke about the possible setting up of joint working parties. The whole matter was ad referendum to elected members here in Gibraltar and there was no substantive discussion even of particular areas, excluding sovereignty. Mr Speaker, at the Paris aftermath there were certain statements attributed to Sr. Oreja in the Spanish press and on Spanish television and one of them got reported here by the Gibraltar Chronicle. Only in the Gibraltar Chronicle and, possibly, because of a linguistic oversight, was that part of the statement which was attributed to Sr. Oreja put in inverted comas giving the impression that he was being quoted as saying this. I leave it to the Chief Minister to tell the House about the clarification that has been sought of these particular statements attributed, as I say, to the Spanish Foreign Minister. I can say now that it is a perfectly satisfactory clarification. On the question of pensions, Mr Speaker, the position has been put by the Honourable Mr Canepa, the Minister for Labour and Social Security, I would like to reiterate what I said in my intervention when Mr Bossano was speaking, that there are no legal commitments, or rather this is what Mr Canepa said, no legal commitments and the moral commitments as far as we on this side of the House are concerned, extend only to those contributions which had already been paid in and out of which a benefit was due under the normal rules of social insurance and we stand by this and I am glad that Major Peliza is in the House today because in 1971 a full statement was made by my Honourable and Gallant Friend, as Chief Minister, and the Honourable Mr Peter Isola intervened in that particular debate which ensued and the record of the meeting as the Honourable Mr Canepa has already mentioned was made available to both the Chief Minister and myself when we were in London. Therefore, Mr Speaker, on this particular question that particular sum of money, to which I have just referred is not ours, it is not money which comes out of revenue, it is not money that comes from the Consolidated Fund, it is money that comes from the Social Insurance Fund paid by individual Spanish workers, subject to the normal conditions of social insurance about contributions and benefits. Mr Speaker, there has also been a hubbub here, naturally, about ferries and what ferries are

involved in the question of maritime communications. Dr Owen's answer, I would say, will be all maritime communications and all ferries but in relation to this point I would like to exemplify one of the advantages of being present in the process and that is that the modality whereby the restrictions are lifted cannot be unilateral now by Spain and that Gibraltar, in the lifting of these restrictions, can be present and bearing in mind the economic effect of the Spanish restrictions, that Gibraltar also has a say as to how those restrictions are dismantled. If, Mr Speaker, there is to be a one-way ferry this would be totally unacceptable to all elected members in this House, but being present at the talks enables us before anything untoward is done by the Spanish Government to be able to put the point to them that the people of Gibraltar, their feelings and their interests, must be borne in mind and that we should have a say in these matters, an advantage in being present, as I say, in the process. I spoke about Ministers and Opposition members of the Parliamentary Group discussing the possibility of setting up joint Working Parties and this would include the principle, the areas, the composition, the manning and the political monitoring of these joint Working Parties because, obviously, there is a very strong political responsibility even in specific areas of discussion. Mr Speaker, mine is not an unqualified support of the Strasbourg process. I have not been blinded by visits to Strasbourg or to Paris. My support will be conditioned by the developing attitude of the Spanish Government, by the continuing attitude of the British Government and by the possibility of unity within Gibraltar on the fundamental issues and to adherence of the terms of the November, 1977, Resolution on sovereignty which is fundamental and which I am glad to see my Honourable and Learned Friend has repeated in the Motion. This policy, Mr Speaker, of qualified, but enthusiastic, support of the process is no less than the Parliamentary Group made clear in its statement when it was formed, where we said that there was an unswerving dedication on the part of the Group to a British Gibraltar and at the same time we said we would work for the lowering of restrictions. Mr Speaker, in relation to the process, and no doubt in relation to this speech as well, I have said that it requires patience on our part. Patience to allow the Spanish Government to adapt to the new obligations in the European context, the obligations of a democracy. I think it is necessary for the leaders to show an understanding in respect of the presentational difficulties on the Spanish side, as the Honourable Mr Canepa was telling the Honourable Mr Bossano, that the Spaniards also have presentational difficulties in explaining their attitude in the Strasbourg process so long as these difficulties are purely presentational, because on other matters of substance the

view of the House and the view of Gibraltar is well known and has been communicated amply to Spanish representatives at these meetings. Also, Mr Speaker, it is necessary that no moral or political commitment should be entered into to discuss sovereignty. The peoples' wishes, as in the terms of the motion should be expressed certainly for as long as members in this House feel that way and have been elected on that particular proposition. Mr Speaker, there are a few points I would like to reply to the Honourable

Mr Bossano. I find it rather strange, Mr Speaker, that a motion presented by the Honourable Mr Isola about a process launched by the Chief Minister and one to which its first meeting at least Mr Bossano agreed in this House, should lead him to attack me in the House. I am sure that he does not consider me to be weak on the question of sovereignty or on any of the fundamentals. I am sure that it is not a question of a special obligation either between himself and myself in the political circumstances which we have been through in the past year and a half or two years. Mr Speaker, perhaps it is motivated by what he calls his isolation in this House.

MR SPEAKER

I think, to be fair to Mr Bossano, he gave his reasons for the inconsistency.

HON M XIBERRAS

His isolation, as I say, in this House and perhaps this has led him to say the things that he said in the course of the Motion. Mr Speaker, I cannot help thinking that the political position within the Union has also something to do with Mr Bossano's attitude and I am glad that he is adopting a stern line on this question though I do not think that his stern line should necessarily lead him to attack either myself or members of my Group on the question of the fundamentals nor do I think it is necessary for him to disagree with the Strasbourg process because he feels as he feels. Mr Speaker, Mr Bossano's complaint appears to be basically (A) that I have been inconsistent on the question of talks, (B) not informed him fully about those talks and (C) that Sr. Ruperez has told him more than I told him about the Strasbourg meeting. On the question of alleged inconsistency I seem to recall his saying something along these lines that if I had explained my attitude he would not be so critical of me. I think this is what Mr Bossano said and I think it appeared in the Gibraltar Chronicle as well. Mr Speaker, could I quote at least a part of the House of Assembly meeting of November 1977, page 67, where I said: "Mr Speaker, I think the argument is timely as put by the Honourable Mr Bossano. We know, in fact, what it is

that the Spanish Government want. I think at the same time there is a practical point to be made. I think that it is now possible to do things that were not possible before. I believe and I am told "El Pais", for instance, made reference to this, that outside the Government's party, politicians in other parties are seriously considering whether, in fact, their claim, no doubt they all feel equally strongly about this, to Gibraltar, can be pursued in the same manner as it was pursued under the Franco regime. I believe that people here in Gibraltar feel that perhaps it is justifiable for them to think that a Spanish society and Spanish political spectrum as a whole, could not be impervious to the argument of the people of Gibraltar if only it were put directly and sincerely enough." I went on to say that perhaps there might be a glimmer of a hope that this might happen. That quotation, Mr Speaker, at least gives one example in the House where I am trying to put across to Honourable Members a view which I know is shared by them that the situation prevalent in Franco's day, the monolithic attitude to Gibraltar against which nothing, not even reason, could prevail, had now given way, perhaps to an equally monolithic attitude at the present time but an attitude where it was possible to talk to ordinary people, to elected representatives of the people of Spain and be able to persuade them about the justice of our cause. But, Mr Speaker, it is not even an accusation made on the right premise, if I may respectfully say so, because as I said earlier the decision and the initiative of the Chief Minister was, in fact, in respect of Gibraltar representation at talks, not in respect of the holding of such talks between Britain and Spain. Britain and Spain could talk in any case and they are very likely to talk in any case. On the question of Gibraltar representation I would like to quote two extracts from two different documents. The first is a letter published in June 1974 in the Gibraltar Chronicle on the very subject of talks, alluding to a period of time when the Honourable the Chief Minister of the day, the Honourable and Gallant Major Peliza, was in office and where these matters, as he will be able to confirm, were discussed amongst ourselves. These are the following conditions on which we would have liked, even at that time, I am talking of prior to 1972, and this was advice tendered by the Chief Minister of the day to Her Majesty's Government: "That Her Majesty's Government were prepared to go to talks provided (1) that Her Majesty's Government should advise that such representation would further the interests of British Gibraltar. (2) that a British Minister would lead any such delegation. (3) that sovereignty would not be the subject of discussion or negotiation. (4) that the Gibraltar Delegation, if any, would comprise the Chief Minister and the Leader of the Opposition of the day. (5) that these should be in full agreement before setting out as to what the common Gibraltar view should be, and (6) that nothing should

be decided without full reference to the people of Gibraltar." Mr Speaker, that was 1974 referring, as I say, to the views of the Integrationist Government. With the changing situation in Spain and the advent of democracy on behalf of the Parliamentary Group I had the following comments to make to Mr Judd. Comments which I had made previously to Sir Anthony Acland, the British Ambassador in Spain, when he was in Gibraltar a good deal prior to that. The record of the meeting held at The Convent on 29 September, 1977, under para. 12 of that record I say: "Mr Xiberras said that the Opposition was in favour of participating in official talks, subject to prior acceptance of the conditions of such talks in preference to the holding of meetings with Spanish politicians. The impression should not be given that local politicians have taken over Her Majesty's Government's responsibility for foreign affairs." That is para. 12 of the meeting of 29 September. In Para. 35 I renewed the points. I said: "Mr Xiberras enquired whether the Secretary of State had considered the question of talks with Spain and Gibraltarian participation in them". I say this in answer to Mr Bossano's point about the almost unpremeditatedness of my reaction in this question or the lack of explanation as to why I had changed my mind. I have referred to the meeting of the House . . . .

MR SPEAKER

You are getting into dangerous ground to the extent that you are just trying to, quite rightly, may I say, justify the allegations made against you. These documents, of course, are not available to the public.

HON M XIBERRAS

I can also, Mr Speaker, refer to an interview on television shortly after Franco's death, when I said the time had never been better for the lowering of the restrictions and that perhaps we could take a more active part.

MR SPEAKER

May I say that I am directing my mind to the fact that you are entitled to quote to show that you have not been inconsistent but not to show that Mr Bossano was not entitled to his views.

HON M XIBERRAS

Then there is the question of informing Mr Bossano fully, Mr Speaker, on the meeting. I think the first meeting, according to what he said in the House, lasted four hours. I can tell the House that I did inform him quite fully of what had transpired at the Strasbourg meeting. It was entirely on my own initiative that I did so and the meeting did not last four hours in my recollection but I do remember discussing, at his instigation, the question of Cuban socialism and Union difficulties. Mr Speaker, there is also the question of the length of the journey and so forth and on this I think, Mr Speaker, I may have gone into some detail about these matters, I do not think they bear repetition, but I do think they illustrate a point and that is that I appreciate that because of the situation in the House, it is difficult for him to grasp at first hand what is happening in this process and this, I might suggest, might account for some of the points that he is making. It was in order to be able to acquaint him fully that I may have slipped into detail as I normally would with anybody, a colleague, whom I was consulting for whom these things would be of interest, I would imagine, not about planes and so on but, generally, about attitudes. Mr Speaker, I am glad that Mr Bossano agreed that the Paris debriefing was full. It was a full meeting I had with him eventually after some comings and goings. I did inform him fully and he agreed to this and of course on this occasion, though not on the first, after the Paris meeting, there was somebody present in the meeting I had with him. I am glad also he has not said that I did not make the telephone calls, he said he was not able to trace the telephone calls and that I accept entirely, his not being able to trace the telephone calls. He, however, insinuated that people were not fully informed and I think anybody who has been informed, which includes all members of the House, will agree that the details that the Honourable Mr Canepa said, may not have been given but significantly all the points of essence and of significance and of the real situation have been put to the people subject, of course, to the rules governing meetings, whether it is between Foreign Secretary and Foreign Secretary, between the Transport and General Workers' Union and employers, between the Gibraltar Teachers' Association and employers, or between businessmen or between lawyers. There are certain things which both parties do not make public and even though it might be a question which affects the people of Gibraltar, so long as essentially the leaders get a true and documented account of what has transpired and all members of the House are fully informed in every detail about the situation, then that is as much open Government as one we would get anywhere. I did not like, Mr Speaker, his point about confidentiality, that he respected confidentiality for as long as somebody else did not tell him what occurred at the meeting. If



that is the case, Mr Speaker, then it is not real confidentiality and the question of trust is bound to arise. I come to the point, Mr Speaker, that Sr. Ruperez told the Honourable Mr Bossano more. I think he should be subtle enough, to see that the Spaniards are putting across their own line in this matter and that the Spaniards have presentational difficulties as well about their position in Strasbourg, as I have said. I think it is rather incongruous that he should be more willing to listen to the line of somebody who comes from the other side of the fence, to put it that way, than to what I am telling him and I have told him that other members of the House have been told. He asked why both sides were happy. I can tell him that I am quite happy so far with the Strasbourg process. I cannot be expected to make a case for the other side. There was a short letter I wrote to the Chronicle, Mr Speaker, about the Spanish statement to say that it did not augur well for future relations and this was after Sr Ruperez' visit and prior to the Paris talks where I made my position quite clear. However, Mr Speaker, out of this there arises a very important point and that is that if Mr Bossano persists in giving almost more credibility to Sr. Ruperez or giving the impression that he does, the consultation situation is bound to be affected between himself and myself. It would be better if he sought . . .

#### MR SPEAKER

Yes, but are we not now changing the emphasis of the debate as to the relationship that exists between you and Mr Bossano. It is a matter of opinion but we have been spending a lot of time on it. Whether you feel entitled to consult Mr Bossano as a result of the debate is another matter.

#### HON M XIBERRAS

What I am saying is somewhat different. What I am saying is not in relation to what he said in the debate particularly but generally to comments that Sr. Ruperez told him more about a particular meeting than I told him and then, Mr Speaker, I should have to reconsider my position as regards consultation with him. Mr Speaker, I would like to end up on two points. First of all, I can tell the House, and I think I should tell the House that in the course of a meeting that we had on Maunday Thursday in the presence of a reliable witness, Mr Bossano made a certain comment on the progress of the talks which he did not inform the House about. He said in relation to the working parties that he had no objection to the working parties provided the terms of reference protected us (Gibraltar) against Spanish

participation in local affairs. I think I am allowed to say this, Mr Speaker, because I cannot see the logic of opposing the Strasbourg process as a whole whilst supporting, in principle at least, the possibility of working parties being set up, subject to terms of reference and so forth. The second point, Mr Speaker, is a remark which Mr Bossano made at the last television interview on this subject. In answer to the last question I believe he was asked something along these lines: "If the Strasbourg process is about the lowering of the restrictions what would be your attitude?" His reply was along the lines - I do not wish to misinterpret this remark - but to me it seemed quite clear that the sense of his reply was: "If the Strasbourg process is about the lowering of the restrictions then that is a different matter." That was the last question and the last substantial reply. I believe that this point should lead him to a consideration of his attitude to the Strasbourg process. Mr Speaker, there is one more point. The question of Mr J E Triay's attitude which I should touch on very briefly. Mr Bossano said that the position in Strasbourg was akin to that of Mr J E Triay because both wanted to shelve sovereignty, to put sovereignty to one side, an attitude which was not acceptable to Mr Bossano. My recollection is not that Mr J E Triay wanted to shelve sovereignty but that he wanted that sovereignty was not, as it were, a single substance and that it could be divided or interpreted in different ways and therefore one could talk about sovereignty, and I am putting it in rather mild terms, Mr Speaker. I think the House should know that that was not, in my view, Mr Triay's position at all, that explained by Mr Bossano. I have one more substantial point to make, Mr Speaker, and that is the question of can we go along in fact with the Strasbourg process subject to all our reservations and yet at the same time pursue the question of decolonisation or the question of constitutional advancement. All this was argued and argued very fully at the meeting in December, 1977, which ended in an amended motion, the sense of which was that the Chief Minister was urged to expedite the work of the Committee of Representative Bodies in order to arrive at a consensus view so that talks with the British Government could be sought at an early stage. That debate discussed fully the points that Mr Bossano was bringing up in the House and our attitude to it, and the Parliamentary Group is as it was then, namely, that this process of seeking further constitutional change does not either obviate the need for the Strasbourg process to continue nor does it cancel out the possibility of having the Strasbourg process continue and the two things can continue side by side, we hope with rather more alacrity on the part of the Chief Minister, but I suppose it is Budget time at present. That was the view of the House on this particular issue and I do not think it is fair as a criticism of the Strasbourg process after Mr Bossano had,



in the interest of unity, agreed to abstain on that particular motion so that a meeting could be convened of the representative bodies and had agreed to participate in the meetings even though he said that he had made his point at the meeting. Mr Speaker, I will end up where I started off and that is, basically, that I wish that there could be unity on this matter but if there is no commitment to the Strasbourg process then the whole internal mechanism here in Gibraltar of consultation and so forth, would have to be revised because I do not think it would be fair that this process entered to with great caution and reservation should be torpedoed out of arguments which I think are not consistent themselves.

HON MAJOR PELIZA

Mr Speaker, my position has not changed from that which I stated when the matter was first raised by the Chief Minister in November, perhaps, at the most appropriate moment when the question of the motion on sovereignty was passed unanimously by this House. I would have thought that since the matter gave birth at the very time when the Chief Minister himself and every member of this House were committing themselves to the question of standing by our wishes with regard to British sovereignty and that, as I see it, being perhaps the most fundamental issue concerning the security and welfare of Gibraltar, I would have thought that Mr Bossano, however critical he might have been by the manner in which the situation was being handled and which of course we can all be critical, basically he would have been able to support the idea of continuing the process of finding a way of re-establishing good neighbourly relations with Spain. In fact, I would have thought that, if anything the position would have improved tremendously from the point of view of the security of Gibraltar in the sense of sovereignty, in that now for the first time the Gibraltarians are very directly involved with the talks going on with Spain and it would be very, very difficult to revert that process in the eyes of the British Government, the Houses of Parliament and even of British public opinion. It would be very difficult to revert that process and that means that very little can happen behind the backs of, first, the Government of Gibraltar and, secondly, the elected members of the people of Gibraltar. In fact, we are seeing the process working already. The very fact that this matter is being discussed in this House as it has never been discussed before shows to what extent now the elected members of Gibraltar have a very direct say and this, I think, is derived from the fact that the position of the delegation of the Gibraltar Government and of the House of Assembly is such that no decision can be taken by them, and they have pledged themselves to this, without first consulting the

elected members of this House. This, in my view, has strengthened I would have thought the hand of not just the elected members but also of the people of Gibraltar and I would like Mr Bossano to reconsider this situation very carefully because by objecting in the manner that he is to the process continuing, he is siding with reversing the whole advance that has been made in this respect. I would like to corroborate what my Honourable Friend Mr Xiberras has said with regard to my position and the position of my Government at the time that we were in office as to the process in which we saw Gibraltar representation participating in the talks about Gibraltar. I will not go to the points that he has read because that has been clearly stated but that is exactly what the position was and we took it then as far back as 1972 because we saw the virtue and the strength of being able to get to that stage. I think it might have been a complete waste of time in the days of General Franco's Government but I think today, when the people of Spain there is no doubt are generally interested in developing a democratic Government and a democratic way of life, I think it is very, very possible that in the same way as we in any democracy can influence opinion in Gibraltar to the process of talking to the Spanish side about this problem, Spanish public opinion can also be influenced and so change the whole attitude of the Spanish Government towards the people of Gibraltar. I think it is a wonderful opportunity which should not be discarded. I am sure that there are very few, if any, certainly in Gibraltar, who would not like to see the friendliness that existed before Franco's regime put up their Garlic Wall, who would very much like to see that that friendliness that existed perhaps without them ever giving up what they consider to be their right of sovereignty to Gibraltar, perhaps, without them giving it up but if they do all the better, I hope they do respect the question of self-determination of the people of Gibraltar, but even if they do not I think it would be a long way from the situation that has been created through the indoctrination of the Spaniards during the Franco regime, a process that has to be changed and this participation of the elected members of Gibraltar in talks directly with the Spanish Government I feel very sure has a very good chance of turning round the attitude of the Spanish Government. I think one has to recognise that it is not easy for any government in any democracy to change the course of their own particular state overnight. It is a long process. The elected members of any government must be watchful of public opinion and public reaction all the time. If this happens in democracies that have been established for a long time one has to accept that in a newly-born democracy this is a far more difficult task. From the reports that one can read in the press, from what one can hear, from our own representatives, it seems that this is not impossible. I cannot see what can be said against the Strasbourg or the Paris talks. As I see it the

first set of talks were a form of introduction. The elected members of Gibraltar, the Government of Gibraltar and the Government of Spain, for the first time, were able to see each other face to face and lots of misunderstandings that usually come about through the transmission of a message were obviously avoided. I think also for the first time a Minister of the Spanish Government could not say that the firmness with which the people of Gibraltar have always stated their case was a made-believe on the part of the British Government for the sake of retaining British sovereignty over Gibraltar. That, obviously, cannot stand any more. They have heard it with their own ears. It has come from the elected representatives of Gibraltar themselves. They cannot say, as they said at the United Nations, that the people of Gibraltar voted overwhelmingly to retain their links with Spain because the guns of the British navy were pointing at us at the time. That was a statement made at the United Nations by the Spanish representatives. Obviously, I think one has got to give some credit to the Spanish Ministers and accept that having heard what they have heard from our two leaders they can be in no doubt whatsoever that this is the voice of Gibraltar speaking and not perfidious Britain trying to keep British Gibraltar through a roundabout way. I think that was clearly established at that meeting. One would have thought that if the Spanish Government had not adopted a different attitude from that of the Franco regime, that this was an excellent opportunity to say: "Good morning, goodbye, there is nothing we can do, the talks are over." I think we must all accept that at that meeting the elected members were extremely firm on the position with regard to the people of Gibraltar. There was no break, it was possible to carry on talking and this, to me was a very good indication that the abhorrent attitude of the Franco regime was a thing of the past and that for the first time Gibraltar was dealing with a much more democratic Government and therefore more likely to be influenced by the human rights to which, above all, the people of Gibraltar are appealing. We had the second meeting in Paris and there again we find that the attitude is changing, we find that they are moving ahead. The suggestion of working parties is, to me, a very good idea of not just having exploratory talks, generally, but going for one or two matters in which there might be room for improvement. We are talking about maritime communications and straight away the press comes out, it is the ferry. Obviously, it probably will be the ferry because as I see it there is nothing in the Treaty of Utrecht which could prevent the ferry and therefore all the arguments of the Spanish Government that there can be no communication because of the Treaty of Utrecht, internationally, is destroyed and demolished. Of course, the Spanish Government knows very well when they agree to talks like this on working parties that this was going to come up. If they have agreed it must be because there is a little bit

more goodwill and they are beginning to understand that the attitude used by the previous Franco Government was certainly the wrong one. I would have reservations on the working parties but we must, obviously, give some credit to our leaders that they are as conscious as we are of the dangers that could be involved there. I, for one, would certainly like to see Gibraltar Government representation in the working parties, either in the form of our own civil servants or in the form of an elected member. That is something that has got to be worked out but I would certainly like to see representation of the Government of Gibraltar in these working parties and I would also like to see that the bodies concerned with the different aspects of these working parties are constantly consulted because whilst we can see the general picture I think they can be very helpful with the details of any agreement that could be reached. I think that they should be consulted, the Shipping Association, the trade unions, the Chamber of Commerce, all these must be involved. Where lies the danger? Not only now are we the elected members involved but we are even going to involve our own representative bodies. This is a strengthening of the position, not weakening it, because obviously the process that is going on will become more and more public. The people will be much more informed and therefore no steps can be taken without eventually the people of Gibraltar agreeing to it. The process has already started. We have seen how the elected members and the Chief Minister and the Leader of the Opposition instead of fully agreeing there and then on the working parties, have come back and referred it to the elected members. If they have done this on a small and perhaps not so important matter, I am sure that on any questions in which sovereignty was involved, obviously, they would be much more bound to come back to us and consult and therefore, as I said before, the say now is much more directly coming to the elected members and the people of Gibraltar than ever before when talks were taking place without we knowing what was going on. I am not so afraid, as my Honourable Friend Mr Isola is, about this being a tightrope. I am not so afraid of walking on a tightrope for as long as there is unity among the elected members of Gibraltar. If there is not then there is no doubt that some one who may be against the process continuing or a solution being found, will try and find a rift and divide us. This is why I am going to appeal to my Honourable Friend Mr Bossano, with whom I agree on many things, but I cannot agree with him voting against this motion. I would like to appeal to him to reconsider the whole thing very carefully because there is no doubt about it, only, if the Spanish Government sees complete unity in Gibraltar will they know that there is no possibility whatsoever either of delaying the process or of creating division within the elected membership and so hope, and this is what we must not give them, hope that out of the mess some-

thing will come out that will suit them. This is why I appeal to Mr Bossano to try and reconsider this and not to vote against. He has expressed his view, he has been critical of the motion, fair enough, this is if anything strength to us because it shows that this House of Assembly is not a rubber stamp. That we are capable of standing on our own two feet and express our views in a truly democratic fashion but then, having listened to what everybody has said we come to the conclusion of what is best. He may be critical of certain things but in being critical of certain specific things then you have got to take into account of your criticism of one or two things when you value it against the final vote, what is worth more, standing by that small criticism or realising that what we want to do is the overall thing which we are discussing here today. I would have thought that having listened to what is being said and what my Honourable Friend Mr Xiberras has just said, I think he has put his cards on the table with great sincerity and his usual eloquence and really I can hardly see what he has said that will not convince Mr Bossano that on the question of sovereignty my Honourable Friend is as firm as ever. Mr Bossano knows how strongly I feel on the question of sovereignty. Could he possibly believe that I would be supporting my Honourable Friend on this issue if I was not convinced in the way that I am. Therefore, if only through my own channels perhaps I could convince him that on this question it might be in the interest of all of us to see if we can get unanimity on this particular motion to convince our friends on the other side of the frontier, if not our enemies, that on this question we are fully united and that there is no hope whatsoever of creating any division amongst us as it has never happened before and I hope it will not happen again. I would like to touch on the social insurance which as my Honourable Friend mentioned before I was responsible at the time to agreeing to hand over what I considered to be the Spanish workers' money, not the Spanish Government's money. We all know that those working people were not responsible for the closure of the frontier. In fact, they were the greatest victims. Nobody, in my view, has suffered more than the Spanish workers who were deprived of their bread and butter by not being allowed to come to Gibraltar and who were then moved from their homes in La Linea in some instances to other parts of Spain. They were the real victims. Would anybody with any moral conscience possibly object to giving those people money which is their own? I could not then, and I could not oppose it now. I think that anyone who calls himself a socialist, any worker above all, would be very, very conscious of the moral right, the natural right of those workers to regain money that they donated towards their own insurance. I would have thought that the sooner this matter is cleared the better. It would, no doubt, have a tremendous impression on Spanish public opinion which we

must all agree now counts, there is no doubt whatsoever. Spanish public opinion counts and I think this would be an excellent exercise on the part of the Government of Gibraltar to show how magnanimous we are and we hope that they too can imitate us in that magnanimity. Where we have got to be very careful is on the question of NATO. I read a very interesting article in The Times not so long ago in which they said that there was great division in Spain as to whether Spain should join NATO. The Socialists were against joining NATO and the other parties were in favour but the greatest problem of the lot was the question of Gibraltar. I think we must realise that the strategic value of Spain is very, very great . . . .

HON CHIEF MINISTER

If the Honourable Member will give way. I might save him a lot of time if I told him that the idea of a Working Party on maritime communications does not include the question of NATO at all.

HON MAJOR R J PELIZA

I am very glad that that is not coming in to start with but whether it is in the Working Party or not the issue is a very serious one and therefore I think that Gibraltar has got to keep a very close eye on that development in that it obviously could well affect the Dockyard which is our mainstay here economically and I think it is only proper that the elected Government of Gibraltar and, indeed, all the elected members of Gibraltar should be fully informed of any changes that might be taking place because in this great game of power politics, in which, of course, strategic defence is vital, Gibraltar is very tiny, very small and we may be easily trampled over for what they may consider to be great interests of strategy. In this respect we must keep ourselves very much alerted and watchful and this is why I would like to see Mr Joe Bossano voting in favour of this motion because as far as we are concerned internally we can keep an eye on each other, we know what is happening and I think there are enough safeguards to keep us together but when it comes to matters on which we have no say this is where the danger lies and therefore we have got to be very careful. I think that our strength lies therefore first of all in our own unity in this House, public opinion will move in consonance with us and remember that any division here will have an equal division in public opinion outside. This is why I am appealing to Mr Bossano. It is not just a decision inside here that is going to count, it is unanimity, generally, in Gibraltar that is vital. Our strength lies first of all from our own following in town. Secondly, I would have

thought, obviously, is the British Government. In this respect I think we have had two very good indications lately to see that they are going to stand by their word. One is the question of parity. There is little doubt whatsoever that this is a great step forward from the point of view of support and sustain. This is a very good indication of how the British Government intends to support and sustain Gibraltar because this is our main source of income in Gibraltar and this I think would be a tremendous booster to our economy. Secondly, we have very recently had the visit of Judith mart who has come here and given us quite a lot of money for what I believe is going to be mainly social development. There is no question of Iberplan coming into it at all, this is real direct aid for the people of Gibraltar. If I had been told that that money was to try and develop the Dockyard into a going commercial concern or something like that I would have had, perhaps, a big query in my mind as to the intention, but if this is really to give the kind of support that will keep up the morale of the people of Gibraltar, then to me that is keeping to their word. I think if we can hold ourselves together as we are and if we can get the British Government to carry on supporting us, our process must now be to try and change public opinion in Spain, this is the way ahead as I see it. Our position is secure and this is why I agreed when the Chief Minister made the suggestion of Gibraltarian participation at the talks because I felt that we were in a position of strength and I said so then. I still believe that we are, if anything, in a much stronger position than ever and this being the case what we have got to try and do now is convince the other side, convince those who have acted so ill advised all this time that the way they are going is not the way that the European people consider a member of the Common Market should behave and because of that I fully support the motion. At the end of the motion Mr Isola makes it quite clear. He says that the process started at Strasbourg bearing in mind, however, at all times the motion on the subject unanimously passed in this House in November, 1977. To me the mandate that we are now reaffirming is that the process should continue but that the question of sovereignty should not be discussed and in that respect, Mr Speaker, I fully support the motion.

HON CHIEF MINISTER

Mr Speaker, I rise to speak with some trepidation and embarrassment. It is the first time in the 25 years that I have sat on the Government side of the House that there is a motion on confidence on the Government and, therefore, one would have to start to ask whether there was a trick in it or not. It perhaps ameliorates the suspicions that that motion could bring about by the fact that my name is joined to that of the Leader of the Opposition so, perhaps,

after all, there is not much to worry about. I must say that the long and uncharacteristically illogical intervention of Mr Bossano in this matter which is now a little behind because it happened on Friday, rather disappointed me because normally even though one does not agree with what he says it has sense in his own way and it has logic in his own way. To me, it was so unrealistic, so full of concepts of which he is completely ignorant and on which he expounded as if he knew a lot, that it has carried very, very little weight in my mind much as I always try to appreciate and understand his point of view. The Leader of the Opposition started off by saying that what he was saying he was saying for himself and for nobody else and I would like to say exactly the same thing. I have not discussed this matter with the Leader of the Opposition and whilst he is entirely free to say what he likes and he has said so, equally, I am in the same position of saying what I like and what I feel about the process. It seems to me that the Honourable Mr Bossano had two main objections in his rather uninspiring address, one was about the talks themselves and the other was a long diatribe against the Leader of the Opposition and criticism of him for his change of attitude over the years. On the second one, the Leader of the Opposition has given the answer to that and in any case it is really not my business, that was the business of the Leader of the Opposition so I will deal mainly with the question of the talks and the unrealistic approach that he had in them. When he mentioned the working party he said something like this: "No doubt, they - meaning the Leader of the Opposition and myself - were told by Dr Owen what to do". This is not purely characteristic of Mr Bossano, that is, too often, when something comes out which may not be to the liking of a particular sector, too often it is said "these people do what the British Government tells them". I would like to take this opportunity of saying that I have never been told by the British Government what to do on the Gibraltar issue and if I had been told and it had been anything different to what I feel I ought to do about it, I would make it very clear to them that they have no business to interfere in the way in which we carry out our duty. I hope that would be the same attitude that Mr Bossano would take if he were in a position of responsibility and if, indeed, he would agree that he would act in the same manner, why should he then attempt to judge other people in doing something different to what he would do himself. That shows an indication of the ignorance which permeated throughout his performance of how (a) the talks with the Secretary of State take place and (b) what happened at Strasbourg and at Paris or what can happen at future meetings of this nature. I am not going to sing the praises of the meeting. I explained very carefully in my statement of the 2nd November in this House what was behind my thinking in taking the initiative of initiating these talks - they are in Hansard - I have

adhered to them and I am not going to go through a long process here of what Strasbourg and Paris is and what Strasbourg and Paris is not. All I will say is that I find, generally speaking, that the average man in the street has implicit trust that what we are doing is the right thing and at the right time and in the right circumstances. Moreover, despite the antics of some people, they have trust that we are going about it the right way and they also have trust that we are not going to do anything which the people themselves would not want. My Honourable Friend on my left made a very interesting remark the other day for which I am grateful and that is; Mr Bossano asked why should I say when I came back from Paris that it had been established quite clearly that there would be no fundamental change in the constitution without the people deciding on such change. Then he went on to ask whether there was a change in the offing and people were going to be put to the test on it. I think Mr Canepa, very rightly, entirely on his own, made the remark that there are so many opportunities in which people try and disseminate distrust and disseminate alarm amongst the people here, that it is necessary to say these things if only to allay that and he quoted the reference in one of the publications where, because we had come straight from Paris where we left at six in the morning and straight from the airport into a press conference, I appeared a bit tired and haggard and that that was a clear indication that I had been stabbed in the back by the Secretary of State. But despite what some people may say, we have not been given a stab in the back by the Foreign Secretary, we have been given every encouragement to continue the process which we have started at Strasbourg and which followed at Paris and at the same time every encouragement to maintain what we think is the right thing to do. So, really, if it were not that there is this controversy raised by the Honourable Mr Bossano, perhaps, there would have been very little to discuss in this matter. May be it is right that it should be discussed, I am not questioning it, but with regard to the unity of the people I think two things have come out clear. First of all, he was not against the Strasbourg process, secondly, Mr Xiberras has quoted this morning that he had good authority to say that Mr Bossano was not against the Working Parties. You cannot have a working party without having a "Paris" or something else after, you cannot have it in isolation, it must be part and parcel of the whole process of consultation and I think the process of consultation has gone well, much to the disappointment of some people who wanted it to fail for different reasons, some because they do not want us to speak at all to the Spaniards and others because they would want us to go to the Spaniards with an autonomy signed with sovereignty under Spain and then some people will have been proved right of what they said in 1967. If that is all that there is in

this attempt at involving the people of Gibraltar more than the people of Gibraltar want to get themselves involved in, then I think it is about time that it stopped because it only brings about a little confusion and I say a little confusion because I can say with good authority that in Spain, if we are to continue with these meaningful talks that we started at Strasbourg, it will be the representatives, the elected people of Gibraltar, who will be listened to and nobody else.

HON P J ISOLA

Mr Speaker, I am glad to see that the motion has received general support from the House.

HON CHIEF MINISTER

If the Honourable Member will allow me. I should have said that I propose to abstain.

HON P J ISOLA

I am glad to see, despite what the Honourable and Learned the Chief Minister has just said, I am glad to see that the motion has general support from the House. Perhaps, the opposition to the motion by the Honourable Mr Bossano was predictable in view of course to his broadcast to the nation over Gibraltar Television some 9 days after the ending of the Paris round of talks. In this connection, Mr Speaker, I find it a bit difficult to understand the attitude of the Honourable Mr Bossano when he says that he is very sorry this motion is being brought about because if this motion had not been brought he would not have moved a motion of no confidence himself and it is a pity that the motion will show a split. Unfortunately, Mr Speaker, in this House we are not as gullible as other members of the public might be. The motion of no confidence was already there by virtue of the television broadcast to the nation, if I may call it that, given by the Honourable Mr Bossano nine days after the Paris talks without taking the slightest bit of trouble to find out what had happened there himself personally. Whatever he may say about not having been informed about what happened at Paris, I myself am bound to say, Mr Speaker, that I am sceptical about his sense of outrage and his sense of not having been dealt with properly. I am not very impressed by that. In the first place, I happen to know for a fact that my Honourable Friend the Leader of the Opposition had been trying to contact the Honourable Mr Bossano to tell him all about what had happened in Paris and had been unable to reach him and this, of course, is not the first time he has had this experience.



I would have thought that on a matter so important as the future of Gibraltar, on a matter so important as talks that are taking place in Paris and in Strasbourg, it is not too much trouble, is it, it is not too much strain on the time of the Honourable Mr Bossano to seek out the Chief Minister and seek out the Leader of the Opposition and ask what had happened. We all do that. I know that within minutes of the Honourable Members returning to Gibraltar, I was asking the Leader of the Opposition what had happened, of course I was. I am sure every member of this House was seeking similar information. When you have got an elected position in the House surely you owe it to your electorate to find out what is going on and this is why I am a little reluctant to accept the apparently innocent remark of the Honourable Mr Bossano that he was not going to put a motion of no confidence. He has done this, Sir, he has, somehow of other, contrived that he went on television without knowing what had happened. This, of course, is unfortunate because it is a disuniting factor in Gibraltar. I agree entirely with what the Honourable and Gallant Major Peliza said in his address. It is sad and it is tragic that for the first time in the history of an elected legislature in Gibraltar there is not a hundred per cent unanimous view on how our foreign affairs should be conducted. Frankly, I agree entirely with what the Honourable and Learned the Chief Minister has said. The Honourable Mr Bossano did not give any convincing or good reason for showing disunity in this regard, in an address that I think is the longest address I have heard from him in this House, except possibly on the Budget, I do not know whether it was to try really to convince Honourable Members in this House or to project a particular image. Mr Speaker, the Honourable Mr Bossano talked of inconsistency in stands of members of the House and he singled out for particular mention my Honourable Friend the Leader of the Opposition whose consistency on this issue, Mr Speaker, is beyond reproach and unimpeachable, but he singled him out for inconsistency and I think he singled me out too for inconsistency for what I said in the United Nations and how I subsequently acted in this House in becoming a member of the Integration with Britain Party. Mr Speaker, the Honourable Mr Bossano is hardly a man to speak of political consistency. In his short and meteoric political career in Gibraltar of some five years he has been a man of many hats, politically, Mr Speaker. He joined with the Integration with Britain Party, he got elected on that ticket, left them in the middle of the four-year period. He could not stand the pressure. Became an Independent. He was proud to say in this House that he was now an Independent. He went to an election on a wide front representing all Gibraltar's classes in 1976, commercial, professional and working classes, Mr Bossano represented them all in his Party. Within a year that had crumbled and disappeared and then he calls himself the Gibraltar Socialist Labour Party, but no

sooner had he done that that we found there was another socialist party coming out from his colleagues in the Union with a Spanish name although I notice that it issues its communiques in English. Mr Speaker, for political inconsistency the Honourable Mr Bossano is hardly the man to stand up and talk in this House. What worries me of course here is that the Honourable Mr Bossano cannot be convinced about what was right. A man of his undoubted intelligence cannot now say that the Strasbourg process is wrong or should be stopped when only three months ago in this House he was welcoming the initiative of the Chief Minister in proposing the Strasbourg talks. The Honourable Mr Bossano is and must have been aware that the main problem in seeking a solution to the Gibraltar issue is, unfortunately, an issue of sovereignty. He knew that in November. He is not telling us anything new in this House on Friday. He welcomed the talks, he welcomed the Chief Minister's initiative in this House. Perhaps he thought that was a popular move, that it was a good thing to welcome it then. But when he welcomed it as a responsible member of this House, as an elected member of this House, he must have realised that Spain would talk about sovereignty, or try to talk about sovereignty, and that we at the talks would be standing up for the rights of the Gibraltarians and for the removal of restrictions that can only worsen the situation and can only fail to bring about, eventually, peaceful relationships between, - as the Honourable and Gallant Major Peliza said, between the people of Gibraltar and our neighbours in Spain. I was quite surprised to hear the Honourable Mr Bossano say or dismiss as almost irrelevant the fact that the Chief Minister and the Leader of the Opposition would be speaking for the people of Gibraltar at these talks. This was of no significance, he thought. Again, Mr Speaker, the Honourable Mr Bossano has only been in Gibraltar really in politics since 1972 and of course he is a very new boy there and, obviously, he has not read what happened between 1965 and 1972 because he would have seen there the very great opposition on the part of the Spanish Government not only in their relations with the British Government but also in the United Nations to prevent any Gibraltarian representation in any process of talks either in the United Nations on the question of decolonisation or in the relations between Britain and Spain discussing the future of Gibraltar. There is no question at all that the acceptance by the Spanish Government of Gibraltarian representation in these talks is a substantial move forward in the struggle of the people of Gibraltar to be recognised as an entity in their own right in the matter. I think, again, what the Honourable and Gallant Major Peliza said in this regard was very relevant. We cannot get stabbed in the back now if there was ever any such danger which many of us do not believe there ever was but if there ever was any danger that



cannot happen, there is Gibraltarian representation, we are in it and because we are in it, of course, we have got very serious responsibilities but we are in it and there is little chance of that occurring. I thought that the remarks that the Honourable Mr Bossano made about the Chief Minister and the Leader of the Opposition being whipped off to Paris and not being allowed to come back to Gibraltar was really the cheapest form of political gimmickry I have had the misfortune to listen to in this House. To say that two public men at the top of Government and Opposition in Gibraltar required that sort of treatment to make them go along, in fact, I do not think Mr Bossano believes it because he was laughing as he said it himself, but still it gets reported and it helps the image.

HON CHIEF MINISTER

If the Honourable Member will give way, I am sorry I did not mention it. The tickets were taken before we left Gibraltar.

HON P J ISOLA

I know, I remember telling my friend the Leader of the Opposition not to come back, to have a holiday in London, he needed one. Not even the Honourable Mr Bossano believes that, as he laughed. It brings me, Mr Speaker, to ask myself why does the Honourable Mr Bossano really oppose the continuation of the talks. What real reasons has he given? It is very difficult to see any real reason, Mr Speaker. I do not know whether when he welcomed the exploratory talks, whether he really thought that they would not go further than Strasbourg. He thought "What will probably happen is that they will go, the Spaniards will say either you give us what we want, i.e., sovereignty or agree to discuss this or agree to say that anything that we talk about has that in mind, that at the end of the day Gibraltar will be Spanish". I do not know whether he thought all that was going to occur and then the Chief Minister and the Leader of the Opposition would have to say: "That is not so", the talks would have broken down and there would have been another failure. I do not know whether he is angry that the talks are continuing. I do not know whether he fears that some lifting of restrictions will possibly not do him any political good in his political isolation, whatever you like to call it. It is just not logical from a man of the Honourable Mr Bossano's intelligence for him to say after two series of talks where nothing has been given by the people of Gibraltar, where all that has been done is to try and establish a friendly atmosphere between two democratic people, how a man can get up on television without having heard what happened there and be so irresponsible as to proclaim that the talks must stop straight away because I, the Honourable Mr Bossano, know

what is good for Gibraltar. It is unfortunate that he has taken this attitude, Mr Speaker. I think it is unfortunate for Gibraltar that he has taken this attitude because I do believe that the great majority of the people of Gibraltar would like to see a lessening of tension between Gibraltar and Spain. I do believe a great number of the people of Gibraltar would like to see more normal relations between the two countries. Although, the Honourable Mr Bossano has not put it that way what in effect he is telling us today is: "Shut out that possibility of restrictions being lifted, forget them, Spain wants sovereignty over Gibraltar so that is finished and do not bother about Spain and Britain". So really the picture he puts forward is one of gloom and depression. I do not think any member of this House believes that to be a politically accurate statement to make. Mr Speaker, he also talked about maritime communications and he told us what a strange way to open up communications between Gibraltar and Spain. Of course, it is a strange way in a way but it is the only way in which one would think that communications can be opened at the present period of time without offending, may I put it that way, the Spanish interpretation of the Treaty of Utrecht. At least, if maritime communications were opened, at least again we might be able to get back to a more normal atmosphere between Gibraltar and Spain than has existed in the last ten or fifteen years. After all, Mr Speaker, in 1954 and in 1955 and in 1956 and in 1957 right through to 1963, Spain was claiming Gibraltar, there is no question about it. The Spaniards still insisted that Gibraltar was Spanish and part of Spain. They were saying that in 1750 and they were saying it in 1830, it is nothing new, but they did not say it in the way that they have said it in the last ten years, that because it is Spanish we do not recognise you people at all, we will lock you out and we will strangle you economically if we can. There is nothing new in having an easing of tension between Spain and Gibraltar and that is not a surrender by the people of Gibraltar or, indeed, a surrender by the British Government of the rights of the people of Gibraltar in Gibraltar. It is difficult to understand why the Honourable Mr Bossano feels that any possible harm can come to the people of Gibraltar from a continuation of the Strasbourg process in accordance with the terms of the motion and bearing in mind the resolution that this House has passed on which there was unanimous feeling. I agree with my Honourable and Gallant Friend, Major Peliza, whom I regard to be an eternal optimist in these matters, I agree that it would be very nice indeed if the Honourable Mr Bossano were to find himself able to vote in favour of this motion when the time for voting came and, of course, Mr Speaker, if he was present in the House. It would be very nice and it would also be a very good thing for the people of Gibraltar and it would be quite a morale booster to the people of Gibraltar to know that this process, which is a difficult one, which requires all the skills that we can command and which

requires all the thought that we can possibly give to it, that this problem should be tackled in a spirit of unity among the elected members of the people of Gibraltar and put through and guided and monitored on the principle of the motion that we passed in November, 1977. It is a pity if any Honourable Member in this House considers or is opportunistic in this matter and tried to take some form of political advantage from this process which, if reasonably successful, can only be for the benefit of the people of Gibraltar as a whole and not of any particular section. Mr Speaker, I commend the motion to the House.

HON ATTORNEY GENERAL

Mr Speaker, I do not think that I have a right to vote under Section 44 of the Constitution. This is a vote of confidence. If you were to rule that I have a vote I would vote in favour of the motion.

MR SPEAKER

Gentlemen, this is an interesting position in which we find ourselves. The relevant clause of the Constitution is clause 44 (1) and particularly the proviso which says: "the ex-officio members of the Assembly shall not vote on any motion that in the opinion of the Speaker or other person presiding in the Assembly, is a motion of confidence or of no confidence in the Council of Ministers or in any individual Minister". Of course, this is not a vote of confidence in the Council of Ministers. I do feel that it is a vote of confidence of some sort or nature. Whether it is a vote of confidence on an individual Minister again is a matter of conjecture because one can say that the Chief Minister in his talks in Strasbourg and Paris was acting as the peoples' representative and not as a Member of the Government and, in any event, we are in the incredible position that there is then a vote of confidence not only on the Chief Minister but on the Leader of the Opposition and, of course, the proviso says nothing about the ex-officio members not being able to vote on a vote of confidence on the Leader of the Opposition. Perhaps, in the light of what I have said and being extra cautious I think it might be better if I do rule that it could be a vote of confidence on a minister as the general term implies, a member of the House on the Government side, and I will rule that it is a vote of confidence and that therefore the ex-officio Members of the House are precluded from voting on this motion.

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

The Honourable I Abecasis  
The Honourable A J Canepa  
The Honourable Major F J Dellipiani  
The Honourable M K Featherstone  
The Honourable P J Isola  
The Honourable A P Montegriffo  
The Honourable Major R J Peliza  
The Honourable J B Perez  
The Honourable G T Restano  
The Honourable A W Serfaty  
The Honourable Dr R G Valarino  
The Honourable H J Zammit

The following Honourable Member voted against:

The Honourable J Bossano

The following Honourable Members abstained:

The Honourable Sir Joshua Hassan  
The Honourable M Xiberras

The motion was accordingly passed.

The Honourable the Chief Minister moved the adjournment of the House to Wednesday the 19th April, 1978, at 10.30 a.m.

The adjournment of the House to Wednesday the 19th April, 1978, was taken at 1.15 p.m. on Monday the 17th April, 1978.

WEDNESDAY THE 19TH APRIL, 1978

The House resumed at 10.30 a.m.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

INDEPENDENT MEMBER:

The Honourable J Bossano

ABSENT:

The Honourable A Collings

IN ATTENDANCE:

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

MR SPEAKER

I would remind the House that the only business before we adjourn until Monday the 24th April, is the motion on the Order Paper in the name of the Honourable Mr Bossano. I therefore call on Mr Bossano.

HON J BOSSANO:

Mr Speaker, I beg to Move: "That this House condemns the exorbitant increase of 48% in landing charges introduced by MOD on 1 April and considers that the Government of Gibraltar should take immediate steps to have this decision reversed." Mr Speaker, this is not the first time I bring a motion to the House on the question of landing charges and the House will recall that at the last motion which was passed the position as it was left was that the Government expected to be consulted by the Ministry of Defence prior to there being increases in landing charges although they stressed in the House that they were not in a position of giving or not giving approval. I feel that this particular area is an area where the Government has got a very clear responsibility in terms of exercising its powers of price control. We had a recent amendment which enabled the Government to protect the consumer against profiteering and I would put it to the House, Mr Speaker, and to the Government, that an increase in the landing charges for a Trident II from £87 in March 1975 to £277 in April 1978, an increase of 218% in three years, is a clear example of the sort of situation that the Government was trying to ensure it would be able to investigate and protect the consumer against. The position of the Ministry of Defence in arriving at these landing charges is, of course, a mystery, I think, to most of us. In my view the main purpose of the airfield is in conjunction with the use of Gibraltar as a military base within the NATO network and therefore the fact that there are civilian aircraft using that airfield must have, as far as the MOD is concerned, a secondary role and although the charges that they are charging have a very clear and adverse impact on civilian traffic to Gibraltar they must mean very little in the context of the income it produces for the MOD, so if the argument is being used about the economics of the airfield then I think that is an argument that would not stand any close scrutiny and it is an argument in another context that has been shown to be false. At one time the argument about the economics of the Dockyard used to play a very prominent part in pay reviews and this is no longer the case and I think the value of the airfield to the MOD is not going to be significantly altered one way or the other by the level of the landing charges. Therefore we find ourselves in a situation where the landing charges have suffered very high consecutive increases year after year. There were increases in April 1975, in January 1976, in January 1977 and in April 1978, increases ranging from 12% at the lowest point in April 1975 for the Viscount used by Gibair, to 50% in April 1978 for the same aircraft, a move from £39 in landing charges to £117. There are very few commodities, Mr Speaker, that compare for the magnitude of these increases in the same period and certainly these

increases are not in line with the overall rate of inflation. We have Government statistics published a few days ago which showed a rate of inflation over the last twelve months just in excess of 9%. I think if the MOD was trying to preserve the real value of the income produced by the landing charges by raising those annually in line with the overall rate of inflation, there would be little criticism but when we find a rate of inflation of 9% and an increase in landing charges between January 1977 and April 1978 of between 46% and 50% which has come on top of increases in January last year of around 40%, then it is something that cannot be allowed to continue and in my view it is something that the Government has got an obligation to have a thorough investigation into and I think the MOD must be made to understand that notwithstanding the fact that they are a very important employer in Gibraltar, notwithstanding the fact that they make an important contribution to the economy, in fact, the presence of the MOD is the major factor in Gibraltar's economic development and export earnings, notwithstanding those facts the Government is still the Government and the position of the Government of Gibraltar must be one where they should be able to exercise some measure of control about what the MOD does in so far as their actions affect the civilian community. We already find ourselves in a situation, Mr Speaker, about the frequency and the seat capacity and the fares which is far from satisfactory. Today it is impossible to get a seat out of Gibraltar to London before the 26th of this month. Every plane is fully booked. Today we find that the fare to Malaga is in the low season £72 day and £62.50 night, whereas the lowest APEX fare from Gibraltar is £89 so that there is today a differential between the cheapest Malaga fare and the cheapest Gibraltar fare of £27. When we are talking about maritime communications in another context it might well cross somebody's mind that the day could not be all that far off when it might be cheaper to travel to Malaga airport from Gibraltar and fly to London. So not only are we faced with a situation affecting both the native population that wants to leave Gibraltar for their holiday and the incoming tourist where it is difficult to get a seat and if you are lucky to get one it is expensive, but on the other hand the operators themselves find that the charges that they are subject to are an additional burden on their operating costs which they claim is accurately reflected in the charges that we have to pay today and in the level of seats that they can provide on the route. What is the prospect for Gibraltar in terms of communications with London, in terms of tourist traffic from London to Gibraltar when we already have the highest landing charges in the area, the highest fares in the area and insufficient capacity on the route and the fares that we are facing today were fixed prior to the latest increase in landing charges. Inevitably, as always happens, the final bill will be paid by the consumer and everybody seems to be trying to cream off what the consumer can produce. The airlines increase their charges in order to operate on a better margin, a margin that they consider to be necessary and then along

comes the MOD to take it away from them and then no doubt the airlines will up their fares in order to get back to the position that they wanted to achieve in the first place. This is a situation which cannot be allowed to continue without having very serious consequences for Gibraltar and I think the Government must tackle this as a matter of urgency and at the highest level because if it is not done we are facing a situation where we are simply going to drive people out. I heard the expression used some time ago that we are in danger of killing the goose that lays the golden egg in terms of MOD expenditure in Gibraltar. I would put it to the House, and it should be put to the MOD, that the way they are increasing the landing charges, they run the risk of killing the goose that lays the golden egg and finding that it will be uneconomic to land in the Gibraltar airport. That situation would be a disaster for Gibraltar and it certainly would not produce any benefits for the MOD. If that is not what they want, if they do not want to drive civilian aircraft away from using the Gibraltar airport, then they are certainly following, to say the least, very misguided policies. I commend the motion to the House.

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

HON A W SERFATY:

Mr Speaker, I certainly do not propose to defend the Ministry of Defence in this House and I have quite a lot of sympathy with what the Hon Mr Bossano has just said. I do not want this House to be under the impression that the Government has been inactive in this matter. Here I have, for example, MOD proposals for increases in October 1974 which were not implemented until April 1975. Others proposed for July 1975 were not implemented until January 1976. An increase proposed for July 1976 was not implemented until January 1977 and there was a proposal to increase landing charges in May 1977 which was never implemented. That has not happened just by chance, it has happened because the Government has belly-ached about these proposals for increases. I would like to say, so that we can get the figures right, that the increases are not 48% but something like 57% so we have had an increase now, after two years, of approximately 117% which is far greater than the inflation we have had over this period. I would also like to say that when we talk of landing charges we are also talking, and the MOD is also talking, of landing and navigation charges. On the 18th January 1977, at a meeting we had with the airlines in Gibraltar on proposals for increased fares the airline suggested that British Airways, and we must not forget that British Airways is another department of the British Government, that before any increases should be implemented they should be consulted and they would, with their know-how about this whole question, have an opportunity of discussing with the MOD any proposed increases. We told the MOD when this last increase was suggested, that they should consult

British Airways in London. The facts of the case, as far as I am aware, is that British Airways were never consulted, they were just informed, so I must admit that all these complaints, all this belly-aching on our part has had no effect on the increases which have been announced and which are being implemented as from 1 April. This is the position. I am the first to regret, as Minister for Tourism, these increases but I must admit that the Ministry of Defence have been adamant about it and there is nothing we have been able to achieve on these proposed increases which they say should have already had an increase, a considerable increase, in May 1977. To a great extent I sympathise with the motion.

HON P J ISOLA:

Can the Hon Member say when these landing charges are going to be implemented?

HON A W SERFATY:

They are being implemented already as from 1 April 1978.

HON P J ISOLA:

Mr Speaker, I am a little surprised to hear the contribution of the Minister to this debate because I would have thought he would have given us a little more information than he has done to enable the House to see whether they can go to the extent of condemning a British Government Department for increases of landing charges outright without listening to what they have to say, without listening to their arguments of any kind. I would have thought that sort of motion the House should be very reluctant to pass, a. because I think it militates against principles of natural justice, that you hear what the other side has to say, and b. because if its inherent nature of condemnation without actually getting to know all the facts and I am sorry that the Minister, in his contribution, really has not given us the facts. I know he is not representing the Ministry of Defence in this House but it would have been helpful, I think, if somebody made some sort of attempt to explain the reasons why the MOD have found it necessary to make these increases which on the face of them do appear to be exorbitant but I certainly would be reluctant to vote in favour of a motion of outright condemnation of anybody, and still more a British Government Department that contributes so much to our economy, without at least having some opportunity to hear what they say. I do not know whether the Hon Mover of the Motion has made any enquiries from the Ministry of Defence as to the reasons for these increases and as to how they justify them. I wonder whether the Minister has? I think it was a particularly inept remark on the part of the Minister to refer to British Airways as another British Government Department. We only wish they were because if they were then these increases in air fares with which we have been faced, and these cutting of schedules with which we have been faced, could not have been argued against. The whole argument in aviation as far as Gibraltar is concerned has been

to say that British Airways are there to make money, to make business, and we cannot consider ourselves in any way as a British Government Department so I get the feeling, Mr Speaker, that the Minister has done very little homework on this motion and I have a feeling that he would like to see the House voting in favour of it to give him a bit of elbow power in his arguments with the MOD. This may be a good thing, short term, but I do not think it is a good thing long-term, Mr Speaker. I would certainly have liked to have heard the Minister tell us how landing charges in Gibraltar compare with, say, Malaga or Tangier. I would have liked to have heard the Minister explain to us how landing charges were made out in other airports. For example, I happen to know there is a departure tax or an arrival tax in Malaga which is far higher than the one in Gibraltar and therefore although the landing charges may appear to be lower, when you add to it the passenger tax which is what the consumer has to pay at the end of the day, they may not compare so badly. I don't know, this is the sort of information I would have expected to be given in this House. As far as I am aware in Gibraltar there is just a straight 50p passenger tax which is pocketed by the Government, it does not go towards the running of the airfield in any shape or form. I believe it goes towards the running of the air terminal building and whether that is a source of pride and satisfaction to the people of Gibraltar is another matter. I believe the 50p goes into the Government pockets so that the MOD relies entirely on landing charges as far as revenue from aircraft is concerned whereas, for example, in Malaga or in Tangier, presumably, the passenger element in the tax as well as the landing charge goes to the airport authority or whoever is responsible for it. These sort of facts, I think, should be made public because if one does not make it public all a motion like this does is to get an anti feeling among people, a feeling they are being cheated by the British Government when it may not be the case. I myself would be reluctant to vote in favour of a motion like this especially having regard to the fact that that British Government we are now almost referring to as cheats have only three weeks ago given Gibraltar £14m. for development. Let us keep our sense of proportion, Mr Speaker.

HON A W SERFATY:

If the Hon Member will allow me. I have not said that we should vote in favour of the motion as it stands now, that I would like to clear. I have not said that. We sympathise with the spirit of the motion. As regards Malaga, which the Hon and Learned Member has mentioned, the information I can give here is that a Trident II pays a landing charge in Malaga of £57.20 plus a passenger service of £90 which is about £145/£150 and here the Trident II pays £294.53p so there is a big difference. What we have not been able to clear is whether there are any navigational charges which have to be paid for. I know that all overflights over Spain pay a navigational charge to Eurocontrol through the Government of the respective country. It is a little more complicated than that. Here the all-in charge is £294.



HON P J ISOLA:

I am obliged to the Minister because the Minister has now mentioned these navigational charges which he mentioned before, of course, and he has explained that in Spain it is paid through another channel and that in Gibraltar, apparently, it is an all-in charge as a landing charge and I agree with the Minister entirely that it is a very complicated business. It is very complex. That is why the House should be reluctant to rush in condemning the MOD without having the full facts before them. I agree it is a matter of grave concern. Yes, we may be very concerned at increases. I think it is right and proper that we should be. We should be concerned at the rate of inflation and this seems to be running a little ahead of the rate of inflation in Gibraltar as far as I can see and we should be concerned. That is one thing, Mr Speaker, and another thing is condemning the MOD without having all the full facts and again I would respectfully remind the Hon Mover when he made comparisons with air fares in Malaga, I would ask him not to just pick out one but to look at the general structure because I should explain that when we agreed the increases in air fares and we agreed the increase precisely in the one that the Hon Member mentioned, the APEX fare, we agreed it because we reckoned it was a reasonable increase and one that could be taken by people. We had the Malaga figures in front of us but when you are talking of Malaga, Mr Speaker, I do hope the Hon Member is aware that there are only two scheduled flights a week to Malaga and that most people do not travel along the scheduled flight to Malaga. Most people use charter flights. The scheduled flights to Malaga are usually used by the high-price traffic and I do not think it is a good thing to compare Malaga and Tangier because of the paucity of scheduled flights to Malaga and Tangier, air fares tend to rise rather more there than they are justified in Gibraltar where there is a great number of scheduled flights and where the load factor is much higher. All these factors, Mr Speaker, have to be taken into account. I am afraid it is more complex. I can understand the Hon Mover's feelings in this, I can understand him thinking that increases of this level are exorbitant, I can understand that. He is very experienced in this sort of field of increases, if I may say that. I can understand it and I can sympathise with it but I am certainly not going to rush in, Mr Speaker, and condemn the MOD without looking at the whole field of air communications. I think, with respect to the Minister, he protests a lot and I think he has been, from what he has told us; he has been reasonably effective as far as landing charges are concerned until this particular time when they have really made up for the increases there have not been and brought them in now. He has held them back and it is a continuing process. Whether it is a good thing that the MOD should consult with the airlines before putting up landing charges is a matter I am not sure about, Mr Speaker, because the danger that would occur in such a situation is that the airlines would then come to the Government and say: "I need

20% or 30% because the MOD has told me they are going to put up the landing charges by so much per cent". I think the consultation should remain firmly between the Gibraltar Government and the MOD and not between the MOD and the airlines. Mr Speaker, I think it is obvious that is the better procedure. The last thing I would like to say on the motion because every time we talk about this subject we tend to isolate the different aspects of air communications and I think they have to be brought together somehow or other, dealt with in one context, and that is why I am very glad to have heard that this Air Transport Advisory Board is going to be a fact soon and I think it is there that all these matters should be discussed and thrashed out because, Mr Speaker, I still hold the view that on the question of air communications between Gibraltar and London which is vital to Gibraltar and is vital to its development, what is happening now is unacceptable, that people are being left behind, this is happening quite frequently not necessarily through the fault of the airline, it is the lack of capacity on the route which is the big problem facing us and keeping the right balance between the charter traffic and the scheduled traffic so that you do not do anybody out because Members will be interested to know that the reasons why there has been this sharp reduction in scheduled services to Malaga is because charter flights have taken over and the reason why scheduled flights are being phased out of Palma is because of the charter flights. In Gibraltar we have a great interest in the scheduled operation and that should be the main thing for the Government and therefore we have a great interest in the landing charges and so forth, Mr Speaker. I would suggest to the Mover, I know he is a man for blunt speaking and blunt language but I would suggest to the Mover, and I hope somebody may wish to put forward an amendment that perhaps if his motion was phrased in more felicitous language, more restrained language, expressing concern at the situation rather than outright condemnation, I am sure that would carry more support in the House. I think in its present state I am sure Hon Members would be reluctant to condemn a British Government Department without at least having their side of the case put before us and we being able to understand it. I think that the ordinary decent principles of democracy require that.

HON CHIEF MINISTER:

Mr Speaker, I share a considerable amount of the sentiments expressed by the last speaker.

MR SPEAKER:

The last speaker has suggested that some kind of amendment may be introduced. Of course the Mover cannot introduce the amendment because he has only got the right to reply.

HON CHIEF MINISTER:

I do not know at this moment but I have certain facts which I think ought to be brought to the notice of the House and maybe



the Mover may be more disposed to agree to an amendment than without facts which is what the last speaker was complaining about. In the first place, the legal adviser of the Government was temporarily absent from the House and though I do not want to assume his role, I would like to answer one point raised by the Hon Mover at the beginning of his intervention, and I may be corrected by the Hon and Learned Attorney-General if I am wrong, and that is the application of the price control provisions that we passed recently to the question of air charges. I do not know whether he was doing it with tongue in cheek or seriously. If he was doing it seriously I will say that it is normal that acts of this House do not apply to the Crown unless they specifically mention so and I would have thought that if we had wanted to control the services of the Crown by means of that legislation that would not have passed this House without prior approval with London and then, of course, London would have had a little to say if we were trying in this way to control the price of landing charges or of any other of the many charges that their presence here has got to bring about. I hope I will not find a dissident voice from the Attorney-General if I say that the Price Control Ordinance does not apply to the Crown. The way in which the Motion is framed would bring the House into ridicule to some extent because we have no means to have the decision reversed. It is not within our power to do so and we do not want to find ourselves very much in the same way as with many of the United Nations resolutions which have no effective power to have them implemented. I can recall one which said that Gibraltar should be handed over to Spain on 1 October 1969. That kind of Resolution brings the body that passes them into contempt because it transcends its powers and then a number of them can show that perhaps we are not directing our energies in the right direction. It is not for me to comment on whether the motion is within the Constitution or not. It has been passed by the Speaker and so be it because whatever the Speaker does in this place is right. He has the sanctity in these matters that nobody can question it. Far be it for me to question the wisdom of the Speaker to have allowed this motion in this sense because if we passed it unanimously we would not be able to have the motion implemented because it is not in our power.

MR SPEAKER:

The effectiveness of the motion is not a consideration for the Speaker to take into account.

HON CHIEF MINISTER:

Be that as it may, I am trying to say the contrast between one thing and the other. What I really wanted to say, perhaps, in subtler language, was that the fact that the motion is allowed does not mean that the House has got the power to do what the motion says. We could say that all children born with blue eyes should have their toes cut and

so on. That, perhaps, will be in order by the Speaker as being within the purview of the House to do so but I think that there are very serious matters which have to be taken into account and I think an airing of these matters in the House is helpful and I think in that respect, like in so many others, the mover has rendered a public service, if nothing else, whatever happens to the motion or any amended motion, in bringing the matter to the notice of the House and to the notice of the public. As the Hon Mr Isola mentioned there are, no doubt, various facets. I have here a communication which I am going to read because it is of public interest. It is in connection with landing charges and it is dated December 1977: "Landing fees at RAF Gibraltar were last increased in January 1977. The MOD have been considering a further increase in the landing fees at Gibraltar to bring them into line with rates charged at all RAF airfields. In an endeavour to ensure that a fair and realistic fee would be fixed, FCO Ministers have made the fullest efforts on Gibraltar's behalf and with their arguments in mind MOD undertook a detailed costing exercise to determine the exact cost involved in landing at RAF Gibraltar. It transpires that extra costs to MOD of providing for civil landings at Gibraltar during the year ended 31 March 1977 was £287,000 extra cost. The civil share of full cost of running the airfield during that year amounted to £1,756,000. Landing fees collected from civil aircraft in the same period amounted to £115,542. This will have been £149,742 if fees had been levied at rates current at other RAF stations which were introduced on 1 October. Thus fees are well below level costs incurred and there is a considerable hidden subsidy. An increase which it was proposed should be effective from 1 October and which it was calculated would have added only 75p to £150 economy return fare, will not now be applied at Gibraltar. However, the FCO have agreed that when next increase becomes due, probably 1 April 1978, RAF Gibraltar should come into line with new rates at all RAF airfields. It will of course mean a rather larger increase at one step for operators than before but it will be the first increase for fifteen months." So there are some figures that show that there has been an assessment, that there has been an attempt at finding out the cost and so on. I think these are figures that should be scrutinised and should be discussed and I am glad that the Hon Mr Isola mentioned the question of the Advisory Board for which invitations have been issued for the appointment of Members on both sides of the House to it, and for the sitting of the Advisory Board as soon as possible. I have just been handed a copy of 14 April of Travel Trade Gazette which says: "Operators fear Italian overflying charges of £3 per passenger. Large overflying charges for both charter and scheduled flights expected to amount to as much as £3 per passenger were due to be announced this week by the Italian Government. The move has provoked angry responses from British and European tour operators serving countries such as Tunisia, Malta and Greece. They will have to levy charges or face serious erosion of their profits.

ABTA's new Tour Operator Council Chairman, Mr Ken Franklin, Horizons, has sent a strongly worded protest to the Italian authorities. Last July we had a hint that the Italians were going to follow the European fashion of charging aircraft for overflying this country. We had no idea how much or when the levy would be implemented. We now learn that the charge of up to £3 per passenger could be charged as soon as 25 April. This is obviously far too late to be included in any brochures and because of British legislation like the Unfair Contracts Terms Act we find ourselves at a severe disadvantage". So let us at least agree on one thing, that the question of landing charges is not an easy matter when the authority which put the charges is not the same authority like it is at Heathrow and deals with the airlines on a civilian basis and that therefore the matter does deserve investigation. If, in fact, the charges or similar charges are not unjustified then it should so be said. If, in fact, we want an element of subsidy then of course we have to do it at the expense of perhaps one of the projects of the Aid Programme because when it comes to the question of financial aid for a particular point, this is how they see it, the overall aid to Gibraltar is so much, you can have it in one way or you can have it in another, so long as we approve the project. But that does not, and I repeat does not mean that we should not be seriously concerned at the very high rate of landing charges and make further representations. I can say from the talks we had in London around the general question before we went to Paris that I found the Minister responsible at the Foreign Office, Mr Judd, very sympathetic to all these matters. That is quite clear from that letter that I read and there is no reason why the matter should not be further investigated and whereas we sympathise with the sentiments expressed about the effect of the charges we cannot, of course, vote in favour of a motion that in any case purports to do something that we have no power to do. Perhaps after correcting, which I am sure the Mover would not object to correcting the percentage upwards and not downwards, he might say instead of "condemning", "this House is concerned at the increase of 57% in landing charges introduced by MOD on 1 April and considers that the first task of the new Air Communications Board should be to investigate the matter and pursue it with the MOD", or something of that nature. On that basis, I think, perhaps we might get a consensus that would do more good than just getting either a divided motion or no motion passed at all.

MR SPEAKER:

You are not formally proposing an amendment?

HON CHIEF MINISTER:

I am not formally proposing an amendment. If, as a result of what I have said, it is clear that there is support for such an amendment one of our large majority in the Government will provide the motion.

HON MAJOR R J PELIZA:

Mr Speaker, I too sympathise with frankly every speaker who has spoken already. I can see the deep concern shown by our friend Mr Bossano. I can understand the Minister for Tourism obviously objecting to such a steep increase. I can also follow the argument of the Chief Minister that already an attempt has been made by the FCO but that the Gibraltar Government should not accept that as the last word and above all I go a long way with everything that my Hon Friend Mr Peter Isola has said. I, myself, would be more concerned by using the word "condemnation" of the MOD than by the increases in the landing charges because the big hen that lays the golden egg here is not the landing strip but the MOD itself to which we owe back money coming in to the tune of £10m. which will do Gibraltar quite a good deal of good and I think that of course praise must go to my Hon Friend Mr Bossano for achieving that, but I would completely go against the idea of using the word "condemn" in this particular motion. It is certainly using a large sledge hammer to crack a nut so I am going to propose an amendment, Mr Speaker, which within the framework of this motion is to substitute the word "condemn" by "deeply concerned at" and then substitute "48%" by "57%" which I think is obviously the accurate figure and to which, I think, my Hon Friend Mr Bossano will have no objection at least to that part. Then, finally, as we go along "57% in landing charges introduced by MOD on 1 April and consider that the Government of Gibraltar should take immediate steps to endeavour to have the decision" so in between "to" and "have" "endeavours to have the decision" and instead of "reversed" "revised". I do hope that this will overcome the problem of the Chief Minister who says that this House cannot reverse the decision. I fully agree, all we can do is try, but by using the word "endeavour" it means of course that we are going to try and have the decision reversed and I think "reverse" perhaps is a very strong word in that I doubt whether the MOD would agree to have the thing reversed and I would add the word "revised". I do not fully agree that this is the responsibility of any Board. A Board could give advice to the Government but the action must be taken by the Government, one way or the other. They have got to carry the can and therefore it is the responsibility of the Government and I think as far as the motion is concerned, it is the Government who should take the final decision and who should put the necessary pressure. I believe that the Board could advise the Government and of course this House, as you can see, is trying to urge the Government to move in this direction one way or another, perhaps not in such strong words as those used by Mr Bossano. I think we are all very conscious of the importance of air communications to Gibraltar. I think one would have expected the MOD to show special consideration to the Gibraltar situation taking into account, perhaps, lots of factors that they could and perhaps do overlook in other instances but I think Gibraltar

is a very special case and I think the MOD should not group us together with all the other MOD airfields and say that if it applies to an airfield in the United Kingdom it is automatically going to apply to Gibraltar. I think there are many factors involved in the costing and I do not believe that we can just use the same rules everywhere. I think my Hon Friend made a very good comment as to the navigational costs, for instance. I am not so sure whether they are more or less in other places but, surely, there might be some differences here as to other places and similarly on the actual landing charges. I believe that it is rather unfair to group Gibraltar with all the others and I think Gibraltar has a special case and I think the Government should be in a very strong position to make a special case for Gibraltar. So without really trying to do the impossible by putting a motion that would be unrealistic I feel that with this amendment we have a motion which is sensible and I do hope that the Government will be able to accept it. I am sure the Minister of Tourism could hardly object after what he said before that he sympathises with the spirit of the motion. I think if this is so at least we have one member of the Government who might be able to support the amendment and possibly induce his colleagues to do likewise.

MR SPEAKER:

I will be with you in two seconds because I am sure you have not written down your amendment, have you?

HON MAJOR PELIZA:

No, I have not.

MR SPEAKER:

You are proposing an amendment to the motion moved by the Hon Mr Bossano as follows: Substitute the word "condemns" in the first line of the motion by the words "seriously concerned at". Substitute the figures "48%" by the figures "57%" where they appear in the motion. Add the words "endeavour to" between the words "to" and "have" where they appear in the last line of the motion and substitute the word "reversed" for the word "revised" where it appears in the last line.

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

HON CHIEF MINISTER:

Mr Speaker, I think this amendment pre-supposes already a state of affairs. It does not fit in to what the Hon Mr Peter Isola said. It pre-judges the situation up to a point except that it expresses the terms in a rather different way. The Hon Major Peliza has said that it is for the Government to do it. I would have thought that what we are doing now

is for the House to do it, that is, for the House to decide what to do and not for the Government to decide what to do. How it is done it is up to the Government to do it but the motion must be a motion of the House and it is a motion of the House that has the consensus of all the House that is likely to have a better reception and have more weight than otherwise. Mr Peter Isola did say that he wanted to know the facts. The proposed amendment as it is now does not deal with that. It is only asking to revise something which we have not looked into. We are not trying to shirk in any way the responsibility of the Government in this matter in passing it over to the newly-constituted Air Communications Advisory Board but I think it is essential that the Government should have the advice of this Board which is now constituted and will have members of both sides of the House to report to the Government on this matter so that the Government knows that it carries the weight of both sides and have gone into the matter and have gone into the figures. Mr Speaker, we could get into all sorts of complicated amendments and re-amendments and, as I say, I am doing this in the spirit of getting a consensus that will meet with all Members, that if we had a short recess we might be able to thrash out an amendment that would be acceptable to everybody in the House much more than just adding bits and pieces to a piece of paper here. I think that would be much better and we could come back with a consensus which would, whoever may move it or may not move it, show that there has been agreement in the House. I would suggest that that is the best procedure.

MR SPEAKER:

In the circumstances I will recess the House for a short time to enable Members to consider the matter.

The House recessed at 11.55am

The House resumed at 12.10pm

HON MAJOR PELIZA:

Mr Speaker, I am very pleased to say that arising out of the amendment and after we recessed to try and find a consensus that I think would be in agreement with the aims which were always the same from every speaker who spoke earlier but perhaps the wording itself, the technicalities connected with the wording perhaps gave the impression that there were differences, I think we were fairly quickly in arriving at a consensus amendment which I would like to read now, Mr Speaker.

MR SPEAKER:

Before you do that you have to obtain leave of the House to withdraw the amendment you have moved to the original motion. I am sure from what you have said that that is your intention and I will therefore ask the House whether the Hon Major Peliza has the consent of the House to withdraw his amendment.

This was agreed to.

HON MAJOR FELIZA:

The new amendment Mr Speaker is: "Amend line one by substituting the word "condemns" by the words "is seriously concerned at"; substitute the word "exorbitant" by the word "high"; substitute the figures "48%" by "57%"; delete lines 3 and 4 and substitute the following after the figure and letters "1st" where it appears in the motion: "and considers that an urgent report from the Gibraltar Air Transport Advisory Board should be obtained on the matter in an endeavour to have the said charges revised".

MR SPEAKER:

I am delighted that the House is in agreement and therefore I will propose the question which is that the motion moved by the Hon Mr Bossano be amended as follows: By amending line 1 firstly by substituting the word "condemns" by the word "is seriously concerned"; secondly, by substituting the word "exorbitant" by the word "high" where it appears in line 1, and, thirdly, by substituting the figure "48%" by the figures "57%" where it appears in line 1 and that the motion should further be amended by the deletion of lines three and four and the substituting therefor immediately after the figure and letters "1st" the following words: "and considers that an urgent report from the Gibraltar Air Transport Advisory Board should be obtained on the matter in an endeavour to have the said charges revised".

HON J BOSSANO:

Mr Speaker, the amendment that has been moved seeks to reduce, I think, the degree of opposition to the increases that is implicit in the original motion. Since my concern is to get the motion passed and the original motion would not have carried the support from what other Members said, I am prepared to support the amendment for that reason and that reason alone. I think it follows logically that if I consider the increase of 48% to be exorbitant, it goes without saying that I consider 57% to be high. I think the difference between using the word "high" and using the word "exorbitant" is that in fact the word "high" is a factual statement of fact and the word "exorbitant" is a value judgement. In my judgement the increase is not only high, it is exorbitant because it has followed as I have said very large increases and it seems to bear no relation to the increases that we have been experiencing in Gibraltar in other commodities except for labour which I know my Hon and Learned Friend Mr Isola would probably find easier to condemn than the increase for the MOD landing charges as he indicated when he talks about my experience in that field.

HON P J ISOLA:

I hope the Hon Member will withdraw that remark which I am sure he has made in jest, Mr Speaker. There was nothing implicit

in my remarks condemning any increases in salaries for which my Hon Friend Mr Bossano fights so gallantly and, apparently, with so much success.

HON J BOSSANO:

Since the Hon Member seems to lose no opportunity to draw parallels and in the context of his contribution he said that I had experience of exorbitant increases, I consider that the increase in landing charges is exorbitant and that in itself is a condemnation. If the Hon Member considers that the wage increases I obtained are exorbitant, in my view he is passing a value judgement on them. If he just considers them to be high then he ought to amend his own previous remarks on the subject.

HON P J ISOLA:

I am sure my Hon Friend knows I am far more tactful in these matters than possibly he is. I do not think I would have made such a statement and I certainly did not make a statement about any increases in salaries having been exorbitant. I said that the Hon Mr Bossano had experience in these matters of increases in prices. I was very careful not to make judgements of exorbitance in any field, Mr Speaker, without having the evidence before me.

HON J BOSSANO:

I am glad to hear that, Mr Speaker, because I have obviously got the wrong impression from the remarks that he made. Secondly, the motion asks the Government to endeavour to have the charges revised after they have had an urgent report of the Gibraltar Air Transport Advisory Board. All I can say to that, Mr Speaker, is that unless the Air Transport Board moves faster than any other Board perhaps because of its connections with that means of communication, then I cannot see the report appearing very urgently. I hope that the Air Transport Board in fact can get to work on this at a pace that compares favourably with the committee that was set up to look at the Constitution after the last election otherwise I am afraid we shall be looking at the next 57% increase before we have had the report on this 57% increase. I would like to point out one thing also in connection with the original motion....

MR SPEAKER:

May I say this, Mr Bossano. You most certainly have the right of reply on the original motion once we have taken the amendment.

HON J BOSSANO:

I do not propose to say very much more. I thought it was more appropriate to say what I have to say about the original motion while it is still in its unamended form. On the question of condemning the increase, although I am not as care-

ful about my words as the Hon and Learned Mr Isola is, I was sufficiently careful, knowing the sensibilities in this matter, to condemn the increase rather than condemn the MOD, although I accept that since they are responsible for the increase they carry the responsibility for the decision but I am condemning the increase because I consider whatever justification the MOD may have for doing it, increases of this order should not be introduced particularly when it places us at an obvious disadvantage with competing neighbouring airports which is a consideration that obviously the MOD, as MOD, does not have to take into account. One cannot expect, I think, the MOD themselves in arriving at what they consider to be reasonable charges, to look at the competitiveness of Gibraltar as an airport for civilian aircraft because that is not their responsibility. It may well be that they are not treating Gibraltar any differently from what they are treating users of MOD airports in the United Kingdom or elsewhere but the situation that makes Gibraltar different from those other places is of course that we do not have any choice. We are a captive market in this respect. It is not a question of saying to them: "We do not want to pay your landing charges, we will use somebody else's airport." We either use their airport or we make it ours or we do not use it. That is all I have to say on the matter.

HON P J ISOLA:

I would like to welcome the constructive amendment made to the motion because of course in the Gibraltar Air Transport Advisory Board there is provision for representation of the MOD in the person of the Air Commander, Gibraltar, so I think it should be possible there at least to understand the reasons, if nothing else, even if we do not agree with them, at least to understand the reasons for the increases and, perhaps, make constructive suggestions, I would very much doubt as to the present but certainly as to the future.

HON A W SERFATY:

One of the things that will have to be considered is that as more charters come into the route, and there is evidence that they are coming, more money is going to come into the kitty. That will have to be borne in mind

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

Mr Speaker then put the question in the terms of the Hon J Bossano's motion, as amended, which now read as follows:-

"This House is seriously concerned at the high increase of 57% in landing charges introduced by MOD on 1st April and considers that an urgent report from the Gibraltar Air Transport Advisory Board should be obtained on the matter in an endeavour to have the said charges revised".

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

ADJOURNMENT:

The Hon the Chief Minister moved the adjournment of the House to Monday the 24th April 1978, at 10.30am.

The adjournment of the House to Monday the 24th April 1978, was taken at 12.30pm on Wednesday the 19th April 1978.