

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

23 March 1983

Vol. III

The House resumed at 10.45 am.

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 Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammit - Minister for Tourism and Sport
The Hon Major F J Dellipiani ED - Minister for Housing, Labour
and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Education and Health
The Hon D Hull QC - Attorney General
The Hon R J Wallace CMG, OBE - Financial and Development
Secretary
The Hon I Abecasis

OPPOSITION:

The Hon P J Isola OBE - Leader of the Opposition
The Hon G T Restano
The Hon Major R J Peliza
The Hon W T Scott
The Hon A T Loddó
The Hon A J Haynes

The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

ANSWERS TO QUESTIONS

MR SPEAKER:

I might perhaps suggest to the Hon and Learned Leader of the Opposition that he should move under Standing Order 7(3) to enable questions to be taken out the normal Order of the Day and to do so in respect of all questions tabled for oral answer.

HON P J ISOLA:

May I so move, Mr Speaker, on behalf of all the Members on this side of the House who have put questions under Standing Order 7(3).

HON CHIEF MINISTER:

Mr Speaker, the purpose of this adjourned meeting was to dispose of unfinished business which, first of all, should have come at the meeting prior to the estimates, that is, the Report of the two Select Committees and, secondly, for measures which were urgent which should have been produced at the time of the estimates in connection with the Companies (Taxation and Exemption) Ordinance. I am not going to oppose this but I would like to give notice that whilst we will have our normal meeting early in July, I will at the end of this meeting adjourn to a date yet to be considered for the purpose only of a motion on the question of the future of the Dockyard to which we are committed, and I would like to give notice that on the occasion since there will be very shortly after a meeting of the House, I would not agree to questions being taken then because there will be within days after that another meeting of the House but on this occasion I really do not mind.

Mr Speaker then put the question which was resolved in the affirmative and Standing Order 7(3) was accordingly suspended.

The House recessed at 1.00 pm.

The House resumed at 3.30 pm.

Answers to Questions continued.

MOTIONS

HON M K FEATHERSTONE:

Sir, with your permission I beg to withdraw the motion in my name and substitute it by the following: "That this House notes the Report of the Select Committee on the Landlord and Tenant (Miscellaneous Provisions) Ordinance and the recommendations contained therein and resolves that the said Report and recommendations be referred back to the House at an early date for detailed consideration and decision".

MR SPEAKER:

Since the motion has not been proposed it is still your prerogative to move the motion in whatever wording you wish. By way of explanation you can say the reasons why you are doing this.

HON M K FEATHERSTONE:

Yes, Sir. The position is that the Government has not had an opportunity, as a Government, to look at the Report itself owing to pressure of other work, mainly the Dockyard situation, and therefore it is felt that it would be rather unfair at least on the Government Members to have to make a recommendation on the Report at this stage and also I think that it would give a little bit of a longer opportunity for those representations which are being made, I think both to the Opposition and the Government, to be taken into consideration as well.

MR SPEAKER:

Do you wish to speak on the motion at all?

HON M K FEATHERSTONE:

I don't think at the moment, Sir, it would be advisable, it might be better to leave it all until we come back again and we have the full Government viewpoint, etc.

MR SPEAKER:

In other words, you don't want to speak any further on the actual motion as moved by you now.

HON M K FEATHERSTONE:

No.

Mr Speaker proposed the question in the terms of the motion moved by the Hon M K Featherstone.

HON P J ISOLA:

Mr Speaker, certainly on our side we have had discussions on the Report on the Landlord and Tenants Ordinance and we have seen the difficulties and the problems that exist in it and of course as far as the Bill is concerned we have not had an opportunity to read it at all and therefore we would support this particular motion which enables everybody to go back and think more about it. The only thing I would like to know is what does the Government envisage as the programme because all the motion will do is to adjourn to a discussion and what does the Minister propose, does he propose to come at a subsequent meeting back with his other motion or a different motion? It is not very clear to me what is the proposal on that? I am talking procedurally, really. I have made a very short contribution on the assumption that the intention behind the motion is that we should shut up and not discuss it except at a later stage but I would like to know how the Minister envisages that we are going to proceed or they think we should proceed.

HON J BOSSANO:

Mr Speaker, I don't see the need for this motion at all, couldn't the original motion have been left for a further meeting? I have got a motion that has been put off two or three times already, I cannot see why we need to pass a motion saying we are going to consider the other motion another day.

MR SPEAKER:

I didn't want to influence the manner in which the Minister did what he felt he should do. I entirely agree with what the Hon Mr Bossano has said. At this stage we have already passed a motion allowing the Report to be made public and there is no reason why there should be an interim motion on the lines of this one. The answer might be perhaps that the Minister would like to ask the leave of the House to withdraw the motion and at a later stage he can move the appropriate motion.

HON CHIEF MINISTER:

Perhaps I may say some of the ideas about timing that I have about this. In the first place the draft Bill accompanying this Report and not a Bill, but the Bill accompanying the Report, has been circulated just recently. I hope all Members have a copy of that, and it is rather a formidable piece of legislation, if I may say so, I haven't read it, I may have to promise that I won't read it but I don't know. The idea would be to have a general discussion on the Select Committee's Report and the Bill that is attached.

MR SPEAKER:

May I perhaps say that of course the Report did not have a Bill attached to it. I think the Bill has been prepared as result of the recommendations included in the Report.

HON CHIEF MINISTER:

Yes, it has been circulated to Hon Members and I think it can be presumed that it is part of the Report and therefore my idea is that we should have a discussion, a general debate on the Committee's report in the July meeting, that thereafter we should publish the Bill if it meets with the general approval of the House that it should so be published as a Bill, in green, as a proposal for the change of the law, and that we should have the first reading and second reading at the first meeting after the recess and then have the Committee Stage and third reading at the second meeting after the recess. That will take us to about October, presumably, not earlier than that. That will have some repercussion in an amendment to the transitional powers that is before the House now. I cannot see that Bill or anything that comes out of the wash with representations and so on being put in the statute book before October or November, one has got to be realistic about these things. It is not only like

in the case of the Divorce Report which you agree in principle and then the matter is debated, this is a matter that goes to the root of standards of land tenure and land occupation and rents and so on which can have a very dramatic effect on the economy, generally, and I think there should be ample debate on that. The fact that it has taken so long for the report to be produced is just one of those things but that should not deprive the people from public discussion on a matter of this nature.

HON M K FEATHERSTONE:

Sir, with your leave, I will withdraw the motion and we will put it forward again for the meeting in July.

This was agreed to.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move the motion that stands in my name which is: "That this House approves the Report of the Select Committee on the Matrimonial Causes Ordinance and the recommendations contained therein".

MR SPEAKER:

Do you wish to speak on the motion?

HON ATTORNEY GENERAL:

I was going to speak, Mr Speaker. Honourable Members will have the report tabled by the Select Committee in this House and I would like briefly for the benefit of the House to outline the salient points that are contained in the report. The present Matrimonial Causes Ordinance has been in force since 1962 and essentially I think that offers four main classes of remedy to people who are suffering serious matrimonial problems and if I can summarise them for Members. The first, really, is to bring to an end a marriage that has ceased in real terms to exist. That is the most serious step that can be taken. The second is take a step that is less than ending the marriage but which nevertheless releases one of the parties from the obligation to live with the other party, and the other two major remedies which are contained in the present Ordinance, which are really ancillary to the first two are to make arrangements for the custody and the welfare of the children of the marriage, and I use the term children in a loose sense because sometimes they are children of the husband and wife, sometimes they may be the children of one or other of the parties and, finally, of course, a great practical consideration which is a feature of the present Ordinance, is to make financial arrangements for the children. The major remedy, I think, is to say one way or another that a marriage has come to an end and that can be done in one of three ways. One is to say that the marriage is to be annulled. Another is for the court to

find that the husband or the wife has lived apart from the other party for seven years and has not been heard of and therefore is presumed dead and the third way, of course, by granting a decree of divorce. So far as the first two of those are concerned, I think that they cause no particular controversy because they are both based on the premise that there wasn't a valid marriage in the first place or that one of the parties has died and therefore there are no longer a husband and wife alive but it is the third of those major remedies which of course is the most controversial and that is divorce and the reason, I think, it is controversial and a serious matter is obvious enough and that is simply because our concept of marriage contemplates that it is a permanent relationship while the parties are alive and divorce is the one remedy in the law which while the parties are alive has the effect of saying that the marriage is finished. The first point I want to make about the present law, Mr Speaker, is this, that Gibraltar's present Ordinance already recognises the principle of divorce, but it does so on specific grounds and those grounds are of two kinds. First of all, it will allow a divorce if one party has committed adultery and that can be either the husband or the wife, or if the husband has committed rape or what is sometimes called the unnatural offences it will allow a divorce by the wife but they are the only grounds on which it is possible to get a divorce under the present law, Mr Speaker, is that it is based on the concept of fault, in other words, if one party commits what is sometimes called a matrimonial offence, that party is at fault and subject to certain rules the other party is entitled thereby to a remedy. That is a feature of the present law. The one other matter I would like to stress is that the present law is not in any real sense concerned with the prospect of reconciliation between the parties, it is not concerned to say: "this marriage is in trouble therefore let steps be taken to try and resolve that trouble and bring the parties together", it is really concerned with saying the marriage has come to an end on one of the grounds I have just mentioned therefore this party is entitled to a divorce, I am talking about the divorce situation. Those are the particular features of the present law I would like to mention in moving this motion Mr Speaker: I would also like to address one other point that we had to consider in the Committee and that is our functions in relation the civil law and the ecclesiastical laws because, as all Members know, in Western society marriage is not merely a matter of civil law, it is very widely held as having spiritual elements. All I would say on that is that in the work of the Committee we settled the work on the basis that our function was to consider the civil rules of law and not the ecclesiastical rules of law so that the report has predicated on that basis. In proceedings on our work we had three types of witnesses. We had people who had particular problems and came to us to give oral evidence or sometimes wrote to us to outline their particular problems to us, and other personal problems, problems that affected their own marriages or friends marriages. Apart from that we had a number of oral submissions and a good many written submissions from people who had views on the principles of catholic marriage most notably the churches of course, public and social institutions and other people including people who work professionally in the field of marriage counselling or marital problems such as doctors and marriage counsellors. As far as

possible we thought the best approach was to look first at the particular problems that people brought to us so that we would have some insight into their problems and then go from there to the more general considerations and that is the way we have dealt with the matter. Mr Speaker, I think it is well known that in recent years throughout the West, there have been a number of changes in matrimonial law and I don't mention change for the sake of change I mention that because there has been a lot of research done into the state of matrimonial law and, of course, we have the benefit of being able to look at what other countries have done and in particular the United Kingdom. We have done that but we have not done that automatically in the sense of saying that because it was done there it should apply here. We have drawn on the United Kingdom idea that it would be unrealistic not to acknowledge that the recommendations we have come up with are based of course on changes that have been made in the United Kingdom but we have not looked at them simply on the basis that we must follow them because they were adopted in the United Kingdom. We have proceeded on the assumption that a marriage, in the western sense of the word, is a fundamentally important social institution in Gibraltar, as elsewhere, and one of our major concerns has been to make recommendations that will uphold the institution. When we heard the evidence certain things became quite clear to us and I think the first of these was that there are in Gibraltar, I wouldn't talk in actual numbers but there are in Gibraltar people who are suffering severe matrimonial problems and are suffering severe unhappiness because of their matrimonial problems for reasons which are not necessarily attributable to the grounds which at present constitute grounds for divorce. I think there are three recognisable situations where people have these problems but which have nothing to do with adultery and one and perhaps the least of the three is the case of desertion. You have cases where somebody has deserted the husband or the wife for a long period of time so that there is no real prospect of the couple getting back together again but of course there is no question of adultery having been committed, certainly no question of it being proven but in many cases no question even of it having been committed. A second is a more common ground, I think, is the case where a couple have got married at a very young age and normally of course that would be the girl who gets married at a young age. The law in Gibraltar at present does enable a girl to get married at the age of 14 years and it was quite noticeable that there are cases where this has happened and of course usually it is because of a pregnancy and because the girl was so young when she got married and sometimes even the boy who was young as well, they had not entered into the marriage with a full appreciation of the responsibilities and the obligations that entails. And the third category which is not really covered by the present law and which I personally have the impression, and I think that the Members of the Committee will agree with me, is possibly the most important category, it is the case where the couple are incompatible and by incompatible I don't mean that in a light sense but incompatible to the extent where it is causing very serious matrimonial discord in the family. Incompatibility is an expression which people do get nervous of because it can be used loosely but I would like to state that in the case that we are talking about, the cases that we have in mind, we are talking about serious incompatibility

that really breaks down the harmony of the house in a very serious sense. In addition to that there was evidence to the effect that while normally children would be less able to develop in the ordinary way within the stability of a marriage, there undoubtedly are cases where the marriage is so unsound that the best solution for the child's happiness is to go with one of the parents to the exclusion of the other and start a new life. This is a matter which caused us a lot of concern but in fact the evidence that we have is that clearly there are cases where it is undoubtedly the best solution. Finally, Mr Speaker, on looking at the evidence, summarising the evidence, I would make the point that there were a number of submissions to the effect that there was concern that if the divorce laws are liberalised that it would gradually erode the social fabric, in other words, that to widen the grounds for divorce would encourage an increasing lack of responsibility and an increasingly casual relationship between people and therefore would break down the stability of social life. Mr Speaker, our recommendations are set out in the report and the view that the committee came to was that there are clearly cases that go beyond the present law where the marriage relationship has broken down and for that reason we recommend the continuance of the principle of divorce but we also think that it is couched in the terms which are too narrow in the sense that they don't cover all the cases of real hardship and on the other hand are unsatisfactory in the sense that even though a party may be able to plea on one of these grounds for divorce such as adultery, it does not necessarily follow that the marriage should be treated as at an end because of that. We looked at the English law and our recommendation was of course that there should be a single ground for divorce introduced, mainly irretrievable breakdown of marriage, and the report so recommends. The object of that is to try and advance the principle which will support marriage where it has not broken down but will allow a rational ground for a divorce where it has broken down and in doing that, of course, we introduced a number of what we saw as safeguards. In particular we felt that the cases in which a person should be able to seek a divorce because of irretrievable breakdown of marriage that was attributable to unreasonable behaviour should be strictly defined because unreasonable behaviour is a loose term, a flexible term, and we felt that it would be better to err on the side of caution and actually spell out what constitutes unreasonable behaviour. At the same time, Mr Speaker, we were also concerned that apart from restating the ground of divorce we should recommend measures that were aimed at encouraging reconciliation and in broad terms what we have done here is to recommend, first of all, that certain duties should exist on the part of legal advisers who find themselves dealing with people who are contemplating a divorce and, secondly, that the courts, and when I say the courts I mean the Supreme Court, should have the duty at all times when considering proceedings for divorce to have regard to the question of whether or not it is possible for the parties to reconcile with each other. How realistic that is in particular cases I think remains to be seen, I think elsewhere my impression is that it is a lesser rather than a greater number of disputes which are resolved through reconciliation but we were concerned to emphasise the need, the importance of having provisions for reconciliation and so there are these two elements in the legislation as such,

(a) place duties on lawyers, and (b) to place an obligation and powers on the courts. Going outside the law as such we also have made recommendations concerning the availability of marriage counselling facilities in Gibraltar. They exist already, of course, but we have made, as it were, by way of an aside, recommendations for extending marriage counselling in Gibraltar. The other particular matters I would like to mention, Mr Speaker, are that we have also recommended following the wider English provisions that relate to the custody and welfare of children in the event of proceedings under the Matrimonial Causes Ordinance and also, I would say, the rationalising of the laws relating to financial arrangements because at the moment in Gibraltar the arrangements tend to be not necessarily equivalent, the rights of the wife are not necessarily the same as those of the husband and our recommendations in this respect are really aimed at putting the husband and wife on a par. It doesn't mean of course that husbands will be able to obtain alimony when they get a divorce but in principle we think that the powers of the court should be the same in respect of both the husband and the wife and so the Report contains those recommendations. Because it was noticeable in the evidence that was before us that some difficulties in marriage are clearly applicable to one of the parties and more particularly the girl marrying at a very young age, we have also made recommendations in relation to the minimum age of marriage. The recommendation is that it should be raised to fifteen for a girl, it should remain at sixteen for a male but that permission to get married under fifteen for a girl should be given only in exceptional circumstances and should be given by the Supreme Court rather than by anybody else, there is a recommendation to that effect. Although I have dwelt on divorce, Mr Speaker, that is not the only remedy which the Ordinance contemplates and under the present law there is a difference between the grounds on which one can get a divorce and those on which one can get a separation. If the context of irretrievable breakdown of marriage were adopted as the standard for divorce, then it seemed to the Committee that there was every reason why the ground for judicial separation should be reviewed so that it was the same basis as the basis which obtains for a divorce subject to this important reservation that you should be able to get a judicial separation whether or not the marriage has broken down irretrievably whereas of course in a case for a divorce you would also have to satisfy the Court that the marriage has broken irretrievably. One other matter I should mention, Mr Speaker, is the rather quaint, if I may say so, remedy of restitution of conjugal rights which in principle is a remedy available now which directs a husband or a wife to return and live with his partner which is, I think, a rather unrealistic remedy to try and enforce. Its main practical purpose is that it can be used as a basis for subsequently getting a separation. It has been abolished in other places, statistics show it is hardly ever invoked here and in recent years there has only

been one application, and if the Report is adopted, Mr Speaker, part of our recommendations would be that there would no longer be a need for this particular remedy. Mr Speaker, I have moved this motion with some trepidation. I don't know whether this House may be aware that the last Attorney-General I know of who was rash enough to move a motion on matrimonial causes was Solly Flood, who was Attorney-General in Gibraltar in the late 19th century, and it was pointed out gently to me that after he made his recommendations he shortly thereafter left Gibraltar so I have gone forward with some reservations, Mr Speaker, but I commend the Report to the House.

Mr Speaker then proposed the question in the terms of the Honourable the Attorney-General's motion.

MR SPEAKER:

Is there any Member who wishes to speak on the motion?

HON J BOSSANO:

I would have thought, Mr Speaker, that the views of the members of the Select Committee are known in print. We want to know what the people who are not in the Select Committee think.

HON CHIEF MINISTER:

In the first place, Mr Speaker, it was made clear at the time when the original motion put by Mr Bossano was concerned, as far as we are concerned I think it is the same case on the other side of the House, this was a matter of conscience and there is no party view on this matter, people should vote according to their conscience in a matter of this nature. For my part at this stage, I will have more to say in another context, at this stage I would like to congratulate the members of the Committee and particularly the draftsman of the Report, it took a rather long period of gestation but it was a lovely little child that was born as a result of that. I am sure that all of you had a little part in the process but any Legislature of any territory whatever its size would be proud of a Report of this nature whether you agree with the contents of it or whether you do not agree with the contents. I think the Chairman and the members of the Committee are to be commended for a very good piece of legislative work which whatever the results or the outcome of the thing will stand as one of the landmarks in the work of this Legislature. The first thing that I think is particularly important is that this is a unanimous Report. Very few people when the Select Committee was appointed and when we attempted in all fairness to reflect the various shades of opinion of the House, hardly thought that a unanimous Report would be produced and I have had it confirmed from Mr Featherstone that he has subscribed

to this Report but perhaps because he saw the problem at a close quarter in the course of the long deliberations of the Committee that he was convinced. Sometimes it is the lack of knowledge of situations that make legislators deal with different matters, others may feel very passionately about it whatever they hear. I think it is a tribute, as I say, to all the Committee that it was possible to come with a unanimous view. With regard to the Bill which is attached, again in accepting the Report it accepts that the Bill as it will be published as a proper Bill later on and it goes to First and Second Reading and then give time for reflection in various matters of detail. I have not compared all the provisions, I see that some of the later provisions in the United Kingdom regarding the question of the sharing of property and so on has been left rather more for the future with only a slight reference, but I think enough reference for the moment, but we would like to see that and if and when the Bill is published I hope it will be possible to provide on the margins those sections of the English law which have been incorporated because it will be very useful particularly if it becomes law in arguing particular cases before the Courts if you know that a section has been listed from an English Act on which there have been a number of decisions. This is always very helpful when appearing before a Court and arguing our own Ordinances, those which do have a base on the English Acts. I spent two and a half hours yesterday afternoon in an appeal comparing a section in the Gibraltar law to a section which ceased to be law in 1923 in the United Kingdom which is law here but still the decisions that were taken on that section, as indeed many decisions that have been taken in sections which have been taken from the English Act, would be a great help for doubtful cases. As I say, at this stage I would like to welcome the Report and say that Members of the Government are completely free to vote in this matter in accordance with their conscience and to say that certainly the results of the Select Committee has been a very lucid, human, humane and worthy Report.

HON P J ISOLA:

Mr Speaker, it was my intention, in fact, to speak on the amendment of the Minister for Economic Development of which we have been given notice, an amendment in respect of which I have a lot of sympathy but I should perhaps say something whilst reserving my right to speak on the amendment on the matter. As far as the members of my party are concerned we have a completely free vote on the issue of divorce, there is no electoral mandate on divorce as far as the Party is concerned, there is no party line on it, the whole issue is being left to the conscience and to the good sense of the members of my party and therefore the views I express in this are my own personal views. Mr Speaker, may I say that the Report has been extremely well written, we have been given reasons for the recommendations that the Committee have put forward to the House, they have been carefully drafted,

carefully martialled and extremely well presented. I hope that my disagreement with the conclusions of the Report of the Select Committee is not taken as any reflection on the hard work that the Committee have put into the formulation of their Report and the careful explanation they have given of the reasons for their recommendations and also the careful manner in which they have tried to mitigate the effects and the undoubted harm that will result to Gibraltar society as we know it from what virtually will be easy divorce. I know the Committee have taken great care to show that they are not promulgating easy divorce. I think they have taken care to show how they restrict the ability of the people to get divorced, for example, in the first five years of marriage but unfortunately, Mr Speaker, the facts and history are against them. The Committee, I was pleased to see, in paragraph 27 of their Report they say: "In the first place, we consider that it is axiomatic that marriage is a fundamental institution in Gibraltar society" - and I would add 'in any society' - "By marriage we mean the relationship we have referred to as the voluntary union of one man and one woman intended at its inception to be a permanent union for life. We believe this to be the basis of family, social and spiritual life in Gibraltar" - and I would add 'and elsewhere in a democratic society' - "and that the law should be concerned to recognise this institution. We also consider that care is required in recommending changes to the law governing marriage because such changes may have an effect on the stability and well-being of society". I would, Mr Speaker, endorse every single word in that paragraph of their Report. I think they have projected the ideal perfectly. There is no question about it, I am sure all Honourable Members will agree, that a stable society demands stability in marriage and stability of the family unit. I am not going into the religious aspects, the Christian principles or non-Christian principles, or anything else on marriage, I am going on what I think every Government in every country believes to be the fact that the family as a unit is the most stabilising factor in any society. This, I think, is basic and I am glad to see that the Committee accepts that premise, and because they accept that premise they recommend such things as marriage counselling, preparation for marriage, after marriage breaks down obligation on the part of the lawyer to ask the client whether there is any chance of a reconciliation, the introduction of the Church as a conciliatory body, all aimed at preserving the marriage. I applaud the Committee for recognising the need for these counselling services, the need for these advisory services, the need to keep a marriage going as far as possible and I should here say that one thing I must disagree with the Report of the Committee, that the lawyer is a good person to give advice on the matter of reconciliation. My own experience as a lawyer is that somebody comes into my office and tells me what a terrible man her husband or wife has been, gives you a story which you immediately believe, makes you horrified about it, you say:

"Well, cannot there be reconciliation?", they say: "No chance at all. Look at this" and you get a black eye here and something else there and you immediately say: "Right, into Court we go, we'll teach this man or this woman her business", and you issue proceedings and fifteen days later the person comes in and says: "Look, forget all about it we have now made it up, we have reconciled". The lawyer I don't think is a very good vehicle here but, anyway, if lawyers can help obviously this is an extremely good thing but I am glad the Committee stressed in their Report their aim to keep marriage going and their aim to have counselling services and so forth. All that part of the Report, Mr Speaker, is excellent, in fact, the whole Report is excellent, it is very well reasoned out and very well argued out. Mr Speaker, my only problem is that I don't think the conclusions support the premise, the premise being to keep a family stable, to encourage the family unit in society and the reason I say that is not out of any disregard for the members of the Committee and for their efforts but unfortunately history is against them, the facts are against them. The recommendations of the Committee are that there should be only one ground for divorce which is irretrievable breakdown of marriage. That ground for divorce, Mr Speaker, is basically that enshrined in the Divorce Reform Act in England of 1969. I agree they have suggested certain slight variations which are intended to help matters go further but basically what the Committee have recommended is the Divorce Reform Act of 1969. What happened in England where I am sure the Commissions on divorce had the same laudable motives as our Select Committee? What are the facts, and I read from a pamphlet, I won't say who it is issued by, perhaps I should say that it is the Conservative Political Centre, a Report by a research sub-committee of the Society of Conservative lawyers. They are quoting facts. I picked it up in London in one of my visits there. It says: "In 1968 there were 55,000 petitions filed in England and Wales for divorce. By 1979, that is ten years after the Divorce Reform Act which streamlined divorce and had the same ideas as the present report, by 1979 there were 146,000. In a period, Mr Speaker, of barely just over 10 years, the petitions had gone 3 times up, from 55,000 to 146,000. In 1977, 129,000 petitions resulted in decrees absolute compared with 356,954 marriages in that year, so that the ratio of marriage to divorce was 3 to 1. These figures should be compared with some 29,000 divorce petitions filed annually in the late 1950's. The couples divorced in 1975 had 202,475 children of whom 145,096 were under 16. The total number of adults and children directly affected by divorce in that year, that is 1975, was 443,519, almost equivalent to the population of a city such as Bristol. It is impossible to argue, Mr Speaker, logically, in my mind, that we support the institution of marriage, we support the stability of the family and we support the institution of a family as being absolutely necessary in a society and at the same time bring in a piece of legislation that makes possible, much more possible and much more easily the break-up of that

family, the break-up of that institution. There was a report published about 3 weeks ago and I can't remember the report, I don't think it was from the Conservative Central Office, I think this was from somewhere else, some statistics Office, where it said, "In England today, one in five children can expect to reach the age of 16 with the family broken down, the parents separated or divorced". One in five of children do not reach the age of 16 without having had the traumatic experience of the break-up of their parent's marriage. These are the statistics, Mr Speaker, these are the statistics that have occurred without any doubt in the United Kingdom since the Divorce Reform Act was passed in 1969, so that it is no use, in my view, and I am trying to argue logically, or ruthlessly, or whatever word one might like to use, it is no use promoting and holding up as the ideal of society a stable family life and a stable marriage and in fact doing quite a lot, which I can see the Committee do do to maintain that stability and that permanence in marriage but then, unfortunately, allow easy divorce with consequences that the records in other democratic societies have shown to be disastrous for the institution of marriage. That is my basic objection of principle to the report and that is that if we consider the family to be the foundation of our society and if we consider that marriage as an ideal, I don't say it happens in every case, that marriage as an ideal is a union for life and that that is the vital link which binds the family then, obviously, easy divorce will not further that objective. If there is a failure to live up to the ideal, Mr Speaker, of stable family life and the permanence of marriage, if marriages break-down or are unstable, then the whole of society is weakened and that, I don't think, is desirable. I have not got a solution, Mr Speaker, don't think I have, I think that the experience of democratic societies, take the case of the United States of America and now the United Kingdom, of easy divorce has tended to weaken marriages, has tended to disrupt the family as the main unit in that society. I know it is argued, by many that in societies where the family unit is maintained and is stable, that it is a forced stability, it is a forced situation where people can't divorce and therefore, of course, there are very few divorces. I know these arguments are used, Mr Speaker, but I cannot believe, for example, that in a situation as in the United Kingdom where you could get a divorce before the 1969 Divorce Reform Act, on the grounds that you did not like the toothpaste your partner used in the bathroom because it upset you and that amounted to cruelty, or the way he washed his teeth amounted to cruelty, and you could get a divorce on those grounds, I cannot agree that the Reform Act of 1969 suddenly liberated a lot of people who could not have got divorced before under the existing legislation. It just wasn't the case. What the Divorce Reform Act did, and it was logical, I agree, it is absurd to have all these grounds there used to be before of how many people would get a decree of divorce. But be that as it may, the Divorce Reform Act bringing the general ground of irretrievable break-down of marriage, what it did, Mr Speaker,

and the statistics are there, was to increase the number of divorces 100% over a period of 10 years in England. If you genuinely believe, if you genuinely promote the idea of a stable family life, if you generally promote as the committee, I believe, generally promote the idea of the permanence of marriage, then, Mr Speaker, the facts are against them in putting in a report suggesting the amendment of a law which requires and which will bring about in Gibraltar a great number of divorces and I think this is recognised by the Committee who suggest there should be an additional judge to deal with divorces for the time being. I am afraid, Mr Speaker, I fear for the stability of our society as we know it, with easy divorce. I said Mr Speaker, that I did not have solutions in the sense that I recognise that there are cases, very hard cases, where marriage has broken down and it is impossible for one partner to live with the other I recognise that and it is very hard and very difficult and at the moment the law only allows divorce on the grounds of adultery and what we are told is, well, if one already has a ground of divorce, adultery, one already has it, all we are doing is amending it, bringing it up to date, and so forth. There is a lot of logic in that argument, there is a lot of reason in that argument if I could be persuaded, Mr Speaker, that the result of that legislation is not going to be the rate of divorce that the United Kingdom has experienced when it changed from all the various grounds that existed up to 1969 and which had plentiful divorce cases in the courts, when it was all changed dramatically to a complete deterioration in the situation of the family with the consequent suffering to the children of the marriage. That is a factor that the Committee in their deliberations have not given up, in my view, as much attention as they might have done, the effect on children of divorce. Mr Speaker, the effects on children is I think the most serious aspect of easy divorce, the effect of children to the marriage. Children are prepared to put up, in my view, they are prepared to put up with a lot to keep their parents together, to keep the two sides of the marriage together. They are prepared to put up with a tremendous amount and they do in many, many cases. I agree there are cases where it is just impossible to keep the marriage couple together any more and then marriages break-down. But think, Mr Speaker, of the disastrous consequences where there are children of a marriage that one partner suddenly decides that he has had enough of the other partner, for no particularly good reason, and wants to go away. Should it be easy for that to be done Mr Speaker? The Committee say no. They say no and they bring in a certain numbers of protective cover, as it were. But the truth of the matter is, Mr Speaker, that the Divorce Reform Act of 1969 in England provided and brought about easy divorce with all the consequences for society in England. And it will have the same effect here and it is impossible to predict, Mr Speaker, it is impossible to predict the effect of easy divorce on society in Gibraltar because until we have it we do not know what will happen. But in England they have it and a sub-

committee of the Society of Conservative Lawyers, lawyers, in other words people who have experience and have been in and out of the courts on divorce, were sufficiently concerned about the effect of the Divorce Reform Act 1969, over a period of 10 years in the United Kingdom, to recommend a new Royal Commission on Divorce and they did their general conclusion and I quote; "The family is the foundation of our free society. For the great majority of people in Britain the family is formed by the institution of marriage, which is a union for life and is a vital link which binds the family. The past decade, that is, since the Divorce Reform Act of 1969, the past decade has been an enormous rate of marriage break-down and marital disharmony. The financial consequences of this alone to say nothing of the human misery, calls for enquiry. At the same time, the state has actually withdrawn from buttressing marriages and the future of marriage is now being questioned. The state must now decide whether it should resume responsibility for preserving marriages or whether it should go so by providing a network of support for the family and by reform of the divorce laws". This report poses these questions. "(c) Is it time for an enquiry? and (b) Should a Royal Commission be appointed to study the problems and to report within a limited period on marriage, divorce and the family. The answers must surely be yes". Mr Speaker, this is just a sector of people in England, how they are thinking. I do not know what labour lawyers would say, I don't know what Communist lawyers would say, I do not know. But this is a sector who have gone into the problem, have gone into statistics and say that after 10 years of this, in the United Kingdom, we feel that the foundation of our free society is threatened. Mr Speaker, I believe that the Select Committee seriously have considered all their recommendations, have gone into it bona fides and in the very best of intentions recommending a legislation which they feel will still promote the idea that marriage is a fundamental institution in Gibraltarian Society. They have proposed legislation which they feel will help further that aim. My quarrel with them is that the fact of another society that did just that in 1969 has been wrong, disastrously wrong and I ask the question; are we entitled without a mandate from the people, without it being party political policy in any party except that of my Honourable Friend Mr Bossano, but I know notice that he has made that party political policy without first submitting it to the electorate, but apart from his party are we going to pass a piece of legislation which on the face of it looks fair, looks reasonable and looks necessary, depending on which way you look at it, when we know the disastrous result that it has had for the stability of society, the stability of the family and the stability of marriage elsewhere. My answer, Mr Speaker, is, I express my gratitude to the Committee for the very hard work they have done, I admire very much the efforts they have made to preserve that principle of the family as being the fundamental institution of Gibraltar but with the greatest of respect to their deliberations and explanations, I cannot agree with their conclusions.

HON J BOSSANO:

Perhaps if I stand up at this stage the Honourable Minister for Economic Development might decide not to proceed with his amendment. Let me say Mr Speaker, that as a Member of the Committee I am speaking not on behalf of the Committee but on my own behalf. I think that the views of the Committee, the collective views of the Committee are those which we produced in the report which was a consensus which I think took into account the fears that have been expressed by the Honourable and Learned Leader of the Opposition and in spite of all his nice words about the sterling work of the Committee, what he is saying at the end is that he is consigning it to the waste-paper basket and that, to me, Mr Speaker, means a total waste of 3 years of work and, in fact, a slap in the face for the people who came and were totally honest with the Committee in explaining the problems that they faced. And it is not enough, I think, Mr Speaker, to say: "We know there is a problem, I do not know what the answer is, but the answer cannot be this because in UK there have been more divorces after the law was reformed than there were before". Well, it is obvious that there are more divorces. When we are enquiring whether there is a need what we are enquiring is whether there is an unsatisfied and genuine demand which society should be meeting. If there was no increase in divorces, there would be no need to change the law. But are we talking about families breaking up as a result of the divorce law, or are we talking about eliminating the hypocrisy of not recognising what has already happened because that is what we are talking about. We are not talking about an increase in family break-ups, we are talking about giving people an opportunity to re-marry. I made this point three years ago in this House of Assembly, Mr Speaker. When we are talking about divorce we are not saying that people who are happily married are going to be forced by the state to separate. People have got the right to live separately now. We had people coming to the Committee who have got grandchildren, Mr Speaker, from their second wife except that society does not recognise the second wife, it still recognises the first one with whom he has not lived for 30 years. What right has the electorate of Gibraltar to deny a person like that the official recognition of the de facto situation. I cannot understand how anybody can explain to me how that will bring down society or how anybody can be asked in a referendum to determine that. That, to me, is inconceivable. I honestly believe Mr Speaker, that the Committee was impressed most of all, certainly I was, by the genuineness of the individuals affected. The evidence is there and the Committee decided that we had to respect the confidentiality and make available the report but not the actual cases and not the actual evidence. But I would say that if there are members who have still got doubts or reservations, then the Committee should seriously consider making the evidence available on an equally confidential basis to any Member of this House that is still not convinced because I am absolutely convinced in my own

mind that anybody who reads those cases would have to be made of stone not to see the need for responding. When you have got a situation where somebody tells you, Mr Speaker, that they have been separated from the husband 3 months after being married and being left with a child, and that they have been told by a lawyer that if they invent adultery they can get a divorce but they are too honest to invent adultery, how can we say in this House, "Well, no, because we must stop people divorcing so you stay undivorced unless you are prepared to commit another crime by lying under oath in court", or else the House recognises the problem there but are not willing to do anything about it. I think it is in fact wrong and it makes a nonsense of the stability of marriage as an institution and of the family unit in a society if, in fact, we all know and many Members of this House know professionally that this is the case from personal experience of cases who come to them for advice and help in a professional capacity, if we all know this is going on and we chose because it is more convenient to look the other way. I think the House has got an obligation, Mr Speaker, to put leadership in this case, I think the Select Committee has given everybody ample opportunity to put their case. And let me say that although we have been talking on more than one occasion here in the last motion 4 years ago about the thing of not being a question of religious belief intervening, it being purely a question of a belief about the importance of the family unit and the importance of the stability of society, the fact of the matter is, Mr Speaker, that of all the people who came to the Select Committee, all the ones who were against were of one denomination. All the ones of all the other religious denominations who are also members of our community all came to give evidence in favour of reform. It so happens that only the witnesses who were Roman Catholics were the only witnesses who came along and told us; "It has nothing to do with religion but I don't think it has got to be changed". But the people who came up from the Anglican Church or the Jewish faith or of any other religion, they all came and told us that they were in favour. It might have had nothing to do with religion but there was a clear coincidence which the Honourable Member, who likes using statistics so much, will see that there is a correlation between these two things. What astonished me, Mr Speaker, because it was a new discovery as far as I was concerned, in having the official position of the Church explained to me, which finally convinced me once and for all, was that, in fact, the church does not recognise a civil marriage between Catholics which is not consecrated in church. As far as they are concerned they are quite happy to marry in church somebody who has been married in the civil registry before if those people can get divorced except that the law does not allow them to divorce. What the church permits the law does not permit and what the church does not permit the law does permit and it seems to me that the biggest group in society which is the Catholic group in our community, tells me as a Member of this House that as

far as they are concerned if Catholics marry in the civil registry they do not recognise that that is a marriage in the eyes of the church, it is not a sacrament, and therefore they consider them to be living in sin and they forgive them because they are sinners and they remarry them to somebody else. Except that if they did it that would be bigamy in the eyes of the state but nothing wrong would have been done in the eyes of the church. The church does not recognise non-Catholics having the right to re-marry because as far as they are concerned since they are not Catholics their civil marriage is valid. So what is the church then saying? That they object in fact to the only group that they have got no jurisdiction over, which is the non-Catholic group who themselves do not object. I know that it has been said before that it is not the religious view that counts. I myself think, Mr Speaker, honestly, that people may not be able or may not wish to put across the view that it is a question of conscience that enables them to put forward an argument against it but I honestly believe that you cannot separate the two things because of the coincidence of where the arguments come from and the religious views of those who put the argument. I think that the position of the church is a matter which concerns me not at all, it is a matter for people who are practising Catholics to ensure that they obey the teachings of their own religion and I respect everybody's religion whether they are Jewish or Muslim or Catholics. As far as I am concerned it is irrelevant. I treat people for their integrity as human beings and not for the colour of their skin or the religion they profess so that is not an issue. And I said, Mr Speaker, answering the last point made by the Honourable Member, I said in 1980 that although it is a policy of my party and we are committed as a party to reforming the divorce laws which we consider to be completely out of step with the realities of modern life, although we are committed, I didn't think it was a good thing for Gibraltar to fight an election campaign for or against divorce because then I think we would be pushing the church, whether they like it or not, into coming out and advising Catholics how to vote. And unless we have one single issue then we have a situation where people may agree with three quarters of the manifesto but they are told by the church, as happened in Malta at one stage, that they would be committing mortal sin if they cast their vote in a particular way. That is not a situation we want to encourage in Gibraltar and I don't think it is right that we should make this an election issue but, certainly, if the House does not pass the legislation and if there is an election in the course of next year, my party will be including it in its manifesto, there is no question about that.

MR SPEAKER:

We will now recess for tea, after which we will continue the debate.

The House recessed at 5.15 pm.

The House resumed at 5.50 pm.

HON A J CANEPA:

Mr Speaker, in considering this report or for that matter the whole issue of divorce, I want to make it abundantly clear that I am setting aside my own religious beliefs which as I am sure is well known, are based on the teaching of the Catholic Church and which I accept as a practising and committed Christian. I am therefore more concerned to approach the matter here this afternoon from the social point of view and I have no difficulty in doing this because I do not think that I should impose my religious beliefs on (a) those who belong to another faith and which may permit divorce, or those who belong to no religious faith or who having practised in the past their religious faith, now do not do so and therefore do not any longer accept the rules of the club to which they once belonged. I note and I welcome the fact that the Select Committee have been concerned to promote marriage as an institution and that they recommend certain important measures in this respect but I predict that what would obviously follow the implementation of Committee's recommendations is that there would invariably be an inexorable increase in the number of divorces over the years. The situation may never become as bad as in the United Kingdom where the dissolution of marriages has now reached an alarming level with all its unfortunate consequent results. And although it is intended that more stringent conditions should be attached here in Gibraltar in the proposed legislation than in the United Kingdom, there will inevitably be pressure in the future to make divorce yet easier. Although I honestly believe that it will therefore become difficult to sustain the Committee's concern not to undermine the fundamental institution that marriage is, I am prepared to recognise that this report is a good report. I do, however, take issue with paragraph 80 of the report and hence the amendment which I shall be moving. Mr Speaker, during the 1976 election campaign, Mr Eric Ellul campaigned vigorously for the reform of the divorce laws and he was not elected. Had he been elected I think that Mr Ellul himself could have defended the argument that he had a definite mandate to follow up his election and to try to convince the Members of the House of Assembly. At least, he would have had a mandate to do precisely what Mr Joe Bossano did after the 1980 election even though, as is well known, Mr Bossano did not on that occasion campaign on the issue of divorce and, therefore, whilst in my view Mr Bossano had no mandate to introduce that particular motion, I think someone who stood for election as an independent and who specifically made the reform of the divorce laws an important plank in that manifesto, would have a mandate to try and pursue the matter here in the House. And for that matter I would also

say that not only Mr Bossano, neither did anybody else who stood for election in 1980 have a mandate because the issue of the reform of the divorce laws did not form part at all of that election campaign, certainly not in the case of the two main parties which were both silent on the matter. Mr Speaker, this by itself might not perhaps be a compelling reason as to why we should hold a referendum on this issue because either this issue or any other issue which might come up during the term of office of a legislature is one which the Governing party with its majority could pursue and the governing party could legislate on that issue even if they had been silent in their electoral manifesto, if that governing party considered that a majority of the electorate would be in favour and that therefore it would accordingly not prejudice its position at the next election. But what is significant, Mr Speaker, in my view, is that in fact the two main parties represented in this House have not since 1980 formulated a party view on the matter and as we have heard from the respective leaders this afternoon there is a free vote on this issue. It is this in my view, Sir, which provides the second and the stronger ground for a referendum to be held. Both parties have agreed to a free vote, or to a vote, as a matter of individual conscience, and in doing so they have not only shown that each side of the House is divided on the issue but have also in effect decided that Members of the House should act as individuals and not in a sense as politicians. In my view 15 individuals should not have the right to decide a matter of conscience when they do not know how those who have put them here in the House feel on such an issue. Every individual on the electoral register should have the opportunity to express his own view on the matter and that some will not in the event make use of this opportunity is a matter for them but it should be there, the opportunity should be there, for those who would want to utilise that opportunity. It will probably be argued that the electorate has been given two such opportunities by the Select Committee. But what the report does not do, what it does not attempt to do, is whilst just briefly describing the nature of the representations which it has actually received, it does not quantify them in any way nor does it state to what extent it was influenced by the arguments which have been put to the Committee. By implication, the Committee appears to have been swayed by those who favoured an extension of the grounds for divorce, and why was this? Was it because it coincided with its own view? In any event, many people who have a view on the matter either way will no doubt find it much more acceptable to express that view in a secret ballot and by giving a simple yes or no than to have pen to paper or appear before the Committee. As I say, Mr Speaker, the electorate have never really been given an opportunity to say whether they want reform of the divorce law at all and if so, whether they want it in this manner. And because of the divisions on what is essentially a matter of conscience here in this House, which are evident here in this House, and

outside, it should be decided in a referendum with a simple majority to decide. It is the device which is used elsewhere in Western democracies, though not in the United Kingdom, to decide on precisely this sort of issue. But all that has happened here is that a Select Committee has been set up which has heard the views of a small number who have given evidence to the Committee. How many have, in fact, been consulted? What percentage of the electorate do they constitute? They are evidently a minority, a minority which is affected by the present laws and which have naturally been vociferous in the past in the press and later on in the representations which they will have made to the Committee. But for those who believe otherwise it is not easy to write letters to the press against what may appear to be the tide of public opinion. To do that takes considerable moral courage for there is always the danger of being vilified in subsequent correspondence. I don't think, Mr Speaker, that the proper democratic processes will have been followed on this matter if we proceed to legislate without a referendum. The issue has not been adequately debated as it would in a campaign on the referendum or as it would in an election campaign, and the danger is therefore that a handful of men with a majority in the House but with no mandate, will vote the matter through according to their consciences. In paragraph 27 of the report, on page 7, the Committee has stated, and I quote "We also consider that care is required in recommending changes to the law governing marriage because such changes may have an effect on the stability and well-being of society". Therefore, Mr Speaker, because of the effect that it is going to have on that society I maintain that much wider consultation of society is required. They went on to say in paragraph 31: "Clearly if the law is going to be efficacious it must have the support and the respect of the majority of the community. In Gibraltar a substantial number of people are opposed to divorce on religious grounds. That may well be the case but in my view these people who are opposed on religious grounds probably represent a minority and in any case many of those are likely to be people who would not wish to impose their own religious beliefs on others and deprive others of the opportunity of having a marriage dissolved under rather more honest grounds than what we have under the present legislation. But I think that whether such proposed legislation has the support and the respect of the majority is a matter that should be gauged and that can only be adequately done through a referendum. But the crux of the whole matter, Mr Speaker, is to be found in paragraph 80 of the report where no doubt anticipating that I was going to move an amendment to hold a referendum, the Committee actually considered the matter beforehand and the Committee then had to say on this issue: "There is no doubt that there is a substantial body of opinion that is opposed to the concept of divorce. This is likely to be reflected in a referendum. In this instance we consider it to be particularly important for the House, if it is itself persuaded of the need for review, to

lead and form public opinion on the issue. In any case, we consider that in principle it is correct to do so in all but the most exceptional circumstances. Accordingly, we recommend that there should not be a referendum". Why, Mr Speaker? Is the Committee's reason for not recommending that there should be a referendum the fact that there is a substantial body of opinion that is opposed to the concept and that therefore they are afraid that if the question of reform of the law on divorce is put to the electorate in a referendum the matter will be lost? If that is the case it is quite astonishing. It is quite astonishing that the Committee would be seeking to overrule the majority. If that is the case, but I do not think that is the case and I do not think that the Committee would wish to say that the majority of people if they are likely to oppose a widening of the grounds for divorce they should not therefore be given the opportunity to do so. I think that that would be contrary to all democratic principles and in this case it would be the minority that will be prevailing. I know that many people oppose the widening of the grounds for divorce because of the ill-effects which they believe that this would have on the society of which they and their children form just as important a part as the relatively small number of people who are undergoing, and I quote the words of the Committee "real hardship and suffering" but I am disappointed that no regard seems to be had to the essential principle that bad cases or hard cases make bad laws. But where I believe that the Committee is fundamentally mistaken is in their assessment of the numbers who would vote against the issue of reform in a referendum. I am convinced that there is a majority in favour. I am convinced that even if the Catholic church were to mount a campaign against it it would not succeed. The numbers of practising Catholics is low, no more than 25%. And even amongst those there are many who though not wanting this reform for themselves would not wish to see it denied to others. I count myself amongst those. So if a referendum were held, there would be a majority, in my view, in favour and thereby I think that this would provide an essential and definite mandate for legislators and it would at least give the minority view, the minority opposition to reform, the feeling that they have not steamrollered as will be the case if we proceed without a referendum. As to the mechanics of the referendum, Mr Speaker, I think the question that should be put is more or less in terms of (d) of the amendment which I shall be moving and I think that it would be essential that a leaflet should be made available to the electorate in Spanish as well as in English, setting out paragraph 47 of the report which is the cardinal, the fundamental paragraph in the report of the Committee. Mr Speaker, for those reasons I therefore beg to move the amendment to the motion which I have given notice of, that all the words after "House" should be deleted and substituted by the following "(a) notes the Report of the Select Committee on the Matrimonial Causes Ordinance; (b) notes that no electoral mandate exists on the question of divorce; (c) notes that the two main parties represented in

this House have not adopted a party view on the matter; (d) accordingly resolves that a referendum should be held in order to ascertain whether public opinion is in favour of the recommendations in the report that the single ground for divorce should be that a marriage has broken down irretrievably and that a divorce should be granted in cases where the facts set out in the Select Committee's recommendations are established to the satisfaction of the Court." Mr Speaker, I commend the amendment to the House.

Mr Speaker proposed the question in the terms of the Honourable A J Canepa's amendment.

HON A T LODDO:

Mr Speaker, I am glad that the Honourable Minister decided to put in his amendment now as it means that I will speak once and only once. I welcome the report, I believe it has been done from a very humanitarian point of view and I go along with it unreservedly. I want to establish one thing, that I am not advocating divorce per se, in fact, I believe that everything possible should always be done to save a marriage. And unlike my learned friend, the Honourable Leader of the Opposition, I do not believe the first story that is told to me even be it by a weeping female or an irate male. Perhaps it is because once I remember very reluctantly being drawn into a situation where a marriage was breaking up and I remember advising my wife to look at the thing dispassionately because there are always three sides to a story, his side, her side and the truth, which as I believe I have said on a separate occasion lies always somewhere between his story and her story. I also believe that everyone getting married should be told certain things. They should be told that they are taking on a full-time job in the very fullest sense of the word. Marriage is a 24 - hour a day, 7 - days a week, 365 days a year, which one extra on leap years, where you are working at your marriage if you want to make it a success. Marriages don't just happen. Very few things in this life happen, you have to work. And it is this job that you undertake there is no recourse to the trade union, there is no overtime, no time in lieu, you work at it all the time. So, perhaps, if all these points were made forcefully to people entering marriage, they would not rush into it and perhaps even the fringe benefits would not seem so delightful. But the fact is, Mr Speaker, that most people do go in for marriage, some rush into it, and being human as we all are, we are subject to human error, and the younger you are invariably the more mistakes you make although there are some people who never seem to grow up, but the younger you are the easier it is to make a mistake and it is no good trying to give a lot of advice, really. You learn through experience and you start off married life at a young age and as I say you can make a lot of mistakes. If you happen to have a happy marriage, if you hit it off, if it all

works well, it is very good but if your marriage breaks down, if you just cannot get on, even after trying, you are supposed to be condemned to penal servitude for life, literally, because that is what it means, for life. Is there no remission? I think there is, and there should be. Mr Speaker, we are talking here today of reform, we are not talking of divorce, we are talking of reform because divorce exists in Gibraltar. I, perhaps, could understand a referendum if divorce did not exist. I say, perhaps, because Gibraltar, fortunately, is a multi-national, multi-religious society, which I think is good. As I said, if we were talking of introducing divorce, perhaps and only perhaps, I would consider a referendum. But let us examine the facts. (1) divorce exists, (2) we are trying to reform a law which is obvious to everybody now is antiquated and (3), which is very important, even the law as it is today doesn't affect everybody. The reformed law will not affect everybody. It will be there for those who need to make use of that law. And now be honest. Those people who oppose the reform are opposing it on religious grounds and I believe that the pro referendumists, basically, are doing it on religious grounds. But if we are going to talk of religious grounds, contraception is against religious grounds but we do not hold a referendum, we never did, to see whether contraceptives could be sold, and they are sold, the pill is sold. Have we held a referendum on vasectomy? I think we should be honest. Do we honestly believe that if we oppose divorce, if we oppose these reforms, that by doing this we are going to get a stable, happy family life? I do not think so. All we are going to do is to prolong the anguish and the agony of those people who need a divorce. Mr Speaker, I believe we have been elected to govern. Eight of us elected as the Government and seven of us as the Opposition to react to Government's policy, to offer the people of Gibraltar an alternative Government. But we have all been elected to govern Gibraltar and lead our fellow citizens from different sides of the House, but we all form part of the governing of Gibraltar and we should not be afraid to face problems when they come. We are not here just to agree to an increase in the price of petrol, or whether perfume should have 10% tax. We are here for the rough and the smooth. This, Mr Speaker, is a rough patch, but we should not shirk our responsibilities and we should not hide behind a referendum. If there is one Gibraltarian who deserves a divorce and he cannot get it because the law is inadequate, then it is up to us to change that law, the law then is inadequate and it should be changed. Mr Speaker, I am a happily married man but everybody does not have that same luck, if you could call it luck. I would wish that everyone who is married and those who are about to get married all the best, all the happiness, a bed of roses. Unfortunately, life does not work out like that. It has a habit of twisting itself for a number of people and I believe, Mr Speaker, that it is better to have a sensible divorce than an unhappy home. I think the trauma on the

children of a squabbling father and mother and the instability that that generates in the children is far worse than a sensible divorce where everybody agrees that the best thing for the children should be done but at the same time admits that they are human and that they deserve a human chance. Mr Speaker, I am happy to support this report in its entirety.

HON J BOSSANO:

I would like to speak against the amendment moved by the Honourable Member. Let me say that the Members of the Select Committee who considered the wisdom or otherwise of holding a referendum and who rejected the idea and said so in the report and signed that, took a decision, not I assure the Honourable Member, in anticipation of the fact that he would be moving an amendment. Quite the contrary. I have been absolutely shocked to find that he is moving an amendment because for me, quite frankly, if this amendment is carried we have wasted totally and utterly 3 years of our time and we have been misleading people in coming to the Select Committee to put the arguments for and against because those arguments cannot be put to the electorate in a referendum. What are we going to do, produce 10,000 copies of the report of the Select Committee and give each member of the electorate a copy and get them to read it before they go and vote? The Honourable Member is talking a lot of nonsense. He knows what is the most likely result of a referendum. The most likely result is that there will be a very high level of abstentions because most people don't care one way or the other and that there will be a concerted campaign from those people have got strong deep religious convictions and no other kind of objections to go and vote against, and there will be those who need the law changed who will go and vote because they need it for themselves. If they did not need it for themselves they would not vote either. So what we will get is a very low poll and a very large majority from those who vote against. And I can tell the Honourable Member to go and look at the evidence in front of the Select Committee and he will find that the Committee was presented with as he said, quite rightly, in quantity more representations against reform than in favour but in quality that was not the case because the representations against were totally manufactured. Identical letters, Mr Speaker, with different handwritings, word for word, the same comma, the same fullstop, and collections of signatures. Some of those people did not even know what they had signed because I made it my business to contact them personally. Is that what is considered to be democracy?

MR SPEAKER:

We must be careful as to what the deliberations of the Select Committee were because we are not in a position to go into that.

HON J BOSSANO:

I am not in a position to divulge the contents of the letter Mr Speaker, and I am not breaking any confidence, and I am not doing that. What I am telling the Member is that the Committee got letters manufactured.

MR SPEAKER:

Well, that is a matter of opinion.

HON J BOSSANO:

Well, I can tell the Members to look at the evidence. I am not asking them to take my view, I am asking him to look at the evidence that made the Select Committee decide the way it decided. It is no good setting up a Select Committee of this House, it is no good telling us in 1980 we must not rush into this, we must take the thing calmly, coolly give everybody an opportunity, let everybody come and put their case for and against, sift the evidence. We have spent hundreds of hours listening to people Mr Speaker. We have produced thousands of pages of evidence. We could have gone to a referendum in 1980. I think the Honourable Member is perfectly right, let us put to a referendum in Gibraltar whether there should be any divorce at all and the referendum would decide whether there should be no divorce at all. Let the Honourable Member put to the people in Gibraltar whether families that for some reason or another are constantly on social welfare, whether those families should be supported by taxpayers or whether taxpayers should pay less tax and have those families starve. There is no question about the way that people vote, people vote with their stomach, Mr Speaker, here and everywhere else. Political responsibility is with this House who is charged with doing a job and responding to the needs of all its citizens, all of them. What are we going to say to people: "Hop across the frontier." You don't have to go to get a plane to London now, we have now brought down the cost of divorce. Before they had to be above a certain income group, now you only need to walk across the frontier and get it in La Linea. Our statistics on divorce are sacrosanct, we still only have 24 in one year, which is the most important thing, to be able to say only 24 have been divorced in Gibraltar. How many have been divorced in England because they can afford it is irrelevant because it does not show in our statistics. I am telling the House, Mr Speaker, that to go ahead with the amendment of the Honourable Member is in fact to deny the people who have come to the Select Committee and given their views for and against, to deny them the result to which they are entitled which is the result of conscientious hard work by Members of the Committee who have looked at this thing from a purely practical and honest point of view of establishing whether the need exists and if that

need exists how that need should be met, and that is what this Committee says. It is no good saying that it is a very well done job but nobody has got a mandate. That point was answered in 1980, Mr Speaker, and I have repeated it today. I think it would be wrong to have a situation where we had an election campaign with all the other problems we have faced in Gibraltar, with the dockyard closure round the corner, the problem of the frontier, and we are going to ask people irrespective of whatever policies different parties have got, you vote for or against divorce. And we are forcing the church to take a stand which I think the church would not want to do. I think the church has made its position absolutely clear, which it is entitled to do, but it is speaking to the faithful, to the people who belong to the church, it cannot speak to those who do not belong to it, Mr Speaker, but it has to make its own position clear. If we take this to a referendum or we take it to an election, we force the church to take a stand on a political issue in a political arena about a civil matter where as I explained previously I am astonished to find out that in fact Catholics can get married in a civil registry, can get divorced in a civil registry and can remarry in the church because as far as the church is concerned the first marriage never took place. In fact, the church in that respect is far more liberal than the recommendations of the Select Committee because they do not lay down any conditions. We have not just said people can have quickie divorces in the style of California or Los Angeles or wherever it is they go in the States. They go in and out again in a week. We have not said that, we have listed a series of grounds which the court would have to decide whether they constituted an irretrievable breakdown. I can tell the House that I argued Members to reject entirely the proposal of the Honourable Member, and in fact I think that there is no way that justice can be done by going to a referendum and certainly if the House is going to back off this issue because they think it is politically not on then, certainly, I am prepared to commit myself with those people who came to give evidence to the Select Committee to introduce a Private Member's Bill for each and every one of them.

HON P J ISOLA:

Mr Speaker, I would like to talk at an early stage on the amendment because this is one of those occasions where people speaking only once is not a good idea because there are two separate issues really here. One is whether we approve or we do not approve the report of the Select Committee on divorce, and the other is whether we are entitled to make a judgement and proceed to legislate without some form of consultation with the people. I was enormously impressed by the moving and passionate address of my friend the Honourable Mr Lado. I think he argued very effectively and he is obviously in

favour of divorce and extending it and he does not need any further convincing. Therefore, the message that he gives is: "I speak once, I do not mind if I speak now or I speak afterwards but my message is that the report is fine, should be approved and should be passed." He did not unfortunately address himself to the question on the amendment, which is whether we should have a referendum or not, well, he did but he addressed himself mainly on the recommendations of the report. I notice that the Honourable Mr Bossano, in opposing the amendment for the Honourable Mr Canepa, in fact re-argued the case for acceptance of the report and, really, Mr Speaker, we are here being asked a question and the question is: Are we, as a House, with no political mandate, no electoral mandate, with the main parties undecided and divided as to whether there should be divorce or not, are we entitled to act as legislators in those circumstances and legislate on an issue that is highly emotive in Gibraltar. I know there are many people who feel passionately on this subject of divorce like my Honourable Friend Mr Lodo and the Honourable Mr Bossano but there are other people who are equally passionate, not in this House but outside this House against divorce as being a disruptive influence on society. There are many people against. I know the Select Committee sat, we have not heard their representations, they saw people, we know all that, Mr Speaker, but one also knows that divorce is a fundamental issue in any democratic society and especially in a society whose majority of inhabitants because of their faith do not agree in principle with divorce and are against it. And it is against that background that this House must consider whether it is entitled to change the divorce laws with no mandate of any kind. That is the issue on this part of the motion. I have said, Mr Speaker, how much I appreciate the work that has been done by the Select Committee, how much I appreciate the careful work that has gone into it, but that I must with the greatest respect to them, disagree with their conclusions. I have given my reasons, and my reasons have been the experience that has occurred in the United Kingdom since 1969 and the figures that have been published and the known facts of how divorce has affected that country and the stability of family life and the stability of marriage in that country. I have given the reasons and I am not going to repeat them now. But what I do say is that 15 individuals are not entitled, Mr Speaker, as individuals, are not entitled because they happen to be in the comfortable position of being elected Members to the House of Assembly and being able to legislate, are not entitled in my view to legislate without a mandate from the people because we all know that divorce is controversial. I don't know if there is a majority in favour or a majority against. The Honourable Mr Canepa has said he suspects there is a majority in favour. The Honourable Mr Bossano has said that if we have a referendum the church will rally their tanks and their guns and their forces and fight it, or their decisions. I would have thought that the Honourable Mr Bossano would have said: "Let us go and

have a referendum because it is obvious the majority of people are in favour. I know, I live on the ground, I have constant contact with people". And I would have expected the Honourable Mr Canepa to have said: "Let us have a referendum because I think the majority of people in Gibraltar are against divorce." But it is the other way round. The Honourable Mr Bossano says one thing, the Honourable Mr Canepa says another. We do not know, Mr Speaker, how people feel. We do not know how people feel, not about the unfortunate few who have these terrible problems in the family and in their marriage and we just try and help in one way or another, but we do not know how people feel, generally, as to whether it is good for society to have such a large number of broken marriages made easy or brought about partly by easy divorce which is what has occurred in the United Kingdom. And 40% of marriages in the United Kingdom, of second marriages in the United Kingdom, have broken down, Mr Speaker. That is another factor that came out in this pamphlet of the Conservative lawyers on divorce from which I quoted earlier on. So it is not a question, Mr Speaker, surely, of whether people decide to help a hard case or not in a referendum, the question is that the public may wish to decide whether in order to help a few they are going to put at risk the institution of marriage and the family as a stable unit in society. That is the issue that a referendum will decide. In a catholic country like Italy, they did it by referendum and the majority voted in favour, and in other places divorce as indeed abortion, no one has mentioned that subject here, but divorce and abortion have been the subject of referendum because it is felt that these are issues that affect everybody very personally and they should be put to the people directing their minds to that issue. I agree, Mr Speaker, that this is one of the problems about putting it in an election manifesto, that if you put it in an election manifesto we are for divorce or we are against divorce, and you are elected you do not know really whether you have been elected because of divorce or not unless like the gentleman mentioned, Mr Ellul, unless you just stood as he did in 1976, and he stood on the platform for divorce and got rejected, unless you do it on that basis but life is too full of complications, Mr Speaker, society is too full of complications to have a general election on whether we should have divorce or not and it would be difficult to judge whether a political party that puts divorce in its manifesto gets elected, or does not get elected because of that particular issue. Therefore it seems to me that if we know that divorce is controversial and that seems to be the general opinion judging from how different Members of the House here think then it seems to me that a referendum is a way of finding out whether the electorate, having elected us all on different manifestos, whether the electorate approves of what our Select Committee has said which is that there should be easy divorce. Well, they have not said that, they have said they do not want easy divorce but in effect amounts to easier divorce, perhaps,

might be a fairer way of putting it. Mr Speaker, I have no quarrel with this amendment, I would go along with it but, obviously, I am suspect in this because I have already made an address to the House on the report saying that I cannot agree with it and with its conclusion. But I do think, certainly it would be helpful to people like me, to know whether what I feel on the report is in fact shared by the population at large. We have to legislate in accordance with mandates given to us. We have no mandate to effect or to change a law that is fundamental in a society. We have no mandate, no party has sought a mandate, no party has been given a mandate. The suggestion being put now is that we should ask the people in a referendum whether they approve the recommendations of the single ground for divorce. I know, Mr Speaker, that brings problems and explanations and so forth but are people able to take a view? I would have thought they could and I would have thought that having got to the stage where this House is really divided on this issue it may be appropriate that the electorate should be given a chance to decide or to recommend to this House what should be done. As you know, Mr Speaker, there is a free vote here, no one is bound to do anything here, it is free on my side of the House to vote on this issue as people in their conscience feel right, as indeed in the main motion. As far as I am concerned, personally, I think the reform that is suggested is of such a dimension and could have such far reaching consequences on our society as it exists today that I believe that that society should have an opportunity to decide whether they feel that that reform is necessary or desirable for Gibraltar.

HON H J ZAMMITT:

Mr Speaker, Sir, when the Honourable Mr Bossano brought this motion to the House in 1980, I think most Members agreed that the laws of divorce in Gibraltar fell short of the desired requirement but, equally, in the same breath we were all saying that whilst agreeing with the required up-dating of the legislation we really had no mandate to bring it up at that particular time, and let us not forget that it was very shortly after a general election where none of us had the courage of including this in our own manifestos. I would tend to disagree, Mr Speaker, with the Honourable and Learned Leader of the Opposition inasmuch that in the 1976 elections Mr Ellul was not elected because of his views on the divorce reform. I think it may have contributed but I think there were other strong reasons why he was not elected to this House. I think, in the main, Members did realise that our laws on divorce left a lot to be desired and we agreed, and I think Hansard can prove this, to have a Select Committee to look into the situation. However, I must reiterate in the same breath we all advised caution as none of us in this House has a mandate either as a party or as individuals to bring in the reform. Now Mr Speaker, when I spoke in the

original motion way back in 1980, I think I gave a reasonably good impression what I was totally in favour of the reform but ended by saying that we had no mandate and therefore I could not support the motion. I find myself different to a number of Members here and particularly I would like to pick up on what Mr Loddo said, that we must be honest and agree that those supporting the amendment were doing so on strong religious convictions and Mr Bossano himself again has said that those opposing it would be doing so on strong religious convictions. Mr Speaker, quite honestly, I am afraid that does not move me because I am a Catholic, I am not a practising catholic at all and although I believe that there is a requirement for the reform of the divorce law I do not think we have a mandate to do so and I agree for once with the Leader of the Opposition that it is a very difficult and emotive subject, as individuals, to impose upon a people whether they like it or not. One thing that has not been mentioned so far is whether there is a divorce reform bill going through or there isn't, whether we do it for adultery, homosexuality or all other things listed there, it still does not affect the Roman Catholics. Let us be quite clear about that. No matter what we do, the Roman Catholic is committed, that is, the practising Roman Catholic it doesn't matter what legislation we pass, he cannot or he should not get a private member's motion here. Divorce just does not exist, fullstop. So I do not think that the strong religious convictions hold water as regards a referendum and as the Honourable Mr Canepa mentioned earlier on and I agree with him, the majority of people in Gibraltar do want to see a reform of the laws of divorce. With great respect to the Honourable Mr Bossano I feel that the people that they have interviewed are people who are affected in the main and quite pathetic cases which when looked at individually deserve the highest consideration and I am four square behind them.

HON H J BOSSANO:

If the Honourable Member were to look at the evidence. He has mentioned that he is aware of those people who came to present their personal problem and why they were saying the law needed to be changed to meet their personal problems. But what he is saying does not happen or will not happen because, in fact, whatever we legislate does not apply to the strong catholic, well, if he looks at the evidence of those who spoke against, they are all, exclusively, without exception in that group that he has mentioned.

HON H J ZAMMITT:

Yes, Mr Speaker, I agree. but what I am saying to the Honourable Member is that if the person who did not come and make representations and as I say, I uphold as I did way back in 1980, I uphold the fact that our laws require reform but I cannot and I do not think that I have the authority, and least of all the

mandate, before I can have the authority I must have the mandate, to be able to pour down people's throats or uphold whatever they may or may not want.

HON J BOSSANO:

Mr Speaker, if the Honourable Member will give way. Will he answer this point. Is he saying then that if we have the referendum tomorrow and the 20 people who have come to the Select Committee go and vote in favour of the reform, because they have made a kick in favour, and the 2,000 who have written against it who are not going to be affected, according to his definition, because irrespective of the laws we passed their religious convictions are so strong that they will not make use of it, those 2,000 vote against, then there is clearly an overwhelming mandate not to do what the Select Committee recommends and the other 8,000 don't vote. He thinks that when the House is faced with that decision what do we tell the 20, what does he tell the 20.

HON H J ZAMMITT:

What I am saying, Mr Speaker, is that none of us, and let us be quite honest, none of us had the courage to say this at any election, none of us, and it was shortly after the election that we were in the privileged position of being here, in the privileged position that the Honourable Mr Bossano can now come along with a Private Member's Bill, that this can be done and I think it is not on. I think we should test the people in general. I honestly support strongly and feel that there is a great requirement but let us not kid ourselves, and I repeat and I hope I am not being boring. Irrespective of what we do, whether it is irretreivable breakdown, whether it is homosexuality or any of the other offences, it still will not affect a Roman Catholic. Mr Speaker, I think I said exactly the same thing way back in 1980 and then, of course, let me assure the Honourable Member that I was not aware that my colleague Mr Canepa was bringing an amendment. I was not aware of that and I still say the same thing today. I think, quite honestly, that we should be very careful about this and whilst sympathising greatly and reiterating my desire and fervent hope that our reform should take place at the earliest possible convenience, I think we owe it to the people of Gibraltar as a whole that they should have a say in what they want on this very personal issue which affects individuals, family households and the family composition of which Gibraltar has existed on for so many years.

HON A J HAYNES:

Mr Speaker, on the amendment. I would like to say that it seems to me that in part the purpose of the amendment has been forgotten by some of the speakers and as I understand it and as

I understood the Minister for Economic Development who I feel put the case for his amendment very distinctly, the reason for having a referendum which is the basis of the amendment, is that there is no clear majority in favour or against divorce in this House, that there is no political mandate in favour or against divorce in this House, that there is no pressing need to bring the matter now. There was no more need in 1980 to have the matter debated than there was in 1979, and that as such it would be unsafe for us to decide it now. In that respect, it seems to me a very noble suggestion to make sure that the matter is safe, that we do not pass legislation which is unwanted, that we should if as is the case where one of our Members had insisted that the matter be brought before us and in the life of this House, there is therefore a need to have his suggestion or what is now the suggestion of the Committee, decided on by the people as a whole. I find that that case has not been answered, instead the Honourable Member, Mr Bossano, has said no to the suggestion of a referendum, he has given as one of his reasons that people vote with their stomachs, well, I shall be the first to remind the electorate of that at the time of the next general elections that that is the view of the trade union leader, that people vote with their stomachs. Yet he retains to himself the privilege of voting with his conscience. I think there is no evidence which the Committee have seen which would support the contention that people vote with their stomachs and as such one must consider what is the motivation behind that. Is that statement motivated simply because he fears that he might lose in the event of a referendum? I think, again that was not within the scope of reference for the Select Committee. They were never asked by this House to sound out the opinion polls in the event of a referendum, but nevertheless they have gratuitously given us their views on the matter and they have thought that their own recommendations, their own wisdom will be cast as pearls before swine, they will be ignored. Well, that is I think a risk which they must run. Similarly, Mr Speaker, another argument which I think is as fallacious as the first, proposed by the Honourable Member for rejecting the call for a referendum is: "Mr Speaker, here we have 3 year's work, 3 year's work down the drain. It can't do." Well, thank heavens the British Government didn't take that view of the Foreign Affairs Committee, Mr Speaker. The weight of the report in volume and in the amount of hours that went into it, are not, per se, grounds for accepting and approving in toto. And, again, I would examine the claim that it is three year's work. That is incorrect, Mr Speaker, it has taken 3 years to produce but it is not 3 year's work and I would remind the Honourable Member that they met on 8 occasions to hear oral submissions, a week's work, and possibly another 8 meetings to consider the matter. And again, Mr Speaker, we had an even more absurd argument to the effect that a referendum could not be staged properly unless they could print 10,000 copies of the Report. If that had been the case, Mr Speaker,

when the British Government considered the propriety of having a referendum on the Common Market issue, they would have printed 20,000,000 copies of the EEC Regulations, the Treaty of Rome and all the other ancillary treaties. It was not considered necessary, Mr Speaker. I am not sure that everybody will want to read the report. I think that the public can be generally taken to understand the meaning of a question which is the question which the amendment proposes to put to the people and that is the decision to be taken by the Gibraltar people at large that the single ground for divorce should be that a marriage has broken down irretrievably. I do not think that it is necessary to give them the entire report. They will, I am sure, be lobbied, if that is the correct word, by those Members of this House who favour the recommendations contained in the report and indeed by other people who also would agree with the recommendations. In the circumstances, Mr Speaker, I would submit that there has not been any reasoned argument to refute the proposition that the motion be amended. I notice that those other Members who would appear to be in favour of the recommendations are not addressing themselves on this subject and in the circumstances where there is no evidence to deny the people of Gibraltar an opportunity to have a referendum on this subject, and in the circumstances where the Minister for Economic Development has outlined the need, I myself, Mr Speaker, will vote in favour of the amendment.

HON M K FEATHERSTONE:

Mr Speaker, in a few week's time, 15 Members of this House will be meeting to vote on something which is, I think, fundamental to the future of everybody in Gibraltar and that will be whether we accept the idea of commercialisation of the dockyard or not. And yet we have no mandate on this question from the electorate and we are not going to ask for a referendum on it. I know referenda are the privilege of certain countries, I think in Switzerland they have one almost every other Sunday but in Britain it is one of the less common aspects of political life, I think they have only had one referendum in their history, at least over the last 150 years. And I am sure when they altered the Divorce Bill in 1969, they neither had an electoral mandate nor did they ever consider a referendum. Should we have a referendum here? The report has been public knowledge for at least 3 or 4 weeks and we have had no outcry from the public either for or against the report. We have no mandate from the general public for a referendum. It would seem to me that, as in many other things, either the general electorate is apathetic or they consider they have sufficient confidence in the 15 people here who are their elected representatives. When the Select Committee was first set up it was adequately advertised that anybody who wished to make any representations could do so and we had a number of representations, some of them, admittedly, subjective, people who were specifically coming to the Committee to

present their own problems. But we had quite a number of objective representations and of those objective ones the majority, I would hasten to say, were in favour that some change in the divorce laws should be made at the earliest opportunity. The Committee took every facet into consideration, not least, as The Honourable Mr Bossano has said, that we were bombarded to some extent with what he has put, and what I agree with, a manufacturered letter, it was so manufacturered that they all had the same grammatical mistakes. So much so that I think, reasonably rightly, the Committee felt that not too much credence should be given to them. There is also a public attitude in Gibraltar with regard to a common letter in which if somebody puts a letter in front of you and asks you to sign quite glibly you do sign and we have found that it is not a very difficult thing in Gibraltar to get 50 or 100 signatures on a piece of paper and half the people do not really know what they are signing. Speaking on the report as such I would like to clarify two points. The first point I think is that until one knows some of the circumstances of the hard cases, and they are very hard indeed, it is difficult to make a full and proper judgement of the whole issue. And the second point which we have mentioned in the report and which I would like to emphasise is that in many instances people rush into marriages not knowing the full consequences of what they are undertaking. We have suggested in the report that there should be considerably more marriage counselling before marriage and we have also suggested that the age at which a person should be allowed to get married should be raised. Too many times in Gibraltar people are getting married without proper preparation, possibly with a shotgun behind one of the two partners, and the result is that that is doomed to failure from the beginning. I fully agree with the Honourable Mr Loddo that the trauma that the children of an unhappy marriage go through seeing their parents fighting each other at every opportunity, seeing perhaps the mother being beaten up by the husband and the child also being beaten up, is a far worse trauma than if the parents should separate. I am willing and I support that divorce should be made, I will not say easier, but should be made more obtainable in the case where the marriage has irretrievably broken down. This does not mean automatically, and in this I do not agree with my friend Mr Bossano, that they can marry again, that is up to their conscience. If they are married in the catholic church and they are true catholics they will not wish to marry again but at least they will not be chained to a partner with whom they cannot live, with whom there is no reasonable prospects of any decent life whatsoever. To come back to the referendum issue, Sir, I feel that we have got to take the responsibility that is put on us when we are elected. There are many issues that come up during the life of a House on which one has to vote basically at all times in accordance with one's conscience because even if one is in Government and one presents the Government view,

the Government has discussed the matter behind closed doors admittedly beforehand but in those discussions Members must obviously use their conscience in how they react. We have many issues which come forward which we have to debate, which we have to vote on without going back to the electorate at every opportunity. I think that this is one of the duties that we must undertake when we stand for election and if elected we must carry out. I regret that I cannot support a referendum.

HON CHIEF MINISTER:

Mr Speaker, I would like to talk about the constitutional proprieties of the amendment in respect of the procedure of this House and other aspects of the constitutional results. I think the Honourable Mr Loddo, if I may say so, made a very good, sensible, simple speech, which made many of the points I had noted and therefore I do not propose to repeat them. But what I think is a complete waste of time is that we had a huge debate, I was just looking through it, I had almost made myself a promise never to read a Hansard, that is why I have never asked for copies of Hansard for quotations, I have got enough with the one that is being prepared now. I wanted to remind myself of what has happened and I see that except for one Member who had it in his mind, the rest of us all voted in favour of the appointment of a Select Committee to look into the matter as a way out after a huge debate on matters which had been discussed ad nauseam. The only Member and I would like to pay tribute to him was the Honourable and Gallant Major Peliza, who spoke about the referendum at the time. The rest were happy to go along with the appointment of a Select Committee. To appoint a Select Committee, to get the Select Committee to go into the matter, to ask people to come and give evidence, to prepare a report, and the Select Committee was appointed with the unanimity of the House. The only Member who was not here, unfortunately he was not well, it was very recently after his accident, was the Honourable Mr Abecasis. All of us voted in favour of the appointment of the Select Committee. That was the time when we should have said: "No, it is a referendum and have gone to the referendum and by this time we would have had the results. But after three years of work to come now, after the report has been made, after there has been the singular achievement of having a unanimous Select Committee, where the people were selected precisely because they had different views and where the realities of the situation have made all the Members agree on a recommendation, seems to me a farce and a waste of time of this House to appoint Select Committees and then to say that the Select Committee's report should be put to a referendum. On that principle alone I would oppose a referendum and I would oppose any referendum that was suggested after a Select Committee has gone into the matter. Maybe it is a simple way out now but that should have

been thought then and I say the only person that I find, looking through, not reading, I promise not reading, the Hansard, is the Honourable Major Peliza who said that we should have a Select Committee to decide what should be put in the referendum. That was not what was decided but he said it. In fairness, he was thinking of it then. I do not think that anybody else was applying his mind to the referendum. The other constitutional matter that arises is whether this House has got the power to decide on the acceptance of the report. We are not legislating now to amend the law of Gibraltar. Let it be quite clear. If it is a question of testing public opinion, if it is a question of testing reaction, that will come later when the Bill is published as a Bill, not when we have the report here. The procedure will be as I did with the Landlord and Tenant Ordinance where it will be published, in fact, you could have it published if the report is accepted, immediately, and then have the first reading whenever it is and then have the second reading, and then have a period before the Committee Stage for people to make representations. We are not now legislating to amend the law of divorce, what we are now doing is considering the report of five Members of the House selected on the basis of differing views, who have been able to present a unanimous view, who have seen the thing, they were not delegates, of course they were not delegates, they have to report back. Somebody said: "Oh, you are going to change the law of Landlord and Tenants the way it is in the report because that is what you put the people there for". I said: "No, they were put there to report and there may be things that I agree with and things I don't agree with, in detail". The motion appointing the Select Committee read: "That this House considers that a Select Committee of this House should be appointed to enquire as to the need if any, to amend the Matrimonial Causes Ordinance". If the Select Committee had been divided on their Report, it would have been difficult but, when people who were divided in the original debate, divided as to what should be done, agree to form part of a Select Committee and work hard at it, and call for evidence and look at representations and so on, and at the end of three years, it could have been two but, anyhow, it took three, to come here and say that now we must have a referendum, is an absolute waste of the procedure of this House and a waste of time for everybody concerned and I think it is not meet for the House to deal with the matter in that way. I am not making any comment on the details of the legislation. I have spoken on the general report by welcoming it, I have not even expressed a view in various matters of this particular Bill, I want to look at it myself, I want to look at the Bill. All I said was that I would hope that when the Bill was published we would have the relevant sections of the English Act in order that we would be able to see the relevance in the English Act and the effect that it will have. We are not here voting for a change in the law of divorce, we

are voting on the basis of whether we accept or we do not accept the recommendations of five true and good men who have been working for a long time, hearing a lot of people, looking at the matter at very close quarters, having been appointed to do that, and then to say, now we go to the referendum. I think the procedure is wrong, I think occasionally it is good that these things are aired on a non-party basis to show that people, even of the same party, can think differently in this matter. That, I think, is also good because it shows that when they are together it is because they really feel that they are together and not for political convenience. There will be no lack of consultation. There have been consultations and there will be plenty of consultations and the same as in any other Bill of importance which is published and on which representations are made, the same will happen with this. The other point that worries me from the point of view of the procedure of the House and so on is the question of whether this House should deal with a matter which does not appear in the manifesto. A lot of people say that in England elections are won and lost and very few of the people who read the manifestos of the parties. What they read, perhaps, is the newspapers. I understand that this year's Labour Party manifesto is almost as big as a bible, a huge manifesto. I am sure that voters will not go through that except those party workers and people concerned. They will make their own judgement. Therefore, I think that if the Members, in pursuance of their conscience, are prepared, as the Honourable Mr Loddo said, are prepared when the time comes and the challenge comes to take a decision, the fact that the matter that is being decided here was not in the manifesto is an act of conscience and an act of courage. We have only had one referendum and there has only been one referendum in England, whether they would go into the Common Market. We only had one and that is whether we would go it with Britain or go it with Spain. If the future constitution is that matters should be dealt with by referendum, let us look at the Constitution and let us decide the parameters upon which we would go to a referendum. But to get out of this by means of a referendum I think it does not accord with either the practice of parliament in the United Kingdom which we are proud to follow, nor was there any referendum in England, I was just looking through the Hansard and I see that every point that has been made here was then made but more so. I went all through the Herbert Act, and all the farce of the adultery cases and all the chambermaids going into rooms and providing the necessary evidence in order to get a divorce, and the point made by all Members that we are not considering in a referendum whether there should be divorce or not, that would be a point for a referendum but the divorce law in Gibraltar by sheer fluke was introduced by a Supreme Court Order of 1883 which applied all the law in England, as at that time, which included the 1867 Matrimonial Causes Act, which provided that you could obtain divorce if you were a

man by proving the adultery of the wife but if you were a woman you had to prove the cruelty and the cruelty of the husband. That was equalled sometime anonymously in the 60's and the adultery had to be equal, there was no difference about the additional burden put upon the wife against the husband. That is how the law of divorce in Gibraltar and nobody has taken any steps to my knowledge to abolish that law. Everybody has accepted that as part of the constitution... of Gibraltar, as part of the set-up of the legal system of Gibraltar. It is also pertinent to point out that under the change that was done on the basis of the jurisdiction of the courts to grant divorces according to domicile, that one year's residence in the United Kingdom provides you with the right to divorce if you satisfy any of the conditions set out in the laws in England, and that there have been many people who have not been able to either establish or there has been no act of adultery, who have gone to England, taken a job, worked for a year, applied for a divorce, got the divorce and come here. That, of course, may be open to many people and it may not be open to some. As I say, I think there will be ample time if the report is accepted, to publish a Bill to give time for the people to make representations on the particular circumstances and it may well be that there may be amendments that will alter it one way or another. What we are doing here today is considering a report which at least I know has convinced one Member of the Select Committee who probably entered the deliberations with a different view, and to me that is the greatest credit of the work of the House in Select Committees. I will oppose the amendment to the motion.

MR SPEAKER:

Before I recess the House I would like to say that the Honourable and Gallant Major Peliza has given notice that he would like to raise on the adjournment the question of the enfranchisement of Gibraltarians for the European Parliament. Enfranchisement of Gibraltarians for the European Parliament. We will now recess until 9 o'clock in the morning.

The House recessed at 7.20 p.m.

WEDNESDAY THE 25TH MAY, 1983

The House resumed at 9.15 a.m.

MR SPEAKER:

I will remind the House that we are still on the debate on the Report of the Select Committee on the Matrimonial Causes Ordinance, on the amendment, as a matter of fact.

HON MAJOR R J PELIZA:

Sir, as the eternal optimist that I am, I came this morning determined to try and convince not only Members of the Government, but also some Members of my own party and other Members of the Opposition. Unfortunately, Mr Speaker, at this unearthly hour of quarter past nine, it seems that some of the Members are incapable perhaps of getting up at that hour and so I am afraid that some of my colleagues will not be here for me to try and convince them about the referendum.

MR SPEAKER:

If you hurry up you might get it through.

HON MAJOR R J PELIZA:

Yes, it is quite true, if we can count him we can all sit down and vote. Sir, I have made a rough calculation and I think we would be the losers if we did it now. I will see if I can attempt to try and get round it by using logic and common sense, Mr Speaker, I go entirely with the amendment of the Honourable Minister for Economic Development and Trade, Mr Canepa, who I can see that in this instance is speaking personally rather than as a Member of the Government and equally the Chief Minister I think is speaking not as Leader of the AACR, not as Chief Minister, but as Sir Joshua Hassan. This poses a question. Why is it that on this particular subject as against any that we have discussed in this House so far, Members of the Government and Members of the Opposition should be speaking on their own personal behalf and not on behalf of their party, on behalf of the Government, or on behalf of the Opposition. That poses a serious question. Why? Why this extraordinary attitude for this particular subject? The answer must be, Mr Speaker, that this is an extraordinary subject, an extraordinary issue, which affects the personal beliefs and conceptions of individuals both as politicians and as ordinary members of the public and of the community. And because of that, in my view, Mr Speaker, it has got to have a special treatment. Sir Joshua Hassan started by saying that the only person who had mentioned a referendum in this House at the beginning had been myself. Well, that is not so.

HON CHIEF MINISTER:

If the Honourable Member will give way. I have subsequently discovered that the options were considered by my Honourable Friend but from what I could see from a quick look at the Hansard, the Honourable and Gallant Member was the only one who devoted more time to the question of the referendum and was more inclined to a referendum than the other two, I am sorry, I stand corrected, Sir.

HON MAJOR R J PELIZA:

I think the first lesson that we learn from that, Mr Speaker, is that we should have an index of the Hansard as quickly as possible as I have said in this House many a time and then the Chief Minister would not have to stand up now and correct himself.

MR SPEAKER:

You convince the powers that be, that we should be given more staff and you will get your index.

HON MAJOR R J PELIZA:

I agree, Mr Speaker, it is a total waste of money to start printing Hansards and not have an index. I do hope that the Chief Minister who gave an undertaking to do this now that he has seen in practice how important it is, that he will put his mind to it and do it as quickly as possible. That is one point. Mr Speaker, I would like to refer, too, to Mr Restano who went further than that and he mentioned the question of the referendum, he said: "My amendment was that there should be a referendum because it is up to the people to take a decision but that a Select Committee be appointed to decide upon the wording and the way in which the referendum would be put to the people of Gibraltar". That is the Hansard, Mr Speaker, of the 17th July, page 81.

HON J BOSSANO:

Mr Speaker, those were not the terms of reference given to the Select Committee and I would not have served on that Select Committee on that basis. I made it clear at the time so if the Honourable Member wants to quote, let him quote everything.

HON MAJOR R J PELIZA:

Mr Speaker, Mr Bossano may have made it clear, but in fact, the Select Committee considered the referendum because if you notice, the Honourable Member referred to it, in fact, they looked into the referendum and they thought that that was not a good idea and they explained the reasons why they thought it was not a good idea. Reasons with which I certainly don't agree and to which I will refer. And, of course, when he sat in the Committee he must have realised

HON J BOSSANO:

What the Honourable Member has just quoted before I interrupted him was, in fact, a statement saying that a Select Committee should be set up to decide on the terms of a referendum. A

Select Committee was not set up to decide on a referendum. As part of the deliberations of the Select Committee, we considered whether a referendum was the appropriate way to decide this and we considered on the basis of the evidence that it was not. That is not the same thing as saying we are setting up a Select Committee in order to come back to the House with what should be put to a referendum. If that had been the decision of this House, I would have voted against the setting up of the Select Committee for that purpose and I would have refused to serve on it. That is what I am saying.

HON MAJOR R J PELIZA:

I do not quarrel with that, Mr Speaker, that was his view but the fact remains that the Committee considered the question of a referendum.

MR SPEAKER:

In fairness to the Honourable Mr Bossano, what Mr Bossano is saying is that there is a difference between you stating that there should be a referendum for the purpose of deciding the terms of the referendum and that there should be a referendum as to whether there should be divorce or not.

HON MAJOR R J PELIZA:

I totally agree. All I was saying was that the question of a referendum was mentioned in that previous meeting. It is not something that has come out of the blue suddenly. It was a matter that was given thorough discussion here, in the House, at the time, and this is in the Hansard, and that in fact it was then taken to the Committee and in fact it is the penultimate paragraph, which is paragraph 79 and 80 of the Report which dedicates itself to the question of a referendum. I agree entirely that the Committee was not set up to find out what terms had to be put to the people, there is no doubt about that. So, Mr Speaker, we have then a position here of the Committee which says that there should be no referendum, and I congratulate the Committee on the excellent exposition of their views on the question of the reform of the divorce law in Gibraltar. I congratulate them. Let me say, and I am not hiding behind any political skirt, I believe in divorce, personally, in the reformation of divorce. What I am arguing is whether, in the particular circumstances of Gibraltar it is the right thing to make the decision in this House or whether the right and proper thing is to put it to the people themselves to make the final decision. The Honourable Mr Bossano and also the Chief Minister gave the impression that whatever a Select Committee says has got to be accepted by this House. I do not believe that that is the purpose of a Select Committee.

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MR SPEAKER:

No, with respect, the Honourable and Learned Chief Minister said that the fact that the Select Committee had reported didn't bind the House and that the House had to take its own decision.

HON A J CANEPA:

Mr Speaker, he went on to say, and I have got a note, he went on to say that it would be a waste of time after the Committee has been deliberating on the matter for three years not to accept those recommendations.

HON MAJOR R J PELIZA:

Yes, so he was saying, more or less, that we are here to rubber stamp a Select Committee. But that is not the purpose of a Select Committee. I think the purpose of the Select Committee is to look into any question, to try and find out all the information they can, to present those facts in a logical sequence, and if they are asked to, to come to some conclusion. Then it is up to the House, having gathered that information, having got the report, to make an assessment and decide whether they agree entirely with the Committee or whether it should be amended and put it to the House.

HON J BOSSANO:

This is precisely what he is refusing to do, to make an assessment of the recommendations of the Committee. I agree with him entirely. This House does not have to rubber stamp the recommendations of the Committee but the Committee is coming back with a report and this House is saying that this is a matter which is too controversial for us. That report, those recommendations, what you have established after 3 years, have to be put to the people, not to the House of Assembly. We are not saying we want this House to rubber stamp the recommendations. Having got the report of the Select Committee, we are saying this House then has got the right to either accept or reject the recommendations as to the need for changing the law and how the law should be changed as it can do with the Landlord and Tenant Ordinance. But if the Honourable Member is saying that that is the same thing as saying instead of taking a decision here, let the people take a decision, right, let us have a referendum on the Landlord and Tenants Ordinance and a referendum on every decision of every Select Committee.

HON MAJOR R J PELIZA:

Well that is not what I am saying, Mr Speaker, I am not saying that at all. Obviously the Member is putting words in my mouth which are not mine. No, Mr Speaker, I am saying that

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this is a report from the Select Committee, it makes recommendations. One of them is that we should not have a referendum. One which this House may decide after considering all the aspects that we should have a referendum. How we should go about it is a different matter, but I will come to that, Mr Speaker. Almost every speaker who has stood up here has spoken with great feeling. Why? Why so emotional about this matter? Why is this so? It is not a question like putting up a tax or considering a development plan, it is something that goes to the root of our society and the social consequences can be very serious. Whether we like it or not, our culture in Gibraltar has developed from our religion as well and this is why the history of religion hasn't got to be seen as to what the Pope says or what the Bishop says but what is very deep in people's minds and souls and this is why some people who are not practising catholics, may still instinctively, be against divorce or against the reformation of divorce that we are suggesting because it is part of our culture and there is fear, I think, there is fear that if this erosion sets in the whole fabric of our society is going to change and is going to lead to other things like abortion, euthanasia and all those things. I know that the Member doesn't believe so but this is the fact. If you look around, in all these committees where this has started with divorce it has not finished there. Nor do I believe it is going to finish here because we heard Sir Joshua Hassan say yesterday that it was easy to get divorce if you went to England and worked there for a year and therefore why should we not have it here.

HON CHIEF MINISTER:

Sorry, I did not say why should we not have it here. What I said was that we were not deciding on something so vital that could not be obtained by people who had means to do so elsewhere.

HON MAJOR R J PELIZA:

The fact is that if you want to get it all you have to do is go to England, work for a year, or stay there for a year, and you get it in the United Kingdom. If you come to abortion you can do the same thing, go to England and have it. So therefore the question comes up, why cannot we have abortion in Gibraltar? This is in my view, a natural sequence of events and this is why I say that there are a lot of people in Gibraltar who are worried of the erosion that can slip in. Because of that and because we do not have a mandate because it was not an issue that any party in Gibraltar thought of putting up a mandate before the elections because it was obviously going to be mixed up with other issues which would in fact cloud the other issues and therefore no politicians dared to put it out publicly, that is a fact, and it is no good ignoring that. And, now, as it were, through the back

door, we are going to slip in a big change to our society because of the consequences that I think we are not justified or entitled to do as true democrats. Therefore, Mr Speaker, I believe that the proper thing to do is to get the report which is quite clear and simple and put it to the people that they have got to decide whether they would like to reform the divorce laws in Gibraltar along the lines proposed by the report. Then it is up to all the politicians and other people who want to participate in the great debate to go and put it to the people. Some of us will suggest that they should vote in favour, I would do that, some would say you should not vote in favour, for whatever reason. To me, that is the proper approach to this subject. At present the people, are not well informed. Let us be frank about it. I think that most people are acting on instinct, on passion, on emotion, but no one really has got down and given careful thought and said: "What is the right thing to do?" We heard my Honourable Friend quoting from the Conservative lawyers, who suggest that somehow there should be a reform to somehow control divorce a bit more than it is today. He does not know what the Labour lawyers have said, maybe they have an opposite view. This will give us, I think, and the public in Gibraltar, generally, and those who are particularly interested, time to search for more information and to bring it out in the public debate that would ensue. Then, Mr Speaker, the public would in a dispassionate way, be in a position to make a calculated decision on this, I think, very important issue. No one, I think, in this House doubts that this is a very important issue. I know that there must be people suffering because of this. I agree entirely that in many instances it is better to have divorce. I believe different statistics to the ones of my Honourable Friend, that 50% of people who remarry after divorce lead a very happy life. That is a fact. I also believe that there are lots of children who love their stepfather perhaps more than their own father because of what has happened in the home before that. There are lots of arguments for reformation of our laws, I have no doubts about it. There are lots of arguments in favour of reformation. But however much I personally believe, I think this is so much an intimate subject for every individual that it is most unfair, in my view, for us to take a decision in this House, without even having publicly explained the situation. How many people know about this report? How many? None, in my view. There has been no publicity. And even before there had been any publicity we are thinking of trying to get it through. I think that at least, we should allow for more reaction to come out after the Report of the Select Committee has been made public. That will give time for more thought and perhaps the public generally, and I hope they do, will demand a referendum on this. If I cannot appeal to the Members of this House, I think I personally will appeal to the people of Gibraltar to ask from their legislators to have a referendum on this subject because it is a very, very important issue. I know

that there are a number of people suffering and I will come back to that again but what we have got to be careful is that by trying to cure a number of cases, we create even more cases so that the cure is going to be worse than the disease almost spreading it, as it were, this is the danger, and we have a very serious decision to make. They said it is easy to go to England, stay a year and you get it but it seems that people here do not do it. They stay here, they rather go the way they are than do it that way, and that, in my view, is something to be commended because it shows the moral strength of those people, it shows that they themselves realise that there is something behind it. I would like to point out the question particularly of the women who are perhaps the ones that carry the burden most, because when a man divorces I think it is quite easy for him to run around, it is usually the mother who has to look after the children and this is where the main burden falls in marriages, mainly. I know you say you hear one party and you hear the other and then in the middle you have the truth and I agree, six of one and half a dozen of the other. But the fact remains that before there was, as you might say, progress and women became emancipated, the process definitely was that the woman was carrying the burden all the time and the man was having a good time and I agree that even today there is hypocrisy behind all this. I accept that and this is why it is so important that we should make an attempt to find a way out of this difficult situation. I think we should make an attempt to cure those cases but not remove the deterrent which first of all makes the individual think very carefully before he commits himself to marriage. This is very important, not to rush into it not knowing what it is. If it is easy to come out once you get in, I think that you will find people are more likely to rush into it because they do not really give consideration to the commitment that they are undertaking, of the social commitment that they are undertaking, particularly if they have a family and of the duty that they have to those children. Those are very important duties that an individual should give careful thought to before he enters marriage and this I think I would like to see very reinforced in whatever legislation we pass, so that whoever goes into this contract of marriage carries with him a commitment to the family that he creates and other considerations must be secondary because they have brought into the world new beings for which they are responsible and in that respect I personally would like to see whatever legislation we have re-enforced. Equally, the deterrent is there, too, to stop people rushing out of the commitment which is very easy. Most of us here except, perhaps, one, are married men and we all know that in married life, there are occasions when there are rows inside the family which if one did not realise what the importance of marriage is, you might suddenly go off the deep end and do something stupid. But if you know, because this is almost ingrained in you by then, that your commitment is total and for your whole life, then, Mr Speaker, the attempt for reconciliation is much greater and I believe that

when tempers cool down and things blow over, perhaps the love that comes back again is greater than before in some instances. In other instances I know it is irreparable and I agree entirely. Mr Speaker, I don't know whether I have convinced anybody, but I think that the duty of the Members of this House and in this instance is first to express an opinion on what they think about divorce having read the report, whether they agree or disagree. There might be some people who even at this stage may be saying: "I have not made up my mind at this stage, I cannot make up my mind, it is such an intricate subject, so complex that I still cannot make up my mind," and we may find some people abstaining. If Members of this House at this stage have been unable to make up their minds, you can imagine how many people out of this House, members of the community, at this stage have not made up their minds and how important it is that information should be supplied to them both by those who are in favour and by those who are against so that they are in a position to make an intelligent decision and this is what I am appealing to this House on this very important subject. I am appealing to this House that they should give an opportunity to the public of Gibraltar to make the decision. We are not going to be the only people who have done that. Most States which are Latin, which are very much the same as ourselves, whose culture has been dominated by the Roman Catholic Religion, have had to do the same. In Spain, in Italy, in these places you have seen that this has been put to a referendum and I think concluded happily in a way that was acceptable to all parties in the end because that was the decision of the majority of the people. I suggest that we should do the same thing here. My personal view is, like Mr Canepa's, that the people would vote in favour of reform, I think they would. Therefore those who want reform I do not believe should be so fearful that the cases which they have seen at very close quarters by the reports given to them by individuals in the Select Committee, I do not think they need fear that they are going to be put off by this. Mr Speaker, I think that those of us who want a referendum would be satisfied that we have gone about it the right way. Those who do not want a referendum and would like to see the law through I think they would be satisfied, too, because I am sure that this would be carried through. But above all that I think we would have in our conscience for evermore, as politicians, that we have done the right and proper thing on this issue, to consult every member of our community and that the decision once taken would be that of the majority of the people of Gibraltar.

HON J B PEREZ:

Mr Speaker, let me say, first of all, that I am not convinced by the arguments which have been put forward by both my Honourable Colleague Mr Canepa and by other Members of this House who have spoken in favour of the referendum. I think the main point that one has to consider at this particular moment in time is really contained in the motion which has

been put to this House by the Honourable the Attorney-General and that is, do Members of this House accept the recommendations contained in the report or not? That is the matter which I think has to be decided at this moment in time. The main argument which has been put by Members in support of the referendum appears to me to be that they accept the recommendations contained in the report, they accept there is a need to reform our legislation but at the end of the day they are saying: "Well, this House has no mandate to carry this through". But again I would reiterate that at this moment in time all we are asking the House to do is to approve these recommendations and to accept that the present laws are archaic and are unjust, that is what we are asking the House to approve. I think I must give credit to only one Member of this House and that is the Honourable Leader of the Opposition because at least he has stood up and said that he is not in favour of the recommendations contained in the report and I think that as far as I am concerned he is the only person who I give credit to because he is fully justified in voting against this motion and since he intends to vote against the motion because he does not agree with the recommendations, then he is entitled to at least go in favour of a referendum because as far as he is concerned the matter does not continue, the matter is stopped. I can only give credit to the Honourable Member Mr Isola. I personally disagree entirely with the arguments put forward that this House of Assembly has no mandate and I disagree entirely because I honestly and genuinely believe that the Members of this House who are arguing in favour of a referendum are only looking for an excuse so as not to face the reality of the situation.

HON MAJOR R J PELIZA:

Will the Honourable Member give way. If that is so why is it that there is no whip in any party, either in the Government or in the Opposition. Why is this if they have a mandate?

HON J B PEREZ:

As I see it, the reason why there is no whip and the reason there is no party view is because in the past politicians as individuals have been scared and frightened of this particular issue. And not only individuals but the parties as such, have been frightened and they have never really tackled it. That is, in my opinion, why there is no party view. I think Mr Speaker, the Members in favour of a referendum tend to put wool over their eyes and they are just coming up with an excuse because they are fully aware that our divorce laws are inequitable, they are unjust, they are archaic and we have all agreed, even the Honourable Mr Canepa has agreed that there is a need for reform. We all agree.

HON A J CANEPA:

If the Honourable Member will give way. An excuse for what? An excuse to kill the whole thing, not to allow it to go through. Is that what he is suggesting that those of us who are in favour of a referendum what to do, what is the excuse for?

HON J B PEREZ:

The issue as I see it, Mr Speaker, is because these Members, including the Honourable Member for Economic Development, just do not want to face the reality of the situation. It is no good saying: "I accept the recommendations contained in the report but we have no mandate". That is my view. I think our matrimonial laws have remained unchanged for many years in our statute books because politicians have been scared. Parties have been frightened to bring it up to the forefront and I feel that this House of Assembly has a duty if we feel that the laws need reform, if we accept the recommendations, then I think there is no question of a mandate being needed. I honestly believe that what the recommendations seek to do is not to compel anybody to do anything, we are not compelling people to get divorced. We are not compelling those who use the legislation to get a divorce to remarry. Nobody is being forced to do anything. All we are doing is giving the right to that small minority of people in Gibraltar today who wish to make use of that particular law. We are dealing with a minority. We are not dealing with the majority of people. The majority of people are happily married, but it is those, that minority, which I feel the whole House of Assembly owes a duty to. If we feel that the laws need reform, if we agree with the recommendations in the report, then it is to that minority, to that small section of that community, to which we have a duty to act. The other point I think I must make is that by these recommendations I do not accept that it is harmful to the community as a whole. I just cannot see that because all that the recommendations intend to achieve is to give, as I would put it, legal recognition of a de facto situation. By that I mean where you have a marriage which has broken down, a marriage which has come to an end, a marriage in which there is absolutely no chance of reconciliation, in practice it is there, all we are doing by this is giving it legal recognition and that is not all. Let us not forget that the church as such are not against judicial separation so what is the difference? The Honourable Mr Isola gave the House some statistical information. He said that in 1969 there were 55,000, I have forgotten whether it was petitions for divorce granted but it does not make any difference, 55,000 in 1969, I think it was petitions, and in 1979, 146,000. The first point was, I think, that it trebled within a period of 10 years. Either petitions or decrees absolute being given. But Mr Isola put that argument, really, not in favour of a referendum but in favour

of his judgement that he does not accept that there is a need to review the legislation and in his view he cannot accept the recommendations contained in the report. Mr Speaker, I reject that argument because it is no good saying that because you have more divorces granted it does not necessarily mean that you have more marriages breaking down. That is complete nonsense, it is absurd. What Mr Isola should have ascertained would have been the decrease in the number of judicial separations in connection with the increase in divorces. Mr Isola also failed to say whether by the divorces being granted whether the number of marriages that have broken down have in fact increased because I would maintain that the number of broken marriages are exactly the same. He tends to point out that as a result of divorces being granted within that ten year period, there must be a very substantial decrease of men and women living together for many years without entering into a contract of marriage. That he fails to say as well and I think that is a very important matter to take into account. Mr Isola also spoke about the number of children involved in these divorce petitions. But, surely, Mr Speaker, if a marriage has broken down, whether there is a divorce petition or not those children are suffering in any case and they are involved. It is no good, as I see it, anyway, to quote statistics against the recommendations. I think the statistics are sheer nonsense. As far as the Church is concerned, I think the Church is fully aware, and the Church recognises the practical situation where a marriage has broken down: But what is the answer, or what has been the answer given to the Select Committee by those members of our community who have come or who have written or made verbal representations to us against reform of our divorce laws. Their arguments have been, well, you have judicial separations, husband and wife can separate, well, what about the children in those cases? Mr Speaker I was saying that the view of the Church and the view that has been taken by members of our community who are against any sort of reform of our matrimonial laws is that the answer to those unfortunate people is a judicial separation and as I say, with a judicial separation children's interests are of course involved. To me what that means is that the Church and those individuals are, in fact, if they accept that marriages break down we are condoning people living together and having children without being married, that is what the Church is doing. I am a practising Roman Catholic but to me that is totally unacceptable because I think it is wrong. I think it is totally wrong. Again, as far as the Church is concerned, even with our laws reformed, they still have the right to decide not to marry a divorcee and nobody will quibble with that, that is their prerogative. But as far as the community as a whole is concerned, I think it is wrong. I think it was the Honourable Mr Loddo who said this. We have to allow people to start life afresh, every person is entitled to do that. Mr Isola also brought up the question of the case in which a husband or a wife who was petitioning would be petitioning on the grounds that he or she did not like the toothpaste that the other partner was

using. That, Mr Speaker, shows that that particular marriage, if any marriage, has totally broken down for one partner to come up to court and give that explanation which in the United Kingdom would be on the grounds of unreasonable behaviour but that is not a recommendation which the Select Committee is making. We have looked at these cases very carefully.

MR SPEAKER:

Mental cruelty, I think, or in this case dental cruelty.

HON J B PERZ:

Yes, but at the end of the day, Mr Speaker, the question that the courts will have to ask is, is there any chance of a reconciliation of this marriage? Has this marriage completely ended or not? That is what the court will have to decide. I think one of the most important factors to consider is, Mr Speaker, that we are not in fact discussing the principle of divorce because divorce exists in Gibraltar today. Perhaps, if divorce was a new concept to be introduced, I would be completely in agreement with a referendum. For example, if we were dealing with a new concept, something like abortion, I would have no hesitation to agree to a referendum. But not with divorce because divorce exists. The unfortunate thing is and this is where I think the House of Assembly does not require a mandate to accept the recommendations in this report, is that divorce only exists on the grounds of adultery, sodomy and bestiality, the unnatural offences. As I see it, one act, a single act of indiscretion by a husband or a wife entitles the other party to a divorce. I think we must all realise that in the past, in the many years in which we have had this ground for divorce, mainly adultery, there has been no public outcry, there has been no public objection to the principle of divorce, so what are we talking about now, Mr Speaker? The next step to consider, if you take that there is only one ground to obtain a divorce, mainly, adultery, one must next consider, well, why not cruelty and why not desertion. What is the difference between a single act of adultery and the situation whereby a husband is continuously beating up his wife and beating up the children over a long period of time. Which is worse? Or let us take the case in which the husband has deserted the wife and children for, say, a period of 2 or 3 or up to 5 years. What is the difference? Why should one act of indiscretion entitle a party to a marriage to seek a divorce and yet things like cruelty, desertion and other factors do not? And then the third step which is the third that the Select Committee took and the view which I would say is the only logical view, is that it should not matter whether it is cruelty, desertion or adultery. What the court has to look at or what the community must be prepared to give legal recognition is to the fact that the marriage has come

to an end. Fullstop. And if a marriage has come to an end if there is absolutely no chance of a reconciliation between the parties concerned, then it is only right and proper that legal recognition should be given to that particular situation. Otherwise the position is totally hypocritical, in my view. So, Mr Speaker, what are we in fact recommending in the report? As I see it, we are updating our laws, we are not introducing a completely new principle. What we are saying is, we are putting it on its right and proper footing. And, as I say, Mr Speaker, in my view the community of Gibraltar cannot continue to close its eyes to these real situations. We, as the legislators, must be prepared and I think we have a duty to ask and to provide the opportunity to those unfortunate people whose marriages have broken down and would like to have recourse to the courts for a divorce. Again, I would reiterate, Mr Speaker, that we are not forcing people to remarry. We are not forcing the Church to do anything. The Church can have its view and continue to have its view. Another point which I have to make on the question of the referendum which I do not believe has been mentioned by any previous speaker in this House, is that in my view, a referendum has absolutely no value whatsoever because what choice are we going to put to the electorate? The Honourable mover of the amendment would like it to be put by way of referendum first of all whether the people want a single ground for divorce, irretreivable breakdown, or my definition that a marriage has completely come to an end and there is no chance of a reconciliation because that is what irretreivable breakdown means. And then he also wants it to be put to the electorate whether a set of facts which one has to establish in order to prove the irretreivable breakdown, whether that should be accepted. But, Mr Speaker, what happens to a member of the public who might say: "Well, I agree with the irretreivable breakdown but I do not agree with the grounds of desertion, I do not agree with the cruelty, I agree with adultery, I agree with desertion but not cruelty". A referendum just cannot work, Mr Speaker. It is silly to do it. I honestly believe that the reasoning, maybe it is not intentional but the reasoning behind some of the Members minds is, yes, we accept the recommendations, we agree that there is a need to change the law but we have not got the guts to go ahead and do it. I think that is wrong. The referendum cannot achieve anything. Do we honestly believe that if we put it to a referendum and we issue all the reports in the English and Spanish language, can we honestly say that people will really take the trouble to read it. As I say, Mr Speaker, the referendum on this particular item to me is of no use whatsoever. Again, I would stress where you have a member of the electorate accepting part of the recommendations and not others what does he or she do in that situation. And, again, I think this point has been mentioned, people whose marriages have broken down and are unable to obtain a divorce, people who have been living with another party and have had children out of this other union, they will of course go and sign on

the dotted line for irretreivable breakdown but those people would sign on the dotted line for anything whilst the majority of the community are really not involved. As far as the Church is concerned, the Church is fully protected because it is within their own right, within their jurisdiction, it is their prerogative to decide not to remarry somebody who is divorced. The Church is protected and I do not accept that the community will be harmed in any way and I think a referendum would be a shambles. Another point is that the Select Committee has been meeting for over three years. We have spent hours and hours, Mr Speaker, deliberating on this matter. Hours and hours listening to people making oral representations, listening to members of the Church, of all the different denominations in Gibraltar, and an opportunity has been given to every single member of the community to make representations. We have done that and at the end of the day we have come out very clearly with specific recommendations including having discarded the question of the referendum. The community have had an opportunity to make their views known. To sum up, Mr Speaker, I say that a referendum would also be a dangerous precedent to have in Gibraltar because if we have a referendum for this which I think is totally impractical and of no value, what will happen next? Do we have a referendum on whether to legalise marijuana? Do we have a referendum on the dockyard issue? Do we have a referendum on whether we should pay income tax or not? We are not dealing here with a completely new concept. If in fact divorce was non existent in Gibraltar today, I would agree with a referendum. If we were talking about abortion, I would agree on a referendum. But the reality is that divorce exists and we all agree, except for the Honourable Leader of the Opposition

MR SPEAKER:

Yes, but we are now going over old ground.

HON J B PEREZ:

Just to end, Mr Speaker. Mr Isola is the only Member who said he is not in agreement with the recommendations so he should vote against but all the other Members who have spoken agree, they face up to the reality and they must accept that divorce exists and, therefore, I would honestly urge them to re-think the whole question of the referendum and perhaps the Honourable Mr Canepa would consider withdrawing his amendment to this motion and, perhaps, when we come to the actual Bill, to the First and Second Reading and Committee Stage of the Bill certain Members of the House will have the opportunity to put in amendments if they feel that the recommendations proposed will make divorce easy. But, Mr Speaker, I am not at all convinced that a referendum is the right way to approach the matter and of course, I will be voting against the amendment.

HON G T RESTANO:

Mr Speaker, I am going to be very brief because we have heard most of the arguments. We have heard them in 1980 and we have heard them again today and yesterday, so I will try to be as brief as I can and just stress the areas which I feel need to be stressed even though they may have been mentioned before. First of all, I would like to congratulate the draftsman of the report, I think it is one of the best reports that I have certainly seen in this House and I think it reflects the three years that the Committee has been sitting and working hard and it reflects very well, it is very clear and succinct and easy to read. Moving to the amendment, Mr Speaker, the second point of the amendment which notes that no electoral mandate exists on the question of divorce, of course, I think it should read on the extension of reasons for divorce, it does not seem to have been mentioned at all by the last speaker. He has skated completely over this particular issue, the fact that nobody in this House has gone to the people and asked the people whether they feel that the divorce laws should be extended or not. It has also been said that perhaps election time is not the proper time to bring up an emotive issue like this and I agree with that. I agree with that because it clouds the issues and I do not think that the result of an election which is clouded by either divorce or abortion or any other matter of conscience would result in a clear-cut conclusion as to whether the people want it or do not want it. That is why I consider that on this one, this matter of conscience of divorce, I think that it deserves that the people be given a chance to vote for it on its own merit and without the clouding of any other issues in an election. I think Gibraltar is split down the middle on this issue and I do not think it is right or proper for anybody in this House to say: "This will be done or this will not be done". I think it should be a matter that the people have to decide, and although the Select Committee has been convinced that there is need for reform, I think that those who have spoken against a referendum, those who have rejected a referendum, are in fact taking away the right of the electorate to decide whether there should or there should not be reform on the divorce procedures. Mr Perez, in his contribution, said that those of us who believe in a referendum were using it as an excuse, that we were afraid of taking issue. He is accusing other Members of this House, therefore, of political cowardice. I believe, personally, that the political cowardice does not come from those who want the referendum but those who have shown and the Select Committee has shown, and it has been pointed out already in paragraph 80, that although they feel very strongly that there should be divorce reform, they feel and they are afraid that the referendum will not give them the results that they would like to see. I think this was reinforced, to me, anyway, by the manner in which the Honourable Mr Bossano spoke. He said: "Oh, yes, the Roman Catholics are going to bring out their divisions and they are going to make people vote this way and

that way. I do not believe that is so but it reflects very clearly to me that he felt that if there was a referendum, that that referendum would not produce the results that he wants and therefore, what is the result? The result is, let us bulldoze this through the House of Assembly. No, I am not giving way to Mr Bossano. I am making my own contribution and if he wants to speak at a later stage he can do so. That is my opinion. He has had his say, now I am going to have my say. I am not giving way, Mr Speaker, and that is clear. Anyway, as I said, I think it is a way of bulldozing it without giving the electorate the chance to have a say in the matter. The Chief Minister said that by having a referendum it would imply that it was three years wasted of the Committee's time. I don't think this is a particularly good argument. Are we going to say that because a Select Committee, be it 5 or 4 men, sit for 3 years or 5 years or 10 years or even 1 year, and produce something which the rest of the community does not like, does that mean on the Chief Minister's argument that because they have sat for 3 years we have got to accept what they say? By that argument the Chief Minister should be accepting the report of the Foreign Affairs Committee in UK on the question of Gibraltar which we certainly do not accept in Gibraltar. It seems to me, Mr Speaker, that probably this amendment will be defeated by a very slim majority, it seems to me, and I think that reflects not only the feelings of this House, not because those of us who ask for a referendum do not want a reform of the divorce laws, that implication must not be made, I personally feel that there should be reform in the divorce laws but I do not think that the Members of this House are entitled, because there is no mandate, to make the change in the law. But on a matter where both sides of the House have a free vote, that there should be whichever way it is, either way, such a slim majority, I think it is wrong, I think it would be morally wrong if the House were to proceed afterwards with the recommendations without going to a referendum. I think the referendum is the way to do it. After all, we are the representatives of the people, none of us here have asked the people what they wanted on this issue, and although we can recommend at a referendum how we feel that they should vote, it is not for us, I think, to bulldoze the recommendations contained in the report onto the people of Gibraltar.

HON W T SCOTT:

Mr Speaker, I really only want to contribute once. I will be speaking on the amendment and the main motion but without necessarily giving up my right to speak within the main debate at a later stage, a brief contribution, should it be necessary. Mr Speaker, I think initially I ought to express surprise at the manner in which the Honourable Mover of the amendment chose to give notice of his amendment, taking the unusual step of giving four day's notice. I find that rather unusual because in my short experience in this House I know of no instance of this nature and I was rather sad that when he moved the amendment he did not explain the reason why.

MR SPEAKER:

It is completely in order.

HON W T SCOTT:

I have no doubt, Mr Speaker, I am not talking about the procedure of the House otherwise I am sure you would not have allowed it, but I would hope that when winding up he will give the reasons why he took this unusual step. Mr Speaker, if I may deal with the amendment in its constituent parts. In part A, which says that it notes the report of the Select Committee on the Matrimonial Causes Ordinance, the Honourable mover knows that I am a confirmed reformist in this matter and that I think that as a Member of the Select Committee I am even more of a reformist and it would be invidious to think that he would be able to persuade me to vote rather than approve a Select Committee report that I have been part of. Secondly, B and C, I think, could be taken together. B, for example, for the reasons that my Honourable Friend, and I think he used them wrongly, on the whole issue and the whole question of divorce no electoral mandate exists on the question of divorce, well, no electoral mandate existed on the question of divorce in 1962, and yet the existing divorce laws date back to 1962. Well, that is my information.

MR SPEAKER:

No, they existed before the turn of the century.

HON W T SCOTT:

Alright, even before the turn of the century. No electoral mandate existed, Members who have continued against reform and there has only been one Member here that has changed his mind and he happens to have changed his mind because he was a Member of the Committee. There have been ample opportunity by Members of this House to have repealed any existing divorce laws that have existed throughout the whole history of their involvement in this House and no single attempt has been made by them to do so. Mr Speaker, the comment that was passed by making it part of a manifesto and for the same reasons as we have heard from individual Members on both sides of the House, it is invidious to think that any of the two majority parties will ever find any form of agreement amongst themselves to make it an election issue, to put it in their manifesto. And in any event, Mr Speaker, it is not done in my estimate, because it could be political dynamite in any case and that is the reason why it is not done. Mr Speaker, I think the Honourable Brian Perez made up a very good case, particularly towards the end, on the question of the referendum when he said that it would be setting a very dangerous precedent. As early as July, 1980, when the Honourable Mr Joe Bossano

brought the motion to the House, we also expressed fears in that direction. And let us make no mistake about it, this issue is only going to affect a few people, a very few people. But other issues, like, for example, the Landlord and Tenant, that is going to affect absolutely everybody in Gibraltar, absolutely everybody and I doubt very much even on that issue, whether either party can come up with a general policy very, very quickly. I think it will take a question of years before it comes up with that. But a more important point on that, Mr Speaker. Yesterday, when we were talking about the honorarium to the Chairman of GBC, I noticed that an aside was passed to the Chief Minister and I made a note of that aside. It said, it would set a very dangerous precedent. That aside was passed by the Honourable Adolfo Canepa and I do not see how he can make a distinction between one and the other. I must say, however, after having said what I have said about the Honourable Mover of the amendment, I must compliment him on the manner of his delivery and the way he fought his case because quite frankly it becomes even more difficult, in my estimate, when he has basically no case to fight. Mr Speaker, within the Select Committee, it was a great exercise for me because I did not have the constraints of any party policy and therefore I feel that all individuals within that, having the same freedom, were able to act entirely and totally within their conscience and I think that is reflected within the report. It is only sad, Mr Speaker, that unfortunately it is impossible to have a Select Committee of the House composed of more Members, perhaps all, because if this had occurred, I have no doubt whatever that Members who are still against this issue would now be talking in the same manner that the Honourable Maurice Featherstone has talked. The reality of the situation, Mr Speaker, is that marriages have broken down and what these people are saying to us is: "Give us another opportunity, the law is wrong, marriages have broken down, we are in these circumstances", and who are we, Mr Speaker, to be less human. Aren't we human as well? Don't these people deserve a second chance? The arguments that I have heard here Mr Speaker, on the issue of the referendum is basically the same argument that we heard in July of 1980. It is the issue of not whether there is a referendum or not, it is the issue whether there should be divorce, or whether there should be a reform of the existing laws, whether there should be divorce at all. Mr Speaker, I am not going to go too far into all the evidence that we heard which of course is a matter of confidentiality, but there are the so called shot-gun marriages of girls and boys who have made that original mistake, and their marriages do not last more than a few months, because they are forced into that situation having made that original mistake. At the other end of the spectrum there is the grandfather who wants to legitimise his son, who himself is a father, and is worried now about his assets because perhaps he only has a few more years to live. Who does he leave them to? Will he have problems with the woman that he is legally married to but with whom he only lived

for 3 or 4 months, who he never really knew, and will he leave the family, his family in the house, in such a situation that his will will be contested, and what will happen then? Mr Speaker, I will finish just by saying, and I think it is reflected here, that the members of the Committee have never had in their minds that divorce should be made easier, as the Honourable Peter Isola has made out. He has come up with a lot of facts and figures about Conservative lawyers, about appointing a Royal Commission to look into that and so forth. But the advice has not been taken by the Tory Government, it has not been taken. The one great thing that all Members of the Committee had, and it is reflected in that report, Mr Speaker, is not that divorce should be made easier but that marriage should be made more difficult.

HON ATTORNEY GENERAL:

Mr Speaker, I think Honourable Members will understand readily enough the point I am about to make and within the House itself think there is no need for me to make it vis-a-vis the other Members but I would not like my position to be misunderstood outside the House and therefore I do want to make a short speech.

MR SPEAKER:

On the amendment?

HON ATTORNEY GENERAL:

On the amendment. The purpose for the referendum is indicated by paragraph B of the motion which says that it notes that no electoral mandate exists on the question of divorce. That being so, Mr Speaker, and as I say for reasons I am sure the House will understand, I will not be voting on this question, I will in fact be abstaining. But the House did charge me with sitting on the Committee and participating in its decision, and although I will be abstaining on the vote itself, I feel I must state where I certainly stand on the matter in relation to the Committee. I can say it very briefly because it is already in the report. Although I will be abstaining on the vote, I myself support the Committee entirely on the question of whether or not there should be a referendum. In short, I would be against a referendum.

MR SPEAKER:

I will then call on the mover of the amendment to reply.

HON A J CANEPA:

Mr Speaker, I think this has been a very good debate. The matter has been discussed exhaustively and it has been very interesting for me to find myself in such full agreement and

to get support from Honourable Members such as the Leader of the Opposition, the Honourable Gerald Rastano, the Honourable Major Bob Peliza, and I found I could not disagree with him on anything that he said. It is amazing when people are able to argue sincerely on what they believe and they have not got issues clouded by politics, what degree of unanimity we can find and yet per contra, I find myself on the opposite side to members sitting now on either side of me. It is most illuminating. The only thing that I am a little bit sad about has been that more than one speaker has chosen to perhaps do less than justice to the motives of those of us who are in favour of a referendum and I think this brings slightly into question our integrity or our political maturity and courage. That I think is sad. It is the only little thing of sour grapes that I have about this debate and I shall be coming back to that later on when I answer some of the Members individually. The Honourable Mr Willy Scott asked why had I gone about circulating the amendment that I proposed to move. Well, for a very good reason. I thought that by doing so I would give Members an opportunity to think calmly about the issue, they would have an opportunity to discuss it amongst themselves, to discuss it perhaps with members of the public over the intervening period, because the danger, I think, in springing an amendment on a motion in the House is that it does not give sufficient time for calm and cool reflection. In the heat of a debate an amendment is moved and perhaps it does not get proper consideration. It is not easy, I think, for all Members to be listening throughout a debate lasting a number of hours to the arguments that are being put. The Honourable Mr Willy Scott was not being listened to by very many Members who are no doubt having the same debate out there and this I thought was why I should introduce this new element. And, of course, I got the idea from the fact that there are occasions when in particular the Honourable the Attorney General gives prior notice of amendments. It germanated there and I thought that by doing that there were two or three Members that had mentioned in 1980 the possibility of having a referendum, that that would give an opportunity for cool reflection and for rational debate and I think that regardless of what the results may be I think that that has been achieved. Mr Scott mentioned that there was an opportunity to repeal the law as it stands at the moment but no one has done that. Why should we repeal a law, why should we do away with a law which gives divorce when what that law requires is that it should be improved, when that law requires that it should be put on an honest basis. I think that there is a need to do that and one of main reasons that I feel reminded that that is the case is precisely the sort of reason which he mentioned in bringing up a particular case of a gentleman who is getting on and who wants to leave his affairs in a proper manner. I think there is a need for civil divorce in order to clear up legal ramifications. It has got to be there. I think it would be wrong, it would be totally immoral to do away with the law

that exists but the law is not an honest law, it is an archaic law. It is a law where to take advantage of it to get a divorce you have to either go through the process, say, of committing adultery or contrive the hotel bed situation. Incidentally, I do not think that it is that bad from the point of view that it contributes to keeping the hotel occupancy levels rather higher than what they would otherwise be. I think it needs to be put on a proper basis if only for that reason. But because it is a great moral issue, it should be done with the full consent of the people and that is I think the extent to which we tend to differ. The Honourable Mr Brian Perez, and I hope he is listening to me out there, said that he was not at all convinced. Of course he is not at all convinced. He has pre-empted the whole debate through being a member of the Select Committee and recommending in the manner in which they have done. Because in 1980 the matter was not debated anywhere near the same length and to the same extent as it has been yesterday and today. It was mentioned and one or two arguments were addressed on the matter but the question of the referendum was not debated at length. And the Honourable Mr Perez, without bothering to listen to any of the arguments, appends his signature to a report which says no, we must not have a referendum and we must not have a referendum because there are a substantial majority who do not want it, who do not want reform. A judgement has been made in this respect beforehand without hearing the sides, without hearing the arguments. What those who are in favour of a referendum are saying let us go ahead and get a mandate and if we have that mandate then let us come back to the House and amend the law accordingly. To speak as he did of giving a right to the minority that wants divorce that, I think, is a dangerous argument. It is only a minority that are going to be affected. Let us give it to them because it is a minority. It is only a minority that wants abortion, it might only be an even smaller minority that wants to commit rape, but those are not arguments for enshrining in legislation the right, if there any, of those minorities. That is a very, very dangerous argument to use and that is where I think the Honourable Major Peliza, in particular, was right when saying: "This is part of a natural sequence on other moral issues in which there is a danger of standards being eroded". And because I perceive that and because I had some inkling of which way the Committee was thinking, that is why I can inform all Honourable Members that I took the step I took in our Party assembly of introducing a motion on the question of abortion. Because I am not going to be caught out again, because if guts are required to amend the law on divorce and I do not think that guts have been shown in that, apart from Mr Eric Ellul no one has ever campaigned on that issue, then the same thing can happen again on the question of abortion. In years to come perhaps a Member could be elected here without having taken a stand on the matter and also introduce a motion that the matter should be legalised, that there should be a select committee set up, that there

should be a referendum, or introduce a Private Member's bill as happened in the United Kingdom. And then what is going to be our position? We have a free vote on that as well? I am sorry that on that one, because of the dangers that I see for the future, I have taken the step of bolting the door to the stable before the horse jumps out. As I say, for as long as I am a Member of this House, Mr Speaker, on any grave moral issue, I shall in future be very circumspect about... referring such matters to a Select Committee. The Honourable the Chief Minister, as has already been pointed out, evinced a rather strange attitude to the whole question of the deliberations of the Select Committee and I think that that argument of it being a waste of time to have a committee deliberating for three years and then refer the matter to a referendum, I think that that has been demolished. We are not going to adopt the same attitude to the report of the Landlord and Tenant. Already we have received representations on that report and because we have received representations and because the Government has to take a view on the matter, the matter has not come up at this meeting. It is a matter for further consideration and I am prepared to bet my bottom dollar that the recommendations in that report are not going to be enshrined in legislation without any amendments because the matters are complex and because they affect a lot of people. But on this report because the recommendations is moved in a certain direction, that is sacrosanct, we must not change that, it would be a waste of time

HON CHIEF MINISTER:

If the Honourable Member will give way. That is not what I said, what I said was that if the idea of a referendum had been seriously considered, then the terms of reference for the Select Committee would have been completely different.

HON A J CANEPA:

The Chief Minister then went on to say: "Nothing is being decided, a bill will be published, representations will be made," and what is going to happen to those recommendations. There will be cosmetic amendments, nothing more, on minor matters but the central issue of that Bill will be to widen the grounds for divorce in the manner recommended by the Committee and that will not be changed, that I am prepared to say is going to remain. That is just paying lip service to the fact that representations can be made. And who is going to take notice of those representations? In the case of the Select Committee on the Landlord and Tenants, the Government has to form a view. The Government is responsible for introducing a Bill, but in the case of any representations that are made on the question of divorce unless one of us in a private capacity as individual members wishes to give effect to that by moving an amendment, not much notice will be taken

and then you have got to argue the case against everybody because there is no party view. I think that that is only paying lip service to the fact that we have not seen the end of the matter. No, the fact is that we have seen the end of the matter because the matter is going to be carried narrowly, my motion is going to be very narrowly defeated, and then of course the report will be accepted and there will be a Bill published before the summer, because the life of this House is running out and we have got to get on with the business of introducing this amendment before the life of this legislature expires. The Honourable Mr Featherstone was the first one, I think, to introduce the question of commercialisation. Mr Speaker, if commercialisation was a matter of conscience it would be out, we would all vote against it. You are not going to refer a matter like that to a referendum. I said in my contribution that the governing party, the Government of the day, has a duty to react to certain issues that come up in the light of the legislature regardless of whether they have been included in a manifesto or not. Commercialisation is one of them. If a government has to decide whether to go to war, you do not hold a referendum. There is an emergency, you act on it. To draw a comparison between the two is utterly ridiculous and I am glad to tell the Honourable Mr Featherstone that it is utterly ridiculous.

HON M K FEATHERSTONE:

If the Honourable Member will give way. Surely on going to war, which is a thing of conscience completely as a Christian one ought to have a referendum.

HON A J CANEPA:

No, Mr Speaker, there are certain issues on which of course the Government has to govern and of course the Members of the House have got to give a lead. I come now to the contribution of the Honourable Mr Bossano and with all due respect to him I think that he was somewhat intolerant. He said that in the assessment that I had made as to how people would react if a referendum were to be held, he said I was talking nonsense. His assessment differs from mine. His is that there will be a high level of abstentions, a lot of votes against from the others because the Church will mobilise its divisions like Pope Pius XII did against Joseph Stalin, and the referendum would therefore be lost. I do not want to describe what he is saying as nonsense. I think that for a man who prides himself on using logic it is odd, to say the least, to find him in a very passionate speech having so little regard for the views of others. He has been during this debate particularly passionate and intolerant because he found, I think, that many Members disagreed with him. And for the Honourable Mr Tony Loddo, who I thought made an excellent speech and my estimation of him increases every time that I now hear him debating in this House because I think that he is beginning to

find his feet and that is for the good of the standing of this House, I thought he made a marvellous exposition which I have already used and which I will continue to use on the right attitude and the right approach to the institution that is marriage. But the argument that we should have a referendum on the issue of introducing divorce does not hold water. Divorce laws were introduced in Gibraltar, as the Chief Minister said, he used a different word, I said by accident, I think he said by a fluke, that is it.

HON CHIEF MINISTER:

I did not say fluke, I do not like the word fluke.

HON A J CANEPA:

I think he said by a fluke. Hansard will show whether he said a fluke or not. Almost by accident, by the application of English law to Gibraltar, that was how it was introduced. At that time, decades ago, there were no legislators in Gibraltar, there were no politicians, there was no electorate, no one had any say in the matter, it was the colonial administration that introduced that, accidentally, if you like, and that is it.

HON CHIEF MINISTER:

No, I am sorry, what I said was that it was introduced indirectly by the application of English Law in 1883 by the Supreme Court Order which applied all the statute law in England at that time which included the Matrimonial Causes Act of 1857.

HON A J CANEPA:

If you hold a referendum on whether divorce should be introduced or not, I think the likelihood is that there would be a majority against it. This was the position in the United Kingdom on the EEC referendum. Probably if the referendum had been held on whether they go in or not, the referendum would have been lost, they would not have gone in but in 1975 the issue was, do we stay in? Because they were in there was a majority in favour of staying in and not going out. I think that if you were to hold a referendum now in Gibraltar on whether the existing divorce laws should be repealed or not, there would be a majority who would say no, do not repeal them, because that is the natural inclination, not to alter the status quo. But what disappointed me was the motives which the Honourable Tony Loddo ascribed to those who are in favour of the referendum that there was the underlying religious ground and I think that that has been more than exploded by the Honourable Mr Zammit, who though not a practising catholic is in favour of a referendum so there is no underlying religious motive. The Church is not cracking any whip at him and yet we have my Honourable Friend Mr

Featherstone here on my left, who is a much more orthodox, a more conservative, dare I say reactionary catholic than I am, who is against the referendum and who has been convinced through his deliberations in the Committee. During the debate in 1980, the two people who spoke most passionately against the whole issue of divorce were the Honourable Leader of the Opposition and Mr Featherstone and Mr Featherstone was more reactionary than the Leader of the Opposition on that matter. To ascribe religious motives Mr Speaker, does less than justice to the intelligence of those of us who feel as we do on this matter. I have said in my opening remarks in introducing the amendment, that I myself would not wish to deny to others what on religious grounds I do not accept. To me, marriage is an indissoluble union on canonical grounds. I do not want to impose that on others and I said that that was the case. And that is why I said that I could go along with reform of the divorce laws but, apparently, the Honourable Mr Tony Loddo did not believe me in this, he may have thought that my motives were not genuine. He went on to say that eight people are elected in Gibraltar to govern. Yes, people vote for eight, they elect the Government of eight. They elect a Government of eight to govern and to form a view on issues that come up during the course of their term of office. But eight people are not elected to form a Government and then split up on the issue of a referendum and split in the vote on divorce in the manner in which we are going to do. That is not what the electorate of Gibraltar elect us here for. I agree that it should not be clouded by the other arguments that are going to pre-dominate in an election campaign. That is why it makes to isolate it and put it to the people in a referendum. It is clear, I think, from the contributions in the House on this debate that those of us who are in favour of a referendum are going to lose the vote narrowly. When this debate then reverts to the substantive motion, in so far as that motion is concerned, I will not vote against the approval of the Report and in fact I am not voting in favour because of the one paragraph that I have got serious objections to, as I said right at the beginning, that I take issue with. The fact that they have pre-empted the whole question of the referendum. Were it not for that I would support the main motion as I will be able to support in due course the legislation that no doubt will be introduced in the House. Whilst arguing the House to consider and to approve the issue of a referendum without any worries about the precedents that are going to be established, no one is going to ask for a referendum on anything that affects them which the Government or which the House may legislate on. It is only on serious moral issues that it is proper to have a referendum. There can be no fear of that whilst asking the House, therefore, if the motion is defeated as I suspect that it will, as I say, I can feel nevertheless that there is a need for reform in the manner indicated by the Committee because of the social aspects of the matter, because of the civil aspects of the matter, because of the need to have

in law a situation which enables people to clear up the very serious legal ramifications that there can be in a situation in which people have not been living together for many years and there is a need for the law to recognise that situation regardless of what the religious point of view may be.

Mr Speaker then put the question in the terms of the Honourable A J Canepa's amendment on a division being taken the following Honourable Members voted in favour:

The Hon A J Canepa
 The Hon A J Haynes
 The Hon P J Isola
 The Hon Major R J Peliza
 The Hon G T Restano
 The Hon H J Zammit

The following Honourable Members voted against:

The Hon J Bossano
 The Hon M K Featherstone
 The Hon Sir Joshua Hassan
 The Hon A T Loddo
 The Hon J B Perez
 The Hon W T Scott
 The Hon Dr R G Valarino

The following Honourable Members abstained:

The Hon I Abecasis
 The Hon D Hull

The following Honourable Members were absent from the Chamber:

The Hon Major F J Dellipiani
 The Hon R J Wallace

The amendment was accordingly defeated.

MR SPEAKER:

We have before the House the question as moved by the Honourable and Learned the Attorney General. Does any Member wish to speak on the main motion?

HON MAJOR R J PELIZA:

Mr Speaker, I am only going to say the way I am going to vote and explain why, that is all. I do not intend to go into the whole argument again because I think this has been more than debated already. My intention was to abstain at this stage because I do not want to give an indication by any means that I agree with the House proceeding any further without referring the matter to a referendum and for that reason

although I agree with the report, as I said before, I feel that I should abstain. But now that I see that the amendment has only been defeated by one vote, I do sincerely hope the Government will take that situation into consideration and I think the argument for holding a referendum is even stronger than ever now because I doubt very much whether the people of Gibraltar will see it kindly that this should be bulldozed through with only a majority of one in the House. Therefore I intend to abstain because of that.

HON CHIEF MINISTER:

There is no question of the Government taking a view now because of the result. It has been a free vote and it will so remain. It would be beneath the dignity of the House for the Government now to take a view when it did not take a party line and impose the wish of a minority.

HON W T SCOTT:

I would refer to the point raised by the Honourable and Gallant Bob Peliza. He talks about the narrow majority of one vote. Well, on a motion of censure on the Government that we introduced if the Honourable Joe Bossano should decide to vote for it, the Government majority is one in any case so it is nothing unusual to have a majority of one vote.

HON A J HAYNES:

The point raised by my colleague, Major Peliza, on this narrowly defeated amendment, is one which nevertheless does bear close examination because we are talking of a free vote, we are talking of what in effect when a free vote means an ideological lottery and in this ideological lottery we have got almost deadlock. Within the party framework of both main parties in this House there is a personal deadlock which has resulted in the matter being a matter of conscience and now that internal deadlock has been extended within the House to include a further deadlock. Unlike my Learned Friend, I do not believe that the Government should at this stage intervene because obviously this has been a free vote and I do not think they can now change it. But I do think that it is a matter for regret that an issue of this importance should be carried by such a narrow majority. I feel it indicates a need for a reference to the wider population of Gibraltar. Mr Speaker, whilst I accept that the issue as to whether there should or there should not be a referendum has been debated amply in the amendment, my comments are now addressed to the result that was attained, a vote of 7 to 6. I think it does bear comment in the main part of the motion and in fact I may say that I concur entirely with my colleague Major Peliza, and I shall abstain in the context of the report and I shall therefore refrain from commenting on it except that I reserve my

right at Committee Stage to introduce amendments if I so feel necessary. But at this stage, Mr Speaker, I feel that there is nothing I would like to say further on the report except to note that as a result of the difficulties that have been found in this House in obtaining a majority to stop a referendum, it makes me feel, Mr Speaker, that the decision is unsafe. When I say unsafe, Mr Speaker, I really take the terminology in its legal sense from the concept, that certain matters when put to a jury would be unsafe, for instance a case which is based on mere suspicion, if passed on to a jury would be unsafe, similarly certain decisions by juries can be classified as unsafe and I think whilst that is the legal background to it, Mr Speaker, the commonsense understanding of it is clear. I think that the result in the preceding amendment which has been so narrowly defeated and which has revealed in this House the depth of feeling on the subject, makes it an unsafe decision, I shall abstain and that is the reason why I am abstaining, Mr Speaker.

HON CHIEF MINISTER:

May I say something which I should have said before and that is that if the amendment would have been carried by the same majority, the Government would have undertaken to carry out the direction of the House as a whole and have proceeded to prepare the necessary machinery for carrying out a referendum.

HON A J HAYNES:

I am not sure if the Honourable Member was referring to a majority the other way would have been equally unsafe, Mr Speaker, surely not? A majority the other way would have indicated that a higher court of appeal would have been involved which is the exact requirement to prevent something being unsafe and not another case of an unsafe decision, Mr Speaker.

HON A T LODDO:

Mr Speaker, I realise that yesterday I said I was only speaking once and only once but I would crave your indulgence to make an observation.

MR SPEAKER:

If it is an observation which you have not made before you are completely entitled to do so.

HON A T LODDO:

The observation is as follows, Mr Speaker, and it is to urge those who wish to abstain not to do so for the following reasons. The way I see it, the voting today has been

basically the same as it was when we debated it the first time with one notable exception, the notable exception being the Honourable Mr Featherstone who because he has been sitting in that Select Committee and has seen the evidence....

MR SPEAKER:

That is repetition, with due respect to you.

HON A T LODDO:

My observation was that perhaps had the other Members of the House seen all the evidence the voting would have been completely different.

MR SPEAKER:

That has been said in the debate itself. Does the Honourable and Learned Attorney-General wish to reply?

HON ATTORNEY GENERAL:

Briefly, if I may. Mr Speaker, I do not want to cover ground that has already been said but I would like to refer very briefly to some matters which are of importance. There is the evidence available for Members of the House to consider when coming to a conclusion on this, of course. The other matter I would like to refer to about the evidence that was given is that as a matter of fact it is not correct to say that those people who came before the Committee and came because they had personal problems were vociferous. They were very reasonable people, very restrained people, and I think if Members care to look at the evidence they will see that that was so. In fact, one Member has already made the point that he was very impressed by their manner, I think we all were. Mr Speaker, the other point I would like to make is that I don't think that this report is a recommendation for easy divorce at all, I think it is simply redefining an existing principle of divorce and it is redefining it in such a way as to recognise, as has been said, the reality that there are some cases when as regrettable as it may, a marriage has broken down and in those cases recognising that to avoid hardship. I think that apart from that what it is seeking to do is to find a proper rationale for saying: "This marriage must be recognised as being at an end". To that extent I think there is a positive as well as a negative side to it and that is that the positive side is to secure marriages that have not broken down. I would just mention, Mr Speaker, as everybody is aware, the grounds are more tightly defined than in the United Kingdom, and there are other provisions that are aimed at bolstering marriage such as the age limit recommendations and the counselling recommendations. So far as counselling can reasonably go, because I think in moving the motion in the first place I made the point, which I think is a real point,

that there is a limit to how far counselling can really stop a seriously damaged marriage. Mr Speaker, on the question of so-called divorce, I think Members may wish to consider what are the causes of easy divorce and I don't think the causes are really attributable to proposals of this nature. I think the causes of easy divorce depend on people's attitudes and nothing in these proposals will require anybody to get a divorce against their conscience. Nothing in these proposals will force anybody into obtaining a divorce. If I may say so as an outsider, it seems to me if we are considering attitudes, is it really likely, having regard to the previous history of the Matrimonial Causes legislation in Gibraltar, is it really likely that one measure such as this will change the deeply held family attitudes of Gibraltarians and the strength of those attitudes, I think, is very obvious, to somebody who does not come from here. The other point I would make Mr Speaker, is that before there can be any further changes there has to be legislative approval. The last changes were in 1962 and I think I am correct in saying that over a long period of time there have been very few changes in the Matrimonial Law. One other point I would like to deal with, Mr Speaker, is that when the Select Committee refers to the question of an additional Judge, we were not doing so in order to contemplate a prolonged spate of divorces, we made mention of an additional Judge simply because if our assessment of the situation is correct and if these measures are adopted, there will be a period in which there will be more divorces than normal but we were not in any sense recommending an additional Judge because we foresaw an ongoing spate of divorces in Gibraltar. Finally, Mr Speaker, I would like to thank the House for its reception of this report, for what has been said about this report and also, if I may, on behalf of the Committee, I would like to thank the Clerk of the House of Assembly and the staff for the support and the work that they did throughout the sittings of the Committee.

Mr Speaker then put the question in the terms of the Honourable the Attorney-General's motion and on a division being taken the following Honourable Members voted in favour:

The Hon J Bossano
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A T Loddó
The Hon J B Perez
The Hon W T Scott
The Hon Dr R G Valarino
The Hon D Hull

The following Honourable Member voted against:

The Hon P J Isola

The following Honourable Members abstained:

The Hon I Abecasis
The Hon A J Canepa
The Hon A J Haynes
The Hon Major R J Peliza
The Hon G T Restano
The Hon H J Zammit

The following Honourable Members were absent from the Chamber:

The Hon Major F J Dellipiani
The Hon R J Wallace

The motion was accordingly passed.

BILLS

FIRST AND SECOND READINGS

HON ATTORNEY GENERAL:

Mr Speaker, with your leave, I am not sure if it is necessary for me to move the waiving of Standing Orders in relation to this Bill.

MR SPEAKER:

No I think the suspension of Standing Orders is required for the Landlord and Tenant (Amendment) Ordinance because we were not given 7 day's notice but not in respect of the others. I suggest that you move the suspension of Standing Orders for the four Bills at one and the same time, and then we can proceed with them.

HON ATTORNEY GENERAL:

I am sorry Mr Speaker, I am not quite clear.

MR SPEAKER:

I would suggest that in order to obviate the need to suspend Standing Orders on each occasion that you move the First and Second Reading of the Bill, if you move it once for the four Bills we can carry the suspension of Standing Orders for the four Bills.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that the suspension of Standing Order No.30 in respect of the Landlord and Tenant

(Temporary Requirements as to Notice) Amendment (No.2) Bill 1983; the Income Tax (Amendment) Bill 1983; The Stamp Duty (Amendment) Bill 1983; and the Estate Duties (Amendment) Bill 1983.

This was agreed to and Standing Order No.30 was accordingly suspended in respect of these Bills.

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENTS AS TO NOTICE) (AMENDMENT) (NO.2) ORDINANCE, 1983.

HON ATTORNEY GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to further amend the Landlord and Tenant (Temporary Requirements as to Notice) Ordinance 1981 (No.16 of 1981) be read a first time.

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

SECOND READING

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the Bill be read a second time. I could be accused of being facetious which I would not wish to be, if I were to say that this is the annual measure. This of course, is a Bill to further extend the moratorium on rent increases. The Bill as drafted proposed the extension until the 31st, the last day of July, 1983, but in view of what has been said in this House earlier in this meeting, I will be moving in Committee a further amendment to extend it till the end of November, 1983. Sir, I think the Bill is short and I think that Members know its import and I commend it to the House.

MR SPEAKER:

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

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

MR SPEAKER:

It is, I think the first occasion that I have noticed in the House that a Second Reading of a Bill is being carried by a majority of the Opposition.

HON ATTORNEY GENERAL:

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

This was agreed to.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance (Chapter 76) be read a first time.

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

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Income Tax (Amendment) Ordinance, 1983, be read a second time. The provisions in the Bill will give effect to the proposed budgetary measures in relation to companies which are owned by non-residents and meet certain qualifying criteria. Companies which will be referred to as qualifying companies. The House will recall that the proposals were outlined when I spoke to the Second Reading of the Finance Bill and I now propose to explain them in somewhat more detail. Only companies whose trade or business is such that all receipts and income arising in the ordinary course of such trade or business outside Gibraltar or from dealings with other qualifying companies and tax exempt companies would be involved. The qualifying criteria will be prescribed by rules which will need the prior consent of this House. The criteria will be similar to those which a tax exempt company has to satisfy that a qualifying company must have a minimum paid up capital of £1,000 as opposed to £100 for an exempt company. There will be restrictions on the holding of investments in Gibraltar and on transactions in companies shares and no Gibraltarian or resident of Gibraltar may acquire an interest in the shares of the company other than a share holder in a public company whose shares are quoted in a recognised manner. A company which meets the prescribed requirements will be issued with a certificate for which it will have to pay an annual fee of £250 and make a deposit of £1,000 on account of future tax liability. In return, tax will only be charged on its profits of 2p in the £ when they are not remitted to Gibraltar. Profits remitted to Gibraltar will attract a tax of 27p in the

£. Tax will also have to be deducted from dividends at the same rate as the company is liable. This is because from the company's viewpoint the tax deducted from the dividend is offset against the tax payable by the company on its profits. Hence the need for a matching rate. A complication arises when only part of a company's profits is remitted to Gibraltar and both rates of tax apply. This, however, is covered by subsection 5 of the new section 27A proposed in clause 4 of the Bill. The tax will be deducted from interest, directors' fees and other sums payable by the company to non-residents, it is 2p in the £. If they accrue to residents the deduction will of course be at the standard rate. Such payments are not appropriations of profits and the tax which is deducted at source will be paid over to the Government as additional revenue. It would be counterproductive to subject non-residents recipients to the comparatively high rate of tax of 27p in the £. A breach of any of the qualifying criteria or of a condition endorsed on a certificate would render the qualifying company liable to have its certificate cancelled and to tax being charged on its taxable income at the ordinary rate of 40% as for any other company and the tax to be deducted from, dividends, interest and directors' fees will be at the standard rate. A breach will also annul the estate duty and stamp duty exemptions which are being recorded to qualifying companies under the Estate Duties and Stamp Duties (Amendment) Bills being introduced to the House at a later stage in this meeting. But if I may, Mr Speaker, I would like to outline for completeness the proposals in those two Bills, with your leave. The exemptions in the Estate Duties and Stamp Duties (Amendment) Bills are exactly the same as those currently enjoyed by non-residents who have tax exempt companies. That is, first of all, exemption from estate duty on shares in loans made to and debentures held in the company as well as on policies of life insurance issued by the company and the value of such shares, loans, debentures and policies will not be taken into account or aggregated with any other property for the purpose of determining the rate at which estate duty is payable on any other property. Secondly, the exemption from stamp duty. No stamp duty will be payable on the issue of a life insurance policy or on an annuity paid by a qualifying company to a non-resident. Nor will stamp duty be payable on any dealings by way of sale, mortgage or other means with any such policy or annuity. I should mention, Mr Speaker, that it is not the intention to issue qualifying certificates for the time being to insurance companies that are not already established and trading in Gibraltar but consideration would be given for the grant of a qualifying certificate to certain companies to enable them to hold investments in Gibraltar as distinct from trading. Each case will be considered on its merits. To extend the Facilities to foreign based insurers at the moment would only add to our present problems on insurance. It is important that we should first have adequate insurance legislation backed by a suitable

insurance supervisory system to ensure that only sound insurers establish themselves in the territory. A tax concession might well attract precisely the insurers whose finances are most precarious. The aim of the proposals, Mr Speaker, is to attract more off-shore business to the territory and although the benefits cannot be quantified at this stage, the proposals now before the House are expected to increase the attraction Gibraltar has to offer as an off-shore centre. Lastly, Mr Speaker, there is a proposal in the Bill, not directly related to the subject of qualifying companies, which I should mention. I refer to Clause 3, which aims at replacing Section 7(1) UA of the Income Tax Ordinance. The House will recall, Sir, that it did not proceed on a similar amendment to this section during the Committee Stage of the Finance Bill, in the light of the Honourable Leader of the Opposition's most helpful observation that the amendment then proposed would leave the door open to the avoidance of tax on income accruing locally to a non-resident from, for example, the renting of a property in Gibraltar which might be transferred to a trust. We found on closer examination that that loophole already existed. The proposed new section defines more accurately the exemption by making it applicable only in those instances where the income of the trust would have already been exempt from tax in the hands of a non-resident were it not for the fact that it is received or approved in Gibraltar. This, I think, covers the Honourable Member's point and enables the exemption which is granted to non-residents on bank and building societies interest under Section 7(1) TB of the Income Tax Ordinance to continue to apply when the interest is paid to a trust. Also, by including the trust in the exemption the incidence for tax on accumulated income is avoided. This is essential to attract off-shore business. As the Section stands, the exemption only applies when the income is received by the non-resident beneficiary himself and not the trust. The new section will also establish that the exemption is not affected by the residency of the trustees. There is one other point that has arisen since the bill was printed, Mr Speaker, and which shall need to look at. That is that in Clause 3(i) it says: "the trust is created by non-resident persons". I think that there is possibly a need to cover trusts created on behalf of non-resident persons and I am consulting with the Attorney-General and if necessary we may need to move an amendment at the Committee Stage of the Bill. This will cover a point on which there is some doubt at the moment. Sir, I commend the Bill to the House.

HON P J ISOLA:

Mr Speaker, we support the Bill. In actual fact, there were two points that I was going to make on the Bill. The first one the Honourable the Financial Secretary has already mentioned it and that is that it seems to me that in Section 3, the words "or on behalf of a non-resident person" should be inserted because most of these trusts are £100 trusts and they

are really down on behalf of non-residents and there is usually a nominee company that acts as set law. Certainly, I would hope that an amendment would be moved, I would be quite happy to move it myself to the words: "Or on behalf of a non-resident person", and once that is done, Mr Speaker, I think that Clause is now in a satisfactory form and achieves the objective we wanted. The other point with regard to qualifying companies, may I ask, will the prescribed requirements be set down in regulations or in the form of a memorandum because I think one should have it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

In rules.

HON P J ISOLA:

In rules, well, that is fine, that answers my point. Those were the only two points I have got to make on it. We hope this will extend the finance centre activity of Gibraltar. I think one does not quite know what is going to happen with this, I hope it is successful.

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 at the Committee Stage and Third Reading of the Bill be taken at a subsequent meeting of the House.

THE STAMP DUTIES (AMENDMENT) ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Stamp Duties Ordinance (Chapter 147) be read a first time.

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

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be read a second time. With your leave, Mr Speaker, I do not propose to make a

second reading speech on this, I have covered it in the speech on the Income Tax (Amendment) Bill. It is a consequential amendment to the Stamp Duties Ordinance and I commend the Bill to the House.

MR SPEAKER:

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

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 the Bill be taken at a subsequent meeting of the House.

THE ESTATE DUTIES (AMENDMENT) ORDINANCE, 1983.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the Honour to move that a Bill for an Ordinance to amend the Estate Duties Ordinance (Chapter 52) be read a first time.

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

SECOND READING.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that the Bill be read a second time. The principles of this Bill was covered in my second reading speech on the Income Tax (Amendment) Bill. I don't intend to develop on it. I commend the Bill to the House.

MR SPEAKER:

Does any Honourable Member wish to speak on the general principles and merits of the Bill?

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

COMMITTEE STAGE.

HON ATTORNEY GENERAL:

Sir, I have the honour to move that the House should resolve into committee to consider the Landlord and Tenant (Temporary Requirements as to Notice) (Amendment) (No.2) Bill 1983 clause by clause.

THE LANDLORD AND TENANT (TEMPORARY REQUIREMENT AS TO NOTICE) (AMENDMENT) (NO.2) BILL, 1983.

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

Clause 2.

HON ATTORNEY GENERAL:

Mr Chairman, I beg to move the amendment to which I have given you notice. In Clause 2(a) to omit the words "31st day of July, 1983" and to substitute the words "20th day of November, 1983". The effect of that Mr Chairman will be to extend the period of the moratorium. Would you wish me to move the second one as well?

MR SPEAKER:

Yes, certainly, if it is an amendment to the same Clause.

HON ATTORNEY GENERAL:

It is a consequential amendment, Mr Chairman. In Clause 2(b) to omit the words "1st day of August, 1983" and substitute the words "1st day of December, 1983".

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

HON CHIEF MINISTER:

The point is that having regard to the complexities of the Report on the Landlord and Tenant and the fact that it was

not possible even to accept the Report now and that there have been representations on both sides, I cannot see the Bill becoming law before the October meeting. I think the Attorney General was hopeful that too much would be done at this meeting in respect of that and it is impossible. As has happened on two previous occasions we do not want to give it a very long extension.

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

THIRD READING.

HON ATTORNEY GENERAL:

Sir, I have the honour to report that the Landlord and Tenant (Temporary Requirements as to Notice)(Amendment)(No.2) Bill, 1983, has been considered in Committee and agreed to, with amendments, and I now move that it be read a third time and passed.

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

PRIVATE MEMBERS' MOTION.

HON W T SCOTT:

Mr Speaker, I have the honour to move the motion standing in my name. "This House deplores the deteriorating situation in rubbish collection and disposal which is so damaging to Gibraltar, particularly its tourist image, constitutes a potential health hazard to its residents, and urges Government to act with resolution in taking effective measures to ensure a clean and tidy Gibraltar". I might say at the outset, Mr Speaker, that I had hoped that the motion proposed by Mr Bossano would have been taken a little bit earlier than mine so that I would have had, perhaps, a little bit more time to prepare myself, particularly see the state that Gibraltar would be in at lunchtime. Mr Speaker, I think, generally, it is rather sad to note that we have met this morning at 9 o'clock rather than at 10.30 as would have been our usual time of meeting today, and that I can only presume is action taken by the IPCS either in sympathy with the people concerned with street cleaning, refuse collection and refuse disposal and the action in the strictest terms that the Honourable Member opposite said yesterday, but it is none the less industrial action. I think it is rather sad that this House should be meeting under these circumstances. Mr Speaker, the motion is divided into four distinct parts. The first one reads: "This House deplores the deteriorating situation in rubbish collection and disposal which is so damaging to Gibraltar". I am also sad that when the press was circulated with this by the Clerk, GBC, I think it was on Friday, sadly omitted one

very important word in that first part. And that word is "deplores". Whilst I deplore the deteriorating situation in rubbish collection and so on, I also deplore GBC having omitted the word "deplores" and I think they ought to learn sometimes from what happens and what occurs and the contribution that Members make to this House and make absolutely sure certainly in what is a hand-out to them. I do not think, Mr Speaker, to get back to the motion, there is no doubt whatever in our minds that the situation is deteriorating and that it is being deplored by the vast majority of citizens in Gibraltar. I think there is no doubt of that whatever. And there is no doubt in my mind that because this situation has not only existed but it has very severely deteriorated, that it is also very damaging to Gibraltar. Which leads me to the second point, "particularly its tourist image". Mr Speaker, Gibraltar is facing a very uncertain future but there is one element of our economy that we should be working towards with vigour and initiative and that part of that economy is its tourism. I certainly can tell the House on my own personal experience, and I am sure that Honourable Members could do the same should they choose to, of the comments that they have heard from tourists, particularly tourists who have been coming before and tourists who have never come before as well, and how they react to this situation. They say: "Gibraltar is so dirty, Gibraltar is so filthy. I think I will have to think very, very strongly come next January when I decide where I am going to go on holiday". They would not like a repetition of the process they are being subjected to at the moment. Coming in an era where we ought to be trying to sell more tourist beds, more tourist flights and improve the tourist image of Gibraltar. I don't think there is any doubt of that and certainly not in our minds. That it constitutes a potential health hazard, again, Mr Speaker, no less an authority than the Public Health Department. Last Saturday in the Chronicle, a leader article, and other than the editorial, it took the whole of the front page and a substantial part of the back page as well. The spokesman for the Environmental Health Department had a number of things to say about the potential health hazard. "The piles of refuse at street corners are an attraction to rodents such as rats and mice which are themselves carriers of disease. Rats are also coaxed out of their usual runs in sewers with increasing risk of the spread of disease of different origins". The diseases which are most likely to result from this situation are described as gastro-enteric, such as typhoid, paratyphoid and dysentery as well as food poisoning due to salmonella and so forth. Mr Speaker, I do not know if the medical authorities in Gibraltar relate an outbreak of disease of that nature, food poisoning, gastro enteritis and so on. The flies moving from rubbishheaps and litter etc., and then finding their way into food which need not necessarily be stored in a refrigerator and they have taken any statistics, whether every time that there is an outbreak of gastro enteritis, it happens to occur when there are problems with the rubbish collection. Because if there isn't I think it is high

time this should happen so that statistics could be made available to the public, to educate the public and perhaps with a little bit more pressure into the solution of any industrial action that might be taken by the union. Mr Speaker, the fourth and last part, "and urges Government to act with resolution in taking effective measures to ensure a clean and tidy Gibraltar". Mr Speaker, the principle words here being "resolution" and I am very glad to have heard the Minister for Public Works yesterday, in answer to continual probing from Members on this side of the House, saying how Government finally intended to take some measures to obviate this situation recurring and to take measures that in our minds are very, very necessary for the reasons I have already mentioned. When I talk about resolution, Mr Speaker, and I make no bones about it, the Unions and the Union Members have a very important part to play not only to the people that they represent, but a greater part must be to the community at large. That is the manner in which I feel that Government, not only on this issue but in all issues should act, with the resoluteness which I feel the people of Gibraltar at large except Government do. Government is there and it is elected to govern and if necessary, if there has to be a disagreement with the unions, well, let us have disagreement with the unions. But let us make absolutely sure that the fight is a correct one and a right one. I feel that in this particular case it is a very correct and a very right fight and the whole of Gibraltar will be behind the Government on this so long as they act with that resoluteness that we are all expecting and I feel that the Government will have a lot of support from us on this thing. The Minister for Public Works need have no fear on that account. But coming back to the historical element, why have we got ourselves into the situation where people in the refuse destructor are working 71 hours? We cannot understand this. It seems to me that the action which is now being contemplated by the Minister and the Government could perhaps have taken place some time ago precisely to obviate that kind of situation today and particularly now as Gibraltar is facing its greatest unemployment ever, where we are now paying a substantial element of overtime to certain individuals and to others we cannot even create a vacancy for them. And surely if there is any cake, whatever cake there is has to be shared for the greater distribution of wealth. That, I think, is totally consistent even at a very late stage, when we were talking about the budget, that has been our approach all the way through in the budget. Whatever cake there is must be shared equally and a dropping of excessive overtime level, certainly, and particularly when there is an increasing unemployment situation in Gibraltar. Mr Speaker, if one looks at the estimates, we see that in Head 20, Public Works Annually Recurrent, we have 3 sub-heads which are concerned with the subject matter of the motion. Sub-head 38, 39 and 40, the Cleaning of Highways, the Collection of Refuse and the Disposal of Refuse, and that bill is almost three quarters of a million pounds a year. It is an enormous sum, Mr Speaker, certainly in

relation to the context of the whole budget. It is an enormous sum. But after having said that, I see some attempt has been made to cut it down between even the revised estimates of 1982/83 and 1983/84 estimates, at least some attempt has been made. But the sum is still colossal, it is still £2 million. The Public Works Department were subjected to a Committee of Enquiry in 1981. They had a very substantial number of recommendations and I won't bore the House, Mr Speaker, because the recommendations totalled 81, some of which we have heard at previous meetings of the House that the Government had accepted. What we do not know, Mr Speaker, is how many of those recommendations that were accepted by Government have been implemented, I would hope to hear that in the Minister's contribution, we might have some indication of the implementation of the recommendations acceptable to the Government. There is one, in fact, that I know that they have accepted and implemented and that is the comment that they made on a certain duplication between the Housing Department and the Public Works Department on the collection of refuse. They still said, Mr Speaker, that as far as they felt, it seemed to be a very large sum to pay for the service given and mentioned the Gibraltar problem of ageing manpower at supervisory levels. I wonder whether any action has been taken on that. That is paragraph 76 of the Report. The recommendations dealing with that state: "The ages of workmen employed at all levels should be examined to ensure that they are not being called upon to carry out duties which may be beyond them". I wonder what steps, if any, Government has taken about that recommendation. The question of the existing agreement should be examined and its provisions brought to the attention of the men. The possibility of making refuse skips available in certain areas should be explored. A very important one, Mr Speaker, an item of legislation we passed here some time ago and I think it has been my Honourable Friend and Colleague, Mr Loddo, who has been consistently asking questions on this, and that is the enforcement of litter legislation. The recommendation was that there should be a determined effort to enforce the law relating to the depositing of litter. Let the Government make absolutely no mistake that the problem with the rubbish collection, cleaning and disposal is not peculiar to Government on its own or the unions, I think the Gibraltarian at large has to be further educated, has to go through certain practices because if he doesn't then we must enforce that law and it is only by enforcing that law that it seems to me that the Gibraltarian can be educated as a real responsible member of the community in so far as rubbish and refuse is concerned. Another recommendation dealt with the Education Department. It should continue to educate and inculcate litter mindedness in children and it deals very much on the question of education to the community at large that I was talking about earlier on. There was a concerted campaign, I think it was about a year or so ago, by the Government, on a clean and tidy Gibraltar and that followed a

recommendation of public relations. But when we are facing this problem, Mr. Speaker, and I think it first really started and it started with a vengeance during the Easter week-end, I would have thought that that would have been an excellent time to re-introduce the clean Gibraltar television campaign and press advertising. But there has been no move and I thought a little bit further. And in thinking back, the Keep Gibraltar Tidy Campaign came at a precise time when there was a dispute on advertising between GBC and the Chamber of Commerce. I do not know, there seems to have been a slotting in for Government, perhaps to help GBC at the time. I do not know, but it seems to me rather peculiar that that was the timing. And I would have thought that the timing was even more important now, when we have an enormous problem with the rubbish in Gibraltar. We see it all day, every day. We see it in street corners, we see it in Main Street on the kerbside, we see it all over the place. We also see, Mr. Speaker, that something like £23,000 has been spent on a street cleaning vehicle and it is never used. It cannot be used. Let us act with some form of resolution, coming back to the word in the debate. Resolution, Mr. Speaker, for the benefit of the community at large. I think the unions also have got to protect their own members, of course they have got to protect their members but there is a greater responsibility with this House, particularly in Government. They are there to protect the community at large, all of them, not just a certain sector. Finally, Mr. Speaker, as I have said, I could go on with that report ad infinitum, but I will not bore the House. Finally, and I have got to reiterate it again, one hopes that the Minister's remarks yesterday on resoluteness, of the new approach, will be transformed into some action which Gibraltar has long needed and which the Gibraltarian and Gibraltar justly merit because otherwise, Mr. Speaker, I feel that one of the few alternatives left is perhaps some action that has already been taken by certain boroughs in the United Kingdom quite successfully, and I know my Honourable Friend will argue vociferously against it, but I have taking the trouble, Mr. Speaker, to have some facts and some figures which I will make available to the Minister, should he want to, on the need for a service review, and I use the word unshamedly I do not use the word privatisation, I use the word service review because the review could contain an element of direct labour

MR SPEAKER:

Could we just pause for two seconds whilst we are having the tape changed from the machine that is not working properly. You can continue now.

HON W T SCOTT:

Within the service review, there could be an element, I am not excluding that, and I do not use the word privatisation, it is important that Members of the House, and particularly my friend

on the left should take note of the word I use, of the expression I use. And that within this service review, it is not unnecessary that there should not be a direct labour element involved. Of course not. Finally, Mr. Speaker, I am not going to go through all the advantages or disadvantage of service reviews, I think we shouldn't within the context of this debate, I think this could probably be left for some form of personal guidance, if you like, between myself and the member responsible for Public Works but, finally, Mr. Speaker, I do not think there is any question on the four points, the dissemination of the motion on any of them, and I commend the motion to the House.

Mr. Speaker then proposed the question in the terms of the Honourable W T Scott's motion.

HON M K FEATHERSTONE:

Mr. Speaker, I think the motion has a number of points which are deserving of merit, although to some extent it is not as accurate as perhaps it might have been. Let me start by going through the three headings that the Honourable Mr. Scott has mentioned on which £2 million is spent, that is not such an exorbitant amount when you consider the task that is actually in front of Public Works. But these three areas actually break up into four units. There is the collection of general household rubbish. This is done by the refuse collectors and I do not think over the past 18 months or so there has been any reason to consider that they have not done their job efficiently and properly. In fact, even today, the refuse collector section of the Public Works is working very well and very efficiently. The other three sections are the sections which, as I have said strictly are not in dispute with Government but in actual fact are creating a considerable measure of frustration and are getting close to what may become an industrial dispute. These are the refuse disposal section, the lorries which go around during normal day-time hours and pick up accumulations of rubbish in various areas, and the road sweepers. I will deal with each of these sections separately. Let us start with the refuse disposal element. Sir, as the House well knows, this year because the budget brought in certain financial stringencies, we had to have a very severe look at all sections of where we are spending public money and one of the sections that we looked at was the disposal of refuse where, and I admit it, Sir, perhaps we were not being as economical as we should have been. This has been something that has been almost inherited over many years of practice and I think the Honourable Mr. Scott will be the first one to agree that it is a wise and prudent department which tries to get the best out of its machinery and works its machinery on the most efficient basis. The Refuse Destructor was not being used on the most efficient basis. The Refuse Destructor takes one hour to switch on and

one and a half hours to switch off, which means $2\frac{1}{2}$ hours of every working day are completely, I will not say wasted, but are completely without any burning capacity. And if you only have an 8 - hour day, then if $2\frac{1}{2}$ hours are used in starting up and switching off the amount of burning time left in comparison only gives you perhaps a 60% efficiency working ratio. It would be far better to burn for a much longer period and still have your switching on and switching off and perhaps burn on an 80% ratio, more so if your short period of burning time happens to be on a Sunday when wages are paid at double time and so, in considering how we could save money and become more efficient, it was considered that we would cut out the short-term burning on a Sunday and only work from Monday to Saturday, giving a longer period at each time and therefore more efficiency from the plant. On the old basis, the men who basically work a 39-hour week, were actually working sufficient hours to be paid 88.3 hours of wages per man and that is an increase over their basic salary of 127%. Under the new system that we proposed this was going to be cut down but they were going to get a 60% increase over their basic salary. But the men who, and I am not ashamed to say it, I feel to some extent do not fully appreciate the situation as it stands and who seem to think that if they hold out for a period of time Government is going to give way to them, and in this they are very much mistaken, and who seem to think that Government has got the money up its sleeve and can produce it as long as the men decide to be tough enough to hold out for a period of time. The men said: "No, we must either work our 127% overtime or we will not work any overtime at all". This of course is their privilege. You cannot force a man to work overtime. Government says: "Well, if that is your position, then we must accept that you will only work the 39 hour a week and we will have to see what we can do to live with it". Government obviously considered that when the men started to get the shorter wage packet, they might re-consider the situation. But, of course, the difficulties in the method under which Government pay their workers is that they pay almost two weeks in arrear so that for the first 14 days they do not get a short wage packet and the impact does not hit them very much. Whereas, of course, the fact that they are working shorter hours hits Government immediately. And in the working shorter hours and not working on Saturdays and Sundays under their 39-hour schedule, this meant that there was nobody available even to open the gates of the refuse destructor site so that refuse could actually be taken inside the site and put in its proper place. Unfortunately, certain people started to dump the refuse outside the site and this is something that I would like to deprecate, those traders who for reasons best known to themselves have no public spirit whatsoever. One of them actually went there and dumped over 20 pallets, large wooden pallets outside the gates on a Saturday afternoon because he just thought why the hell should he bother to try and keep the stuff in his own area and leave it until the Monday when he could have taken it down and put it inside the site. This was part of the reason why the road was

cluttered up with rubbish out into Devil's Tower Road at week-ends. The men, as I said, had refused the 66% offer of overtime and as it is Government's attitude as far as possible to negotiate with the men through their union representatives, a second suggestion was put forward. A suggestion was put forward that if the men only wished to work 39 hours this would be acceptable to Government but Government would put in two shifts of 39 hours and this would give adequate burning time, in fact, even more than was necessary. This offer was rejected but not fully rejected. Two shifts were considered acceptable on condition that each shift worked 48 hours. I cannot understand how a man in one breath rejects any overtime, 66 hours, and says he prefers to work 39 hours and then suddenly when a new idea comes up, he says: "Ah, yes, we will accept this new idea on condition that we work X number of hours of overtime". Either you say no overtime or you accept the overtime that is offered.

HON A J HAYNES:

On a point of clarification. When the return offer of 48 hours was made in respect of both shifts, was this the return offer or the counter offer on the part of the union representative or directly from the men at the refuse destructor?

HON M K FEATHERSTONE:

At all times up to the moment the offers have been negotiated through the union representative. One of the things, of course, that Government had seen as a good thing in the two shifts is that it would create a number of extra jobs and this would alleviate, albeit in a small measure, but it would alleviate some of the unemployment. But, as I say, the offer came back saying that they would only work on a 48-hour shift basis and this would give altogether 98 hours far in excess of the need, we would only be paying money for people to be really around and doing nothing and Government could not accept that. Government did have another look at the overtime offer that they were willing to make to see if some small improvement could be done again on the basis of more efficiency of the plant and a better system with slightly longer working hours and therefore more efficiency from the plant was proposed and put to the men but once again this offer was refused. In this instance, the amount of overtime would have been about 75%. That is the position today. I have made it abundantly clear to union representatives that this Government does not subscribe to the policy of privatisation but if we are to run a public sector, we have to be as efficient as a private company would be and we cannot work along lines which are inefficient. The position that the Government is getting forced to is to put in a second shift irrespective of whether the men and the unions wish to go along with it or not. We would have to impose it unilaterally sooner or later if no agreement can be reached. But in so

doing we may get a reaction from the men who may decide to take full industrial action and we will be for some period of time in a worse situation that we are today. The cure may bring with it a considerable amount of uncomfortableness although it will be a cure, I think, in the long run. I do not think my judgement on that will be wrong. I would hope that if Government take these stronger measures as we are being pressed to do, the Opposition will be the first to support Government should there be any, as happens frequently, silly letters in the press from people deploring the situation because it has got even worse than it was beforehand. The second section were the sweepers. The sweepers were doing a fairly high measure of overtime and this was cut out. I agree that perhaps the cuts were too drastic and I agree that perhaps some measure of overtime might be possible within the financial strictures we have. But Government is not in the mood to offer this overtime until we get from the sweepers, as I said the other day, a decent day's work for a decent day's pay because it seems very clear to Government that the sweepers, whether backed by the union or not, are doing a policy of going slow and being, as I said before, bloody minded. I have seen a little improvement in the sweeping in the last day or so but Government is now instituting a policy, I believe today eleven letters have been sent to sweepers who are not pulling their weight giving them an initial warning. The next stage will be that they are put on a charge, the following stage is that they have a second charge against them and the next stage they are dismissed. And if this has to go right down to the final end Government is quite willing to go that far.

HON MAJOR R J PELIZA:

Would he say what the overtime was when the reduction, as he said, could have been drastic?

HON M K FEATHERSTONE:

The sweepers were doing a 39-hour week and not all sweepers but a number of sweepers, and they were rotating it between them, were getting a measure of about 75% to 80% overtime. There is nothing at the moment. I have had it put to me, and with fair reason, that if this amount of overtime was removed then the amount of sweeping that they could do should be reduced by the same amount. If, for example, they were working 7 days a week, actually they were not all working 7 on average it might have been about 6½ days, then on a five-day week one should reduce the amount of work that would be produced by a proportional rate. This would be acceptable I would think as a basis for discussion but when you are only getting 20% of what you should get then it definitely seems that somebody is being bloody minded. But, anyway, to turn to the other group. These were the lorries who went round to collect the accumulation in the streets and although their overtime was not cut in the slightest, they determined not to

work more than the 39 hour basic week out of solidarity with the sweepers. They were offered their overtime, it was never cut, but they said that they were going to only work 39 and if other people had to suffer overtime cuts then they would take it on themselves not to work overtime either. I agree this does not present, leaving the amount of rubbish in the street that one sees, a very nice tourist image but I feel some of those tourists who so glibly write to the newspapers, should have looked around London two or three years ago when you could not move in Trafalgar Square, and you could not move in Leicester Square for black bags and rubbish in all directions. You had to walk in the road because the pavement was full of rubbish. Perhaps people in glass houses should not be quite so quick to throw stones.

HON A J HAYNES:

But this does not make it right.

HON M K FEATHERSTONE:

I am not saying that two wrongs make a right, I am just saying that it is very easy for somebody when they are overseas to write a letter but sometimes in their own towns they suffer from the same situation. Of course there is a very old adage that prevention is better than cure. As I have said before we in Gibraltar are a particularly dirty lot. We throw our rubbish indiscriminately in the streets. We put our rubbish indiscriminately in the streets. I think the Honourable Mr Scott if he cares to look just outside the Post Office, will see that there has been a piece of metal laying there for the last 10 days which somebody has dumped there. There is an area next to my house, just outside the fire escape from the Montarik Hotel, which is continually cluttered up with rubbish. The other day somebody put 6 empty paint pots there. It seems to be the general attitude of everybody in Gibraltar if you have something you do not want chuck it in the street. I do not think education at the schools is going to do all that good because education starts in the home and if the child sees the parent's attitude: "I have got to get rid of this old mattress, well, I will stick it out in the street and hope that sooner or later somebody will take it away", if that is what they see in the home life, well, they are going to do the same when they grow up. Our Service friends are equally responsible because it is not the average Gibraltarian who leaves beer bottles in all the streets and perhaps the Service element in Gibraltar might also take it to heart that we would like to have a clean city and might tell their soldiers and sailors that beer bottles should not be dumped in the gutter indiscriminately and in many instances thrown in the gutter so that they break. The same goes with all those people who seem to eat an inordinate amount of potato crisps. If you go down on a Sunday the street seems to be absolutely full of potato crisps but if you look around you will see, as I have said, we are a

dirty lot. I have not seen under normal circumstances where somebody has to throw a whole newspaper into the street and yet I see it in Gibraltar in recent days. Of course we have litter laws and we would hope that the police would be more active in prosecuting. I have spoken to the Commissioner and I have asked him in the forthcoming weeks to intensify the campaign against people who throw litter but he has countered with the point that they have taken a number of people up on litter offences and they feel very disheartened when these people get to court and they get off either with a caution or with a very small fine or even sometimes with the case being dismissed even though the person has pleaded guilty. It is not my position to tell the courts what to do but I would hope that our Justices of the Peace and our Magistrates would consider seriously whether some measure of the stick, because the carrot has not worked, some measure of the stick may not be conducive to helping people to realise their civic responsibilities. Singapore did it. Singapore was one of the dirtiest places in Asia and today it is one of the cleanest and they did it by absolute use of the stick. I do not think we can be so draconian but perhaps a bit of more effort from the police and perhaps more support from the magistrates might help the whole situation. The Honourable Mr Scott did mention that the share of the cake must be as wide as possible. Government subscribes to this. What we have got to get is that if this policy is going to be done and there are a number of areas where Government is considering it might be a possibility, the men appreciate that there is a thick cake to be shared, it is not a case of saying let us have a twice as large cake which we will then share with twice as many people. The cake is limited. This has got to be learned by everybody in Gibraltar, especially those in Government employment. One cannot continually be asking for more and more because the money is just not there. I think I have shown that Government is getting, after being very tolerant, into a situation in which they are quite ready to act with resolution. But as I have said before the situation once one starts to be resolute to the extent that one says: "You do this or else" may eventually get worse instead of better. If we get to the stage that we put 10 sweepers on a charge and the resulting disciplinary action is that they are suspended from work for 4 days, that will be 4 days the streets are not swept. You are having your resolution but your cure is going to be for the time being such that it is going to be a little more difficult. The Public Works Enquiry Report mentioned skips. We have put skips around the streets, I think you saw them in Main Street for a certain time. One of the immediate results from the men was that they would black the skips. They decided that they would not use them. Also we have the question of the special road sweeping machine that we purchased and which Government feels must be used as flexibly as possible to assist in cleaning up any area where the man is not able to do it adequately himself or where conditions are such that there is an extra amount of cleaning to be done and he can be helped out. There is, in my opinion, too much

attitude on the part of the men that a certain situation has been done for the last 10 years and therefore no change to that situation can be made under any circumstances. If we live in a modern world we have to use modern equipment and modern machinery. We are not using this machinery to cut out any jobs whatsoever, we are doing it actually to help people and even in the question of this piece of equipment three extra jobs were created because it had to have a driver and two men to work it. It seems to me a short sighted policy to say that this piece of equipment could not be used. And to black equipment and to black in general is to my mind and to my way of thinking perhaps one of the most pernicious weapons that a union can use because all they do is create harm to their employer whereas at the end of the week the men still hold out their hands and expect the same amount of pay to be put into it. The question of the health hazard. Of course, if you have a lot of rubbish lying around a health hazard can become a possibility. But as I said the other day, the majority of the rubbish in the street at the moment is paper and does not create a very great health hazard. But of course there are instances where the health hazard can be caused like the person who yesterday dumped two black bags of household rubbish into one of the little garden areas just by the Cathedral so that shows that certain people do not seem to have any sense whatsoever. It may be done on purpose, who knows. Government of course wants a clean, tidy Gibraltar. Government, as I said, has been very tolerant and has made very reasonable offers to the men but there seems to be an attitude, and it does not occur in the collection of refuse department, there seems to be an attitude on the part of some of the men that under every circumstance in the future they must get exactly the same wages as they have had in the past. This, I am afraid, cannot be in the climate of today's financial restrictions and I would suggest to the union leaders that they explain very carefully to the men that money is limited, that it is the policy of Government to try as far as possible to give what overtime is essential but not what is unessential, to use equipment to the best possible economic use of that equipment and to see that we get a reasonably fair return for what is in certain people's minds a very comfortable type of employment. Government, of course, want a clean and tidy Gibraltar, we are working to that end, we will approach the matter now with less tolerance, perhaps somewhat the Opposition calls resolution, and let us hope that eventually the situation will return to more normality but I will make once again the plea that the general public cooperate by not considering the streets to be a general dustbin for everything that they feel they have to get out of their house and dump as such. Thank you, Sir.

HON A T LODDO:

Mr Speaker, I think we can all agree that Gibraltar today is possibly as dirty as it was at the height of the general strike

and we also ask ourselves why should this be the case when we are told that there is no industrial action, there is not even an industrial dispute, there is certainly not a strike, no blacking. It is now called industrial disagreement and the nicer we make it sound the less offensive the rubbish becomes. Mr Speaker, I think this is about the third time since I have been sitting in this House, that we have had problems with refuse and refuse collection. I hate to equate the refuse collecting with the electricity situation but it strikes me that there is something wrong in the refuse collecting system if this is the third time in three years. During question time and again now during his intervention, the Honourable Mr Featherstone said that he expects the Opposition to support the Government in its actions and it probably will, but let there be no doubt about it, it is the Government who has to govern. The action the Government takes must be precisely because it is the Government not then turn around and say: "Oh, we were forced to take this action by Opposition pressure". If the Government takes action it is because it is the Government and obviously being in possession of all the facts it should take a decision on what action it is going to take. However, what the Government cannot do is to sit tight, as has happened before on several occasions, to sit tight and wait till the tide of public opinion becomes such that they capitulate with no explanations given. I believe, Mr Speaker, that if there is no need for a problem to arise you should not let it arise and grow. If the union is right, God knows there is enough machinery for negotiation nowadays, if the union is right, then it is right and you give in gracefully and that is the end of the matter. What you cannot do is allow the people to suffer because you are wrong and at the end give in, or allow people to suffer because you are right and in the end give in again. Mr Speaker, we are in Gibraltar amongst the most highly taxed people in Europe and we have a right to expect a clean Gibraltar, constant electricity and water. We have a right to expect it, we pay for it, God knows. And the people of Gibraltar are getting fed up. They do not want to know whether it is being called a dispute or a disagreement or what have you. They are fed up and they want to see action taken. On the question of the danger to health, what apparently seems to escape everybody is that if we do have an epidemic it is not going to respect anybody. It is not going to just touch a few. It is going to go through the whole City, workers and management alike. Nobody will be immune and this risk I think it getting bigger far quicker than we care to admit. We are dumping the rubbish down the chute which is in turn brought round to the beach, which is not being cleaned as it should be, where the people are now congregating in ever increasing numbers. The risk to health is getting bigger a lot faster than we realise and as to the effects that all this rubbish is having on tourism, Mr Speaker, well, I will leave that up to my Honourable and Gallant Colleague to expand on. I remember last year, Mr Speaker, that the Government was very enthusiastic about these new litter bins that were going up all over Gibraltar with the

advertising on them. I wonder if the advertisers are now so happy that they have put their adverts on bins which are full to overflowing most of the time. I realise that perhaps in Gibraltar we are great crisp eaters but, Mr Speaker, on a Sunday morning, on a Saturday morning, if you walk up Main Street you will find the litter bins choked up so that unless you are extremely civic minded and you care to fold up your empty crisp packet and put it in your pocket, the people are just going to throw it on the floor. I have actually seen people going up with a packet or a Coca-Cola tin and just not being able to put it in the litter bin because it rolled off. Mr Speaker, all these litter bins are very good but they need to be emptied. All our laws are very good but they need to be enforced. I remember, Mr Speaker, when we did not have these little road sweeping vehicles, two of which we had had passed on to better life. We now have a big one which is being blacked. I remember when we did not have any of these things and Gibraltar was a lot cleaner. I also remember when we had a lorry that used to go around and clean out all the drains. I do not know whether we have still got it but it is not being used. I remember when two men used to go around with a wheelbarrow, one of them with a wheelbarrow and the other one with a little spoon effort on a long pole and the drains were emptied out. I do not see them now. Perhaps they are somewhere but I do not see them. The fact of the matter is that when we get a downpour we get flooding.

HON M K FEATHERSTONE:

We have had downpours in the last six months or so and I have not seen this evidence of flooding and I can assure him that the people who clean the drains still do their work just as efficiently as before.

HON A T LODDO:

Mr Speaker, I would advise the Minister to stand at the corner of George's Lane the next time there is a downpour and he will see flooding. Or to walk down Fish Market Road and he will see flooding. But, Mr Speaker, I also remember streets being flushed frequently. That is a thing of the past. The question which I would like answered is, is it because there are less people employed in the cleansing of Gibraltar that this has happened? I am not concerned about the wages. Wages must go up with inflation and at this moment I am not even concerned with the overtime. Gibraltar has not grown any bigger but it has certainly grown a lot dirtier and if the staff employed in the cleansing has gone down then perhaps it means that we need more people employed. But if the staff is the same, or the staff is the same, or the staff is greater, then what can the possible excuse be? Mr Speaker, I would agree that in times of economic stress we should tighten our belts and we should start by cutting down on non-essential overtime but I would

think that possibly one of the essential things from our pure health point of view let alone the tourist point of view, is the cleanliness of our city. Having said that, I would also say that as a socialist, there was a time when I was considered practically a red now I am considered too much of a conservative, I still like to consider myself as a socialist. As a socialist, Mr Speaker, I cannot honestly reconcile 127% overtime. I would much rather 2 or 3 shifts. If it can be proved that there is work for 127% overtime, if it can be proved, I would say then we need more people employed particularly in our high unemployment situation we are facing in Gibraltar today. Mr Speaker, I will not bore the House any longer. I would just like to say that I support this motion fully and I am sure that this is a motion which will carry the majority of the House's support.

HON J BOSSANO:

Mr Speaker, I support the motion. However, I will be moving a slight amendment. Let me say that it seems to me that the Minister for Public Works has put an interpretation on what he is being asked to do when he is being asked to act with resolution which I didn't hear the Mover of the motion put. It may be that he put it before, because I was out seeing a gentleman from the Foreign Office, he might have said it at the beginning, I don't know whether he did or not but certainly it seemed to me that the Minister was saying that he was being pressed to take a tougher line with the workforce and I don't know whether the motion is doing that because it doesn't say that.

HON W T SCOTT:

If the Honourable Member will give way. It was commensurate with what the Minister was saying yesterday in answer to a number of questions we had been posing on the determination of Government to act in a certain manner.

HON J BOSSANO:

I think the Minister has been less than fair to the House of Assembly in his presentation of the facts and implicit in his analysis is a justification as if it was obvious to all of us that the original decision was correct because the situation that we find today is a situation provoked by Government. It was the Government who has created the situation we have.

HON MAJOR F J DELLIPANI:

And why not?

HON J BOSSANO:

Well, Mr Speaker, perhaps the Honourable Member will tell me whether it is true or not that it is the Government that came

along on the 28th March and told the workforce that as from the 31st March, three days later, they were finishing at lunchtime on Thursday and they could come back to work on Tuesday and what did he expect to find on Tuesday except four and a half days of unswept Gibraltar? Did that happen or didn't it happen, is that a fact?

HON M K FEATHERSTONE:

I think that is the information given to you by the IRO, not by the Government as such.

HON J BOSSANO:

I know it is the information given by the IRO, Mr Speaker, Ministers do not negotiate that is what they have an IRO for. If they were going to handle the negotiations with their employees themselves they would not need to have an Industrial Relations Office but I imagine that that was the information communicated officially to the Union through the Government's representative because that was the brief he was given and the brief he was given to put to the workforce, the workforce were not told: "Would you like to come to work or not?" The workers were told by the Union on Tuesday the 28th March: "The Government has decided it cannot afford to pay you overtime, no doubt they will explain it in the House of Assembly when the time comes", because the decision was taken before the House had voted the estimates, it was before the House met on the budget that the decision was taken and implemented.

HON M K FEATHERSTONE:

If the Honourable Member will give way. Government intimated the facts to the IRO at least ten days before he actually intimated it to yourselves. Perhaps the IRO was at fault, perhaps he couldn't get hold of the Union representatives, I don't know what the situation was.

HON J BOSSANO:

No, Mr Speaker, I can assure the Honourable Member that the IRO had hinted to the Union that they would have to have a formal meeting because the Government was considering cutting overtime, he didn't say when, he didn't say where and he didn't say by how much. He said that there would have to be a meeting. He was asked on the Monday whether he was ready to put whatever the brief was and he said no, he wasn't ready on the Monday, he would have to clear it and the meeting was fixed for the Tuesday afternoon and this was put to the workforce on the Tuesday, on the same day, and the answer was brought back on the Wednesday and then on the Wednesday the Government then made an offer to pay people to come in on the Saturday of that long week-end, exclusively for that Saturday, and then they would go to a five-day week from the following week and of

course the Union didn't take any recommendation for or against, it was put to the men and the men logically responded since out of the twenty-four sweepers we have got twenty immigrants that if they were finishing on Thursday morning from work and they were going home to visit their families in Morocco they could hardly be expected to come back on the Friday, work on the Saturday, go back on the Sunday, come back on the Monday and start working on the Tuesday, it would cost them more in fares than they would earn on the Saturday so that was a non-starter, commonsense should have told the Government that that was a non-starter. But that was put to the men without telling them accept it or reject it, it was left for them to decide and the Government knows that the Union's position has been that the Union does not dispute the Government's right to withdraw overtime unless there is an agreement which specifies a certain level of overtime in which case it can only be changed by either giving notice on one side or the other that the agreement is going to be discontinued or by re-negotiating the agreement but in a case like the road sweepers where there has been no formal agreement, there has been an agreed pattern of working, on Sundays half the workforce used to come in and that was agreed and that was a reduction introduced several years ago, the situation is that the Government has withdrawn the overtime and put people on 39 hours a week. We are, I think, not just here to consider whether the Government should take tougher lines or not with the workforce, I think we have got also an obligation here to consider what justification there was for the original decision. What is this crisis, Mr Speaker, that we are talking about that the Government faces? Certainly I cannot expect Members on this side of the House to support the Government because the Honourable Mr Restano said in the budget session that our reserves were very healthy and that £8.5m was enough to deal with the economic problems facing Gibraltar. Are we talking about reducing the cost of road sweeping by millions of pounds, is that what we are talking about? No, what are we talking about? We are talking about a situation and we have to go back to 1979. In 1979, Mr Speaker, road sweeping cost £196,000 out of a budget of the Public Works of £3.8m and out of the total budget of £28.75m. It represented then 5.1% of the expenditure of the Public Works and 0.68% of the total Government expenditure. Last year, in 1982/83, the Public Works budget had doubled from £3.8m to £7.7m but the road sweeping had not doubled. In relation to the Public Works vote it had gone down from 5.1% to 3.57% and in relation to total expenditure it had gone down from 0.68% to 0.58% so it isn't that here we have got a section of Government which is costing more and more money every year and you have got to maintain it, that is not true. The cost of road sweeping has gone up but has gone up by less (a) than Government expenditure as a whole and (b) than the expenditure of Public Works. Why has it been selected, because it is unnecessary overtime? Well, if it is unnecessary overtime I would like the Honourable Minister for Economic Development to

explain to me why in 1980 he made a statement in this House saying that no social overtime was being worked any more, that it was all essential overtime that was being worked, and in 1979 the Chief Minister announced the setting up of a Committee to look into details in all areas of Government expenditure to eliminate unnecessary overtime under the Chairmanship of the Minister for Economic Development and in 1981 he announced that as a result of the efficient working of this Committee and of the elimination of unnecessary overtime the economy of Gibraltar was in such a healthy state that he was proud to introduce a budget of such a prosperous and wealthy Gibraltar two years ago. In 1979, when the overtime was not cut for road sweepers, we were supposed to be with only three days' money in reserve, the House was introduced to a draft estimate that said that we had in reserve £300,000 and that if we took into account unpaid bills we had a minus reserve, not only did we have a running deficit, we had no reserve at all, nothing left, and yet road sweepers overtime was maintained in that situation because it was considered necessary and essential and it was kept and I think the Government is wrong to have taken the overtime away from the road sweepers, it is an area which costs very little money in relation to its impact and there are many other areas and I am not prepared to go along and tell road sweepers: "We all want to tighten our belts" because I have to tell them that this Government has employed fourteen extra policemen without the approval of the funds from this House and one policeman alone costs more than the overtime of the twenty-four road sweepers so I cannot accept that argument.

HON CHIEF MINISTER:

I expect the road sweepers to work for the 39 hours for which they are paid, Mr Speaker, but they are not doing it.

HON J BOSSANO:

Well, if they are not doing it then we have to start examining exactly who is doing it beginning from the top down, that is the answer.

HON CHIEF MINISTER:

The answer is a picture in the Chronicle where one of the barrows was stuck away for two days, that is a better picture than all the words that you can say about whether they are carrying out their duties or not.

HON J BOSSANO:

Mr Speaker, if the Honourable Member is telling me that Gibraltar can be as well swept and as clean with three thousand less man hours, which is what has already been lost from the removal of overtime since the beginning of April, then he is telling me that he knows that for the last ten years he has been paying people three thousand man hours every two months for doing nothing.

HON CHIEF MINISTER:

If the Honourable Member will give way just once more and I will not interrupt him any more but this is very important. If the men had wanted to prove that the amount of time given was not enough they should have done a good days work and whatever remained could have been a better judgement than to have blacked it all or go-slow and do nothing. I think the attitude is wrong and the attitude, unfortunately, has not been corrected from the top, the attitude of people hiding in order not to do their work, not to be seen, not doing the work is wrong and immoral and I am sure that it cannot be condoned by the Honourable Member. I am not saying that he is responsible for it but there is a lack all along the line of attempts to try and put some element of sense into this because the Government has been flexible and would have been flexible in settlements subsequently and the men have refused to in any way compromise on a basis on which they could get overtime and we could get Gibraltar clean.

HON J BOSSANO:

Mr Speaker, the man may be working less in the 39 hours than they worked before, I am not in a position to judge that, but what I will tell the Government is that they were wrong in their original decision to cut the overtime of road sweepers and put them on a 39-hour week, that decision was a wrong one, it cannot be substantiated and it cannot be defended. The amount of money that they are saving is peanuts, this section can be seen to have kept their costs below the average rate of increase over the last four years by the rest of Government. The cost of cleansing and the cost of disposal as a proportion of the Public Works or as a proportion of total expenditure has gone down not up so it isn't that there have to be cutbacks because they are growing too fast. In his budget statement the Chief Minister said that alright, there had been an elimination of unnecessary overtime but that it had started creeping back. This is not true in this case because in fact their hours have been unchanged since 1979 and why they were not cut in 1979 when the Minister was charged with a specific responsibility of eliminating unnecessary overtime and when the Government was saying that it was in a critical situation with £300,000 in reserves? If it was not thought necessary to do it then why is it necessary now? The Government cannot have it both ways, it cannot say today that it is eliminating the overtime because things are tight and you must not waste money, without at the same time saying that they have been wasting money all the time. If they are eliminating the waste of money today then it means that they are admitting that they have been wasting money since 1979 and that when they came to the House and said the unnecessary overtime has now disappeared it wasn't true, it had not disappeared. I think the situation is, Mr Speaker, the same as it was in 1972 when in 1972 the

Government said there was no money to pay 40p and in fact in retrospect the reserves of the year 1971/72 were the highest in Gibraltar's history before or since then if we adjust for inflation and we had a one-week general strike and we still had after the one-week general strike huge reserves. I think the Government in looking to cutting public expenditure has just put a pen through different votes without looking at the consequences and quite frankly I cannot for the life of me understand it, the thing is totally disproportionate. What else can they expect if people stop sweeping on Friday that the streets should be dirty on Monday and on Tuesday, dirtier than normal? They may say: "People are not pulling their weight and by Wednesday it should be cleared up". Then they are telling the House that if the resolute approach is to ensure that by Wednesday every week that the streets are clean because that is all they can ensure, if people stop on Friday, they are accepting a dirty Gibraltar Monday and Tuesday and they are telling the House: "Right, what we are going to do is take action against the sweepers to make sure they do more work in the 39 hours which will ensure that the backlog every week is cleared by Wednesday", but certainly not by Monday morning or Tuesday, that will continue dirty resolute approach or no resolute approach unless the money is put back where it was cut out.

HON CHIEF MINISTER:

Rubbish.

HON J BOSSANO:

Rubbish, precisely, that is what we are talking about, Mr Speaker, too much of it, too much rubbish, that is the problem.

MR SPEAKER:

Has the Honourable Member long to go yet because I will be recessing within the next two minutes as it is now four minutes to one.

HON J BOSSANO:

People are perfectly entitled not to work overtime at the beck and call of their employers if their employers are not prepared to give it on a consistent basis and I support entirely and I applaud the decision of the employees who are attending this House in deciding that they will work a 39-hour week, Mr Speaker, I am 100% with them and I am prepared to come out in sympathy. What I will do, Mr Speaker, is stop at this point and carry on later on with the question of the disposal, I have dealt with the street sweepers, and then I will move my amendment.

The House recessed at 12.55 pm.

The House resumed at 3.15 pm.

HON J BOSSANO:

Mr Speaker, I said that I would continue with my contribution by explaining the situation regarding refuse disposal, having dealt with the degree of saving and the implications of the savings brought about by the cut of overtime in the cleansing. In the case of refuse disposal, again the figures do not show this to have been a department whose cost has escalated beyond the level that has been standard in the Government. In the case of the refuse disposal in 1979/80, again at the time when the Government was taking a very close scrutiny of all public expenditure because the reserves were very low, the disposal of refuse represented 3.98% of the Public Works budget and 0.53% of the total budget. In 1982/83 the cost of refuse disposal was 2.52% of the Public Works budget and 0.41% of the total budget showing a decline in proportion in respect of both which means that effectively the increased cost which in that period had gone up from £152,000 to £194,000 was percentage-wise a smaller increase than in the Public Works or in the Government as a whole. There seems to be no specific reason why these two departments should require to be cut back more than others. It seems to me, therefore, that there are only two possible interpretations. Either the Government decided somehow to chop off so much percent of almost every head of expenditure irrespective or without seriously working out the implications because it seems incredible to me that we should be talking about saving a few thousand pounds in an area and at the same time, for example, spending £½ million to attract tourists to Gibraltar only to present them with a Gibraltar which they will never want to come back again to. So therefore, Mr Speaker, I am sure the Minister being as concerned as he is would be quite happy to use £5,000 or £6,000 of his vote to ensure that the streets are cleaned every week-end.

HON H J ZAMMITT:

Two shifts.

HON J BOSSANO:

No, Mr Speaker, the two shifts which the Honourable Member has referred to now and which was put to the men as one of the offers, let us go back to the refuse disposal. The incinerator was operating 71 hours. The Government must know that there was always a backlog of stuff even when it was running for 71 hours, I mean, 71 hours was not enough and has never been enough, there has always been stuff put down the chute and there have always been piles of stuff that has had to be burned outside. There has always been an accumulation there even with 71 hours but what they came with initially was to use the incinerator of 60½ hours and then what they came to secondly was to use the incinerator increasing the overtime 65 hours and the two shifts would have meant using the incinerator 78 hours.

Does the Government know how many hours they need to use the incinerator? The introduction of the two-shift system which as the Minister has said was not entirely rejected, that is, the men said they were prepared to work shift work with a 39-hour week meant a very big drop in earnings and the Government has got to accept that it is no good trying to suggest that the people there are very greedy because they are working 71 hours because they never asked to work 71 hours, there isn't a union agreement saying people must work 71 hours, there is a union agreement saying people must work 39 hours. If you have got people used to working 71 hours for years and you suddenly come along and you tell them: "Right, you are going to take a £50 out in your earnings from this week", well, the reaction can only be the reaction that the Government got, it was to be anticipated and I cannot understand how they didn't anticipate it. I honestly think that the only way forward is to go back to square one if the Government genuinely wants to find a solution to this problem other than by having a confrontation which I don't think is in the Government's interest, I don't think it is in the interest of the workers and I don't think it is in Gibraltar's interest. I can assure the Government, I am not trying to make a censure of this, but I can assure the Government that if they go ahead on the basis of taking a tough line and in interpreting this motion as pressure for them to take a tough line and in interpreting this motion as pressure for them to take a tough line they will find themselves with a tough response, that is bound to happen, and then we will see at the end of the day if we finish up with a general strike whether we don't find the problem increased at a magnitude where it will not be possible then to find a painless solution. These things, Mr Speaker, from my experience, the longer they go on the more hardened attitudes get on both sides, the more difficult it is to find any sort of compromise solution. I am, therefore, Mr Speaker, moving an amendment to the motion which is to delete none of the words that are there, to delete the fullstop at the end of the motion and to add the following words: "by, (a) ensuring the observance of the law on litter offences; (b) restoring the public expenditure cuts in respect of cleansing and refuse disposal; (c) entering into negotiations with representatives of its workforce to ensure that an efficient service is provided in this area". In moving this amendment, Mr Speaker, I am putting an interpretation on what the House means when it is asking the Government to act with resolution in this matter, that is, to take what I consider to be positive measures to meet three clear deficiencies, shall we say, (1) is the fact that people are throwing litter with impunity, (2) that the money has got to be provided. There is no question that the streets are going to be swept on Monday if people are not working Saturday and Sunday and that they can be expected to be clean on Monday and Tuesday even if it is true that people are working less well than they were before and even if the Government were to succeed in frightening them by threatening letters that they

should work more, at the end of the day the fact remains that if they finish work on Friday and they don't come back until Monday, on Monday the streets will be dirty and on Tuesday they will be dirty and they will start getting cleaner on Wednesday and therefore that requires more money but we are talking about very small amounts of money, Mr Speaker, in the overall context of the money the Government is spending. I think that is an important point that the House should understand that we are not talking here about huge increases because there are very few people involved, there are only six people in the refuse destructor and twenty-four sweepers in the whole of Gibraltar and it is an area that has never been easy to get labour for. I have said that it was the Government itself that decided the number of hours that people work in the incinerator and the level of earnings because it was never negotiated with the union but I am convinced in my own mind that they would have found it extremely difficult to attract anybody to what is a very undesirable job if all that people were going to be paid was the same as they could earn doing any other job and getting a Band 2 or a Band 4 rate of pay. There are areas like the sewers and refuse collection and refuse disposal which are unpleasant jobs that Gibraltarians don't want to do and it is an area that we depend mostly on immigrant workers even when earnings were high. If we are now talking about people getting a flat wage which means a take home pay of £60, then I can assure the Government that the unemployment would have to reach very much greater levels before Gibraltarians are prepared to tackle those sort of jobs for a take home pay of £60 from my knowledge of people's attitudes and that attitude is still there. I have many people who come to me to see if I can help them to talk to employers to offer them employment and they are still very selective. They might have been on the dole for six months but they are still very choosy about what they will do and what they will not do, there are certain things that are for the foreigners and not for locals and that attitude is still there in Gibraltar and I think that has been one of the reasons why certain areas have very high earnings because it was the only way to attract labour into those areas. The last part of the motion, Mr Speaker, which talks about entering into negotiations with representatives of the workforce, I think quite frankly that the Government failed in this one in taking people into account and perhaps they felt that they had a deadline to meet with the budget coming up, I don't know what it was, but I can tell the Government that in my judgement there has been a record of relatively good industrial relations since the major dispute of 1974/78 where union representatives at the shop floor, shop stewards, have got used to doing things by negotiation rather than by industrial action and I would certainly not recommend to the Government that they should try and go back to the approach that we had in the years of 1974/78 when it was a question of nobody talking to nobody else. I commend the amendment to the House, Mr Speaker.

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

HON CHIEF MINISTER:

Mr Speaker, on the amendment. I want to speak on the motion later on in general terms but strictly on the amendment, we cannot accept it in respect of (b) because there is a lot to be said about the question of expenditure in the general context and I don't think that percentages in respect of votes and ups and downs in itself makes any sense in general without examining the different areas. Whether they were wrong or they were right in the way in which the cuts were made is another matter and I would be prepared to accept because in fact this is still the case, that there are attempts being made to try to come to terms about this matter, we could not be parties to an amendment that would tell us to restore the public expenditure cuts ourselves but we would be prepared to agree to the other two and in that way we could vote to the whole of the motion otherwise we may even have to vote against the first part of the motion because a different interpretation has been given by the mover to the interpretation given by the Honourable Mr Loddo who spoke in favour of the motion. Different representations have been made and I don't want any misunderstanding about that. I will explain the position of the Government generally on the dispute and on the motion but at this stage if the mover was minded to take off paragraph (b) and make (c) (b) we would be prepared to go along with that but certainly we will not be prepared to have our hands completely tied as to future negotiations.

MR SPEAKER:

The only manner in which it can be done is to move an amendment to the amendment.

HON CHIEF MINISTER:

No, because either we find a reasonable consensus otherwise it is words over words and in this matter the more words there are the less likely the settlement would be in the final analysis.

HON W T SCOTT:

Mr Speaker, we find this rather constricting in the sense that we have assumed in our motion that "negotiations with representatives of its workforce to ensure that an efficient service is provided in this area", was a matter of course in any case, I don't think there is any reason to mention that. The observance of the law on litter offences I have already spoken on that whilst I moved the motion and on (b) restoring the public expenditure cuts in respect of cleansing and refuse

disposal', of course the point is very well made by the Chief Minister and in fact it is reflected in the estimates for this year and, surely, if we were going to talk about the cuts, these estimates had been prepared obviously weeks if not months before the opportunity to have talked on the cuts on Head 20, Subheads 38, 39 and 40, because it is very evident there, that would have been the time to have talked about them and the reasons why. So I feel, Mr Speaker, we cannot agree with the amendment, we will be voting against it.

MR SPEAKER:

Any further contributors on the amendment? Mr Bossano, if you would like to reply.

HON J BOSSANO:

Mr Speaker, the amendment that I have moved seeks to define what the motion means by asking the Government to act with resolution in this matter and I have spelt out what I think the Government should do in the matter by leaving it unambiguous. If in fact the Government is urged in the original motion and what is meant by resolution is to take a leaf out of the policies of the Conservatives in the United Kingdom and to start threatening employees, then I would have no choice but to vote against the original motion. As far as I am concerned I opposed the budget as a whole and I opposed the cuts in public expenditure not just on this particular Head but on all of them so therefore what I had to say then was said in the context of the overall budget. What I am saying here is that there is no way

HON P J ISCLA:

I don't think the Honourable Member spoke on the expenditure budget, if I recall correctly.

HON J BOSSANO:

Well, what I had to say then I said at the budget session, Mr Speaker, and that was that I opposed the whole of the budget because I opposed the philosophy behind it, that the economic ills of Gibraltar could be cured by cutting public expenditure and I voted against the Finance Bill and I voted against the Appropriation Bill.

HON W T SCOTT:

If the Honourable Member will give way. He is referring to Committee level when he can ask questions and determine why a particular subhead has been raised or cut.

HON J BOSSANO:

And I am saying, Mr Speaker, that I was against the whole philosophy of the whole thing and therefore the particular Heads in the context of the budget as far as I was concerned was irrelevant. I am raising it in this context because there is no way, that is what I am telling the House, there is no way that the problem can be solved without money being provided, that is what I am saying. If the position of the House is that the amount of money that has been voted in the estimates which is the amount of money that has produced the elimination of overtime is the amount of money there is and there is no more money, then there is no solution and then we might as well forget the whole of the motion because whatever is passed here, it will be either a question of the Government being defeated by the workforce in a dispute or the workers being defeated by the employer in a dispute, it would be reduced to that.

HON CHIEF MINISTER:

Perhaps before the Honourable Member finishes he may give way. There is, of course, an element of discretion of how the expenditure cuts across the whole vote are made and how things can be done so it doesn't mean that the cuts are directly or rather these cuts arise out of those cuts but they need not necessarily be those. We may have more problems or less problems.

MR SPEAKER:

That is the reason why I have allowed the amendment because otherwise it would be tantamount to a revenue raising measure because otherwise in order to be able to give effect to the amendment you would have to raise more taxes.

HON CHIEF MINISTER:

That is not the case. In a big expenditure cut I don't know how the thing is spread out and we will look at it but in pursuance of the expenditure cuts made, the departments have brought out some ways in which to meet it, there may be other ways in which to meet it and therefore it doesn't mean that there cannot be money for that, it may well be that there may be less money for something else. The cuts have to be implemented so they are not directly related to this, particular dispute, that is what I am saying otherwise it would be an attempt to raise taxes.

HON J BOSSANO:

Mr Speaker, obviously I am going to vote in favour of my amendment and let everybody else vote against it.

Mr Speaker then put the question in the terms of the Honourable J Bossano's amendment and on a vote being taken the following Honourable Member voted in favour:

The Hon J Bossano

The following Honourable Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddo
The Hon J B Perez
The Hon G T Restano
The Hon W T Scott
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon R J Wallace

The following Honourable Members were absent from the Chamber:

The Hon D Hull
The Hon Major R J Peliza

The amendment was accordingly defeated.

MR SPEAKER:

The amendment is therefore defeated and the question originally moved by the Honourable Mr Scott is before the House and I will invite any Member who has not contributed to the original motion and who so wishes to speak to do so now.

HON CHIEF MINISTER:

Mr Speaker, I had a few things to say but unfortunately in the course of the intervention in the general motion by Mr Bossano he was kind enough to give way and I made some of the points and I don't want to repeat them. I did make the point and they are quite clear what they are and I don't want to repeat them. I would like to make some general observations in a more orderly way than was possible by intervening, trying to steer clear as much as possible from repeating it. It seems to me to some extent and I am sure that when the Honourable Member speaks here he speaks only as a Member of his party and not on behalf of the union and therefore I think we ought to make our minds quite clear though I know he can exercise a considerable amount of influence but I am speaking here to the House and not

to the union to which the Honourable Member belongs, let it be made quite clear, that is another media through which there is machinery in which the matter is done. But in general terms it seems to me somewhat hypocritical to say that there is no industrial dispute and at the same time a considerable number of men are encouraged, and I have evidence of this, are encouraged by some people, I am not making any accusations against the Honourable Member at all, but are encouraged by those immediately above them to go slow. to be difficult, not to do even a decent days work. I referred to the photograph of the barrow in an alleyway for two days which said much more than many words could say, and it is quite clear that the cuts that were made, whether they were made rightly or not we will talk about that in a minute, are being resisted by industrial action, not declared industrial action, it may be by the initiative of the men or whatever it is, it is quite clear that people are going slow and have been trying to embarrass the Government in connection with tourism, in connection with the outcry by not doing what they are now being paid to do, that is quite clear. Let me also say that there is a differing standard according to the places and to the people. I can speak of one or two areas which are as clean as ever and where the man has been doing the work, works as hard as he has ever worked and he will work. Fortunately or unfortunately this happens more when the people concerned are of an older age than the younger ones but certainly I can vouch for two or three districts where the people have been working despite pressures that they should not work as usual, have been working decently and properly. I am not condemning the whole of them but I do say that there are a few people that are trying deliberately in this way to further embarrass the Government in pursuance of the cuts. If the cards are wrong, if not enough time was given, if attempting to find a solution and so on can be done by normal industrial relations, then I am in favour of that and in fact I have given a directive to that extent and that is the policy of the Government and we do not want, and we are not ashamed to saying this again, we do not want unnecessary confrontation with the unions. Some people would very much like to throw us into that situation and then sit on the touchline and gloat. Well, we are not going to allow that to be done. I am sure that that was not the intention of the motion but it can reach that stage, and we are not going to allow that to happen. We may be doing things that the Union do not like but we will do it according to our conscience, we are not going to be pushed into doing things we do not think we ought to do. In that connection I would like to echo the words of Mr Bossano that industrial relations have been reasonably good. My God, anybody who reads any paper or looks at television or radio and so on, should appreciate the extent of industrial peace that there is in Gibraltar compared to what it has been in many other places. And if we have the occasional squabbles or the occasional difficulties with the unions, well, that is part of life, but

that does not in any way exempt the fact that people in the union, or rather perhaps even the people concerned themselves, have found encouragement in going slow to make the position of the Government worse. And let me say that at the same time whilst it does try to discredit the Government, it does not do any credit to unions itself as such. If the unions are concerned, as I am sure in the final analysis they must also be concerned as to their place in society and the extent to which people feel strongly about union action and so on. If the time that was given for people to be told about it was not enough, I think my Honourable Colleague has stated that as far as we are concerned we thought there were 10 days, the Honourable Member has cut it down to 2 or 3, that is something which has to be investigated in order that it will not happen again. But, be that as it may, that should be past history, we should start from scratch and we should tell the people what is meant and in fact there has been an attempt, and as the Honourable Member said in his intervention, various attempts have been made to find out workings and we hope that that will be possible, it is never too late in a dispute of this nature to come to reasonable terms if both parties have good faith. It is no use saying no to successive offers and waiting for more and carrying on. If that were the judgement of the attitude taken then the Government would have to react seriously whatever the consequences. That is something I do not like to say because it is no good whatever the consequences. If the consequences are serious it may be that the situation would worsen but it would not be any better for the unions than it is now. They might end in celebrating a pyrrhic victory but that would not bring them the money that they hope to get or at least near enough the money that they hope to get. I was saying before that it is no use referring the percentages to the old ones because there may be further increases in some areas for some reason or other and you cannot say that there has been a cut of a percentage across. Cuts were made in order to be able to balance the budget without extra taxation and to be able to cope with the reductions in taxation that were introduced in order to activate a little more the economy as I am sure it is doing in order to be able to present a reasonable budget and a budget that would give credit and would be expected to command the confidence of those to whom we have to go in order to raise funds to carry out works of a social nature. It is all one area of philosophy and in that respect cuts have got to be made. I agree that people who have been used to higher earnings and have their earnings drastically cut are shocked and do not have the time to adjust, I accept that, and if that has happened then it must not happen but so long as the aim is published and the matter is cleared. People should have notice of the changes, reasonable notice of the changes. People have commitments. I know somebody who very shortly some time after this came along, whom I know quite well, probably a very prominent union member but still a very good friend of mine. who came along and said he wanted to find

out whether he could get his gratuity and I said: "You are very young, you have been serving and you will get a pension". "Ah, but with this cut that has been imposed on me because I would like to work", and I am not going to say who it is - but anyhow, he would have worked the alternative offer - "I am found with hire purchase commitments which I cannot meet, and I would rather have my gratuity now, pay my commitments and start again". I said: "This would be very harmful to you, you would spoil your chances of getting your pension, you would spoil your chances of your retirement pension and, in fact, what you owe because you are too conscientious, what you owe in relation to the cuts can stand the test of a little time until things are put right and you get perhaps not all you are getting". I knew what was in the offer that was being made at the time. I appreciate that but then also labour must appreciate that the Government, as has been said so many times in the course of another debate, is elected to govern and has to do the things the way they think having regard to all the considerations that I have set out, in the way they think best. They must be the final arbiters whether that is going to provoke a general conflict. But to speak, and this is something that I really must resent, to speak of a dispute over cuts in a very small area as leading to a general strike, is in my view putting the matter completely out of context and I hope it is not intended to try and frighten us.

HON J BOSSANO:

I was not talking of a general strike arising out of cuts, I was talking about a general strike arising out of the indications from the Minister of Public Works that people will be given one or two warnings and then sacked and that he hoped the Opposition would support them because they were taking a tough line. That would lead to a general strike, yes.

HON CHIEF MINISTER:

It will have to be seen whether the men are prepared to go to a general strike because the feature of industrial strategy nowadays is not to go on strike, to go slow or to go slower, to black or to claim but never to lose the wages, that is the tactics. Anyhow, I am glad that that has been cleared. Let me go to another area because in fairness if what we are complaining about is the lack of consultation and so on, I hope that what I have said now will certainly be helpful in trying to continue more meaningfully the dialogue that is on or should be on in order to find a solution which is acceptable both to the Government and to the workforce. But let me say that there is another culprit in this conflict and the culprit of course is a great number of citizens, the public. I will not say everybody but a considerable number of people who, never mind with a conflict of this nature where we have not got enough to cope with the cleaning and they should be careful

and they are not, but added to that well knowing that there are difficulties, the same people who complain, well knowing that there are difficulties, well knowing that it does give Gibraltar a bad image, have no conscience whatever in throwing things on the highway, bottles, tins of the various products that are drunk - I do not want to do a commercial here - but a number of bottles particularly of one or two kinds, and leaving them there in the open. I consider that I am entitled, without breaking any industrial disputes, if I see a piece of paper or something lying around where there is a bin, to get it and put it into the bin because I think that that is everybody's duty. Of course it is not everybody's duty to go and sweep the streets for other people but it is everybody's duty to be conscience about their surroundings. And those who want to take this matter to an extreme would not be so encouraged if they found that people were more careful and that what they were doing was not as harmful as it is now because it is aided and abetted by the people who have no sense of dignity and no sense of pride in their surroundings. That has made the thing worse. I make no apologies for saying that. Plastic bags are available both in the Public Works Department and in the shops, generally, at a very reasonable price where a lot of people could put their stuff in plastic bags as in fact all the plastic bags that are put in the refuse collection are dutifully collected every morning and cleared by the refuse collectors. There has been no attempt at all at helping ourselves from the bulk of the people. Very much the opposite. There has been, perhaps unconsciously, an attempt to aid and abet those who are going slow and not doing their duty by embarrassing them with incidents such as the one that the Minister for Public Works gave of people delivering stuff outside and just putting it there and clearing things out and putting the whole place in danger. There was a fire in Devil's Tower Road and it could have had more serious effects. There are many factors in this matter which we are considering now. Talking about the economy when the Honourable Member said a small amount of money, it may well be but everything is small in its own context but the point is that we have £50 million of expenditure or £48 million of expenditure and the bulk of it is small bits so it is no use saying for this thing you can have a settlement tomorrow and if you give us what we were getting there is no problem. Of course there is no problem, whether the problem should have started or not in the first place is another matter. Therefore, as far as we are concerned, we shall consider it our duty to attempt to bring this to a reasonable settlement to make up for any breach that there has been in the time that it should have been given, and I think they now have enough time and unfortunately for the, and I say this in all sincerity, sufficient time to realise the effect that the cuts have had on people's income and the hardship that has created, which is only an indication that if the thing got worse it could get even worse insofar as that hardship is concerned. I am not going to be driven into taking a hasty

decision of this nature for any motion or anything like that. We will just make our position clear, carry on with what we consider to be our duty, correct any areas where there has not been sufficient communication which is a matter, really, for which we must accept political responsibility but really it starts at a much lower area than ministerial decision, and see that we can find a solution. But on the terms on which the motion has been framed, of course the Government will not be able to vote in favour.

HON MAJOR R J PELIZA:

Of course I am interested, generally, on the aspects being discussed today in this House but I am particularly interested from the point of view of tourism which is the responsibility as a shadow minister that falls upon me. There is no getting away from it, Mr Speaker, that the state in which Gibraltar is today and has been now for some years, calls for drastic action and cannot be blamed on any recent industrial dispute that may be going on. The situation has deteriorated. The situation as it stands now is blatantly clear to everybody. But the position has been this way for a long time and the amount that it has been costing has been quite large all along. My Honourable Friend, Mr Bossano, says that if in fact they should be spending less now they must have been wasting a lot of money since 1979, and perhaps that is so. A lot of money has been going down the drain since 1979 and we have said it here, it is nothing new. We have been saying it here now for 10 years at least, and certainly the last four. That, Mr Speaker, is bad administration. It is this bad administration that now that the Government is against the wall because the money is not forthcoming, that they have to take action. Now they have to take action. Now they are going to get tough. But this would not have been necessary at all. The situation would not have developed to the state it is now if right from the beginning the Government had governed. Now it is very, very difficult, suddenly to say: "We are going to govern and expect no reaction" because I think it is very natural that an individual who has been getting quite a fat wage at the end of the week should suddenly find himself with a very high proportion of that packet suddenly disappearing, he is not going to be a very happy man. He can be almost desperate because the Chief Minister himself has brought out a case where an individual who has some commitments, some financial commitments, without any notice suddenly he is told: "You are going to lose so much a week". A responsible person says: "Give me whatever you can, I have got to pay my bills. I may lose my car, I may lose my television set or whatever it may be". The situation has been created by the Government, this is the point. Oh, yes. The situation has been created by the Government because right from the beginning they did not tackle the matter in a sound way simply because money was forthcoming. It was forthcoming from the pockets of the Gibraltarian, the high taxation that we have been paying and that now we are still paying. And that is the situation which the Government has

HON CHIEF MINISTER:

Will the Honourable Member give way. Is the Honourable Member suggesting we have been throwing money away or we have been giving money to the workers for which they have not worked. Let him be quite clear, let him not hide behind the accusation against the Government and not deal with the substance of the matter.

HON MAJOR R J PELIZA:

That is up to the Chief Minister to say. All I know is that they consider that the workers today are not working for that money. We have heard the Minister responsible for the Department saying so very clearly. The sweepers are doing 20% of the work. Has it just suddenly happened that they have decided to produce 20% of the work? And in the past they have always been working alright. Now, suddenly, they go down to 20%.

HON CHIEF MINISTER:

Yes.

HON MAJOR R J PELIZA:

Why? Because they don't get overtime? Is that the only reason they have gone down to 20%?

HON CHIEF MINISTER:

Of course.

HON MAJOR R J PELIZA:

I can't believe it. I believe that there has been lack of supervision all the time, all the time, and that now of course we can work it out in percentages but before it could also be worked out in percentages and it was never done. Why does the Minister responsible think that I have all the time, for a long time, been asking questions on particular things for which I do not get right answers. I can quote the last one in this particular question and I think I am justified, Mr Speaker, in bringing it out in this debate where I drew attention to the Minister in Question 228 of this session about Jumpers Bastion. In the previous session (Question 146) the Minister undertook to see that that place was clean, that was the answer given, and if necessary they were taking the people concerned to the courts. The first thing I did when I came this time was to look at the place. It is dirty, the things are still there. They tell on this question, the same day, that everything is alright. It wasn't alright. I have gone today and it is still there. What action has the Minister taken on this particular issue? This is one point. Obviously, somewhere along the line

there is lack of supervision. That is what is keeping Gibraltar dirty and has been dirty for so long. It is no use looking for excuses about departments themselves. You say the public are throwing the litter on the streets. We know that the litter bins are full and they are not emptied. Who is responsible to see that those bins are emptied? Someone must be responsible. How is it then that the department will allow that to carry on happening and who is blamed? The Gibraltarian who is going down Main Street who cannot throw the stuff in the litter boxes because there is no room there. It just does not make sense, Mr Speaker. This, I am afraid, is the situation of Gibraltar today. Suddenly the Government wants to put things in order. You can't act in this way, if you do you come across a confrontation that probably may take place, whatever the Chief Minister may say. Obviously, the Opposition wants to see Gibraltar clean and will assist the Government in seeing that that happens. We can't be saying here we want Gibraltar clean and at the same time not support the Government in taking action to keep Gibraltar clean. But that does not mean to say that they can be exonerated from blame of what is going to happen. It is unfortunately the duty of the Opposition to act responsibly and carry the can unnecessarily through the bad management and bad administration of the Government. This is the position, I am afraid, that the Government has put the Opposition in and almost the Trade Union into by allowing the situation to develop in the manner that it has. It took a long time before legislation was passed to increase the penalty for people who drop litter in the street, and having been passed it is obvious that the Police are not taking sufficient action on it. What has the Government done about it? What is the Government going to do about it because that is clear, it can be seen everywhere all the time. If I can see it the policeman can see it and nothing happens. We have a very large police force in Gibraltar. There is no question about it. Perhaps per head of population the highest in the world and still they cannot stop people from throwing litter on the street. And we have never had here as yet a good explanation of why that is happening.

HON A J CANEPA:

Mr Speaker, if the Honourable Member will give way. Is he not aware that the police do not work to any Minister, that the political side of the Government does not have responsibility for telling the police what they should do and that the police apparently do not accept that. Not that we do not bring the matter up often enough in Council of Ministers, I can tell the Honourable Member, because we do. Because we are dissatisfied but perhaps no notice is being taken because we are not the master, I only wish we were.

HON MAJOR R J PELIZA:

Well, Mr Speaker, again, that is the ability of the Government to influence the Governor who is responsible for the police to carry out its duties. I, certainly, if I had been Chief Minister

HON A J CANEPA:

The Chief Minister is the first Chief Minister to have monthly meetings with the Governor and with the Commissioner of Police and he has not yet succeeded in influencing that.

HON MAJOR R J PELIZA:

Well, Mr Speaker, it is about time he took stronger action. I would certainly not allow that to happen, I can assure you, if I had been Chief Minister. There are ways of complaining to the Secretary of State. There is no reason why that should not happen.

HON P J ISOLA:

There is a very simple solution. You refuse to provide funds to the police because we control. They may feel themselves to be the masters but we pay them like GBC, if I may say so, exactly the same. We have the power if we wish to use it.

HON MAJOR R J PELIZA:

My Honourable Friend has even come with a stronger means of making the police act in the manner in which this House is asking them, not on the question really of public order, but certainly on the question of keeping Gibraltar clean and tidy which is their responsibility as much as anybody else if that is what the law says. Then we hear about the courts not fining people and again I suppose that a word from the Chief Minister publicly saying: "Look, there is a need for Justices to take a stronger view of this". This is done in many places, it is not a question of influencing the judiciary but of bringing to their notice what is the feeling of this House and which has been the feeling of this House for a long time about the cleanliness of Gibraltar. I have no doubt that the Justices of the Peace will take note. No doubt even if what is being said here today is reported they will take note and take some action in that respect. So, Mr Speaker, I think that if one looks at the situation one cannot help but say that the Government have brought upon themselves the situation that they are facing today. Gibraltar, whether we like it or not must censure to some extent the Government for allowing this to come to this state, that it is necessary that the Government takes action, that it is necessary that the Unions as well should look at the situation very carefully because if we are going to lose tourism, and this is likely to happen,

certainly if we were to have an epidemic I think that would very quickly stop the flow of tourism to Gibraltar and certainly those who come now, whatever the Minister might say as an excuse, let them look at London on the year of the winter of discontent, what was that like? I do not think that that is the way to think about tourism for Gibraltar. The tourists who come to Gibraltar are spending very good money and they expect to find a clean and an attractive place. It is no use telling him that London was worse last winter, come again, because they are not going to accept that as an excuse and I think that the Minister for Public Works was very wrong in fact to make that comparison. Any tourist who is here in Gibraltar and hears that is certainly not going to come back again because if that is the sort of thing that we expect the tourist who comes to Gibraltar to meet and then to accept because it was worse in London a couple of years ago, I really do not know how we are going to progress with tourism in Gibraltar if that is the general attitude of the Minister responsible for embellishing Gibraltar to some extent because it is his department, of keeping Gibraltar tidy. If that is the attitude then I cannot see that we can make progress in improving the product which is so absolutely vital for bringing tourism to Gibraltar and tourism is the second industry in Gibraltar. This is why I say to the unions that they must also bear that in mind. By all means I think they have to fight for a fair wage, by all means they have got to try and get as much as possible in the circumstances, but they also must cooperate.

HON J BOSSANO:

This Friday, Mr Speaker, the sweepers finished at 4 o'clock in the afternoon and they come back to work on Tuesday morning. What does he think anybody can do to keep Gibraltar tidy between 4 o'clock on Friday and Tuesday morning. Do people come in and work for free. Because that is what happened. The Government decided to pay only for 39 hours a week. The Government claims that people are not producing as much in 39 hours as they used to produce when on top of the 39 hours they used to work the whole day Saturday and half of the Sunday. On Sundays half the sweepers worked so we had one Saturday 12 men and the following Sunday another 12 men. The situation is that now when there is a long week-end Gibraltar is unswept for 3 days and on a normal week-end it is not swept for 2 days. That means a dirty Gibraltar on Mondays and Tuesdays even if everybody is doing their job and supervision is good.

HON MAJOR R J PELIZA:

I totally agree with that. I totally agree and I said so at the beginning, that you cannot expect to have Gibraltar clean on a Monday morning or on a Sunday morning if it is not cleaned

on the Saturday. And one sees, in fact, in all these places which are tourist oriented where immediately, even when there is a function, immediately after you see the sweepers coming round to clean the streets. And on Saturdays particularly, on Saturday particularly, they work right to the very end so that on Sunday morning it is clean again. On Friday evenings you also find them working in all these places till late, so that on Saturday mornings it is clean because Saturdays is one of the days where in most places, not so much in Gibraltar, perhaps, but in most places, there are more people moving around, it is the shopping day, it is a week-end where people go to particularly tourists resorts, and it is then that you need most people cleaning the streets. And, equally, I think on the Sunday where, again, people go out. So I think that is false economy, if I may say so to the Government. I think that is vital to keep the Saturday as a working day and the Sunday if we want to have on week-ends a clean Gibraltar. I think the tourists who goes around on a Saturday and finds everything filthy and on Sunday they find everything filthy and he is probably going on the following day, on the Monday, I think they come on the Monday and they go on the Monday, it is hardly a reception to see dirty Gibraltar on Monday when he comes and filthy on the Saturday, the Sunday and the Monday when they go. In that respect, I have said it before and I repeat it. I think it is false economy for the amount involved to do that. That does not mean to say that they must not demand productivity for that money or for the rest of the week. This is why I say I cannot understand how it can drop to 20%. Obviously what is required is proper supervision. If people are allowed after a number of years not to be supervised, no one really taking much notice, it is obvious that it comes down to a very, very low level. And this is what happens now. To bring it up is going to be a very difficult situation. I appeal to the Government to be tactful in the way they approach this and to the unions to realise I think also the responsibility, the importance of keeping the economy of Gibraltar going so that in fact they can carry on receiving the pay they are getting today. From the point of view of tourism I think it is vital that the Minister responsible for this particular area of the Government takes a more positive view towards the importance of keeping Gibraltar tidy and clean and embellishing Gibraltar all round.

MR SPEAKER:

I will then call on Mr Scott to reply.

HON W T SCOTT:

I think the matter has been well ventilated and I am grateful, in fact, very grateful that the Honourable Member on my left has chosen to make the exposition in the manner that he did. He has provided the House with a lot of information, certainly

that Members of my party were not aware of and also the information that the Minister for Public Works has given the House. I am also rather sad that we have to wait for a motion of this nature to reach the House before the public is informed as to exactly what is happening in the situation, and they are the sufferers. I need not go much into it except to mention what the Honourable Minister said about hoping that the police will reply. I agree entirely with what my Honourable Friend on my right said a few minutes ago that some new injection has to be made and some pressure has to be applied to the police even if it reaches the level proposed by my Honourable Leader, Mr Speaker, one final word. Although the Chief Minister said in his contribution right at the end and almost in a whisper said that Government could not agree to voting for the motion there has been no indication as to why. We have had no indication whatever as to why.

HON CHIEF MINISTER:

I said why. Because one interpretation has been put in by the mover and another interpretation has been put by his Honourable Colleague, Mr Loddó.

HON W T SCOTT:

Well, Mr Speaker, I think it has been very well ventilated and I commend the motion.

Mr Speaker then put the question in the terms of the Honourable W T Scott's motion and on a vote being taken the following Honourable Members voted in favour:

The Hon J Bossano
The Hon A J Haynes
The Hon P J Isola
The Hon A T Loddó
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Honourable Members voted against:

The Hon I Abecasis
The Hon A J Canepa
The Hon Major F J Dellipiani
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon D Hull
The Hon R J Wallace

The motion was accordingly defeated.

HON J BOSSANO:

Mr Speaker, I beg to move that: "This House urges the UK departments to enter into meaningful negotiations with the trade union movement to increase the civilianisation and localisation of posts within employment of these departments in the light of the increasing levels of unemployment currently being faced in Gibraltar". Mr Speaker, in bringing the motion to the House, what I am seeking is that by getting the support of the House of Assembly to this motion, the task of the trade union movement in helping to create extra jobs for local workers within this department will be assisted. The unions have, in fact, as a standard policy, Mr Speaker, for many years sought to localise and to civilianise as many posts as possible and to some extent, except I think for CPSA, where there was in fact an agreement in 1977 as a result of the settlement following the lock-out of CPSA members, following that there was an agreement and an enquiry carried out into the dispute which resulted in a Working Party being set up in 1977 which finally reported in 1979 and identified 29 posts in the RAF Gibraltar which could be done by civilian clerical and administrative workers. Having identified the posts, having reached agreement that they could be done by civilians, the matter was then referred to the MOD in UK and it was turned down by the MOD in UK in 1980. In fact, it was something that quite frankly the CPSA, as a union, felt that they had been led up the garden path by the Ministry of Defence because there was this enquiry in 1977, the recommendations of the enquiry were supporting the union position, there was a Working Party set up, the Working Party studied the situation for 2½ years and then at the end of the day a ministerial decision was taken to keep the jobs as military positions and not as civilian positions. I think in the context of the current retrenchment being faced by the Gibraltar economy, the lack of job opportunities for school leavers, the possible consequences of a reduction in the Dockyard if we are successful in preventing its closure, all lead to a situation where the job availability in Gibraltar is reduced and consequently the trade union movement have as a matter of priority revised its outstanding claims for civilianisation. In fact, the RAF is a clear-cut case because there, numerically, there are far less civilians in proportion to servicemen than there are in any other defence establishment in Gibraltar where the jobs could be done by civilians. For example, I think on the industrial side there is something like 2 civilian drivers out of a total complement of about 30. On the RAF Fire Service side, I think it is something like a third of the firemen are civilians and two thirds are service personnel in mixed crews. The RAF is one clear-cut area where quite a number of jobs exist which could be done by local people and where in fact the cost to the employer would be reduced and that is an argument that is being pressed by the unions against the background of defence expenditure being restricted. The advantages for the economy of Gibraltar

are obvious. The advantages for the economy of Gibraltar, as well as providing employment, the situation is of course that local workers pay local taxes and servicemen do not pay local taxes because they pay taxes in UK. Therefore if one has to choose between the locally entered civilian or the UK based, although it is preferable to have full employment amongst local civilians and high numbers in the services because they add to the expenditure, the input-output study clearly showed that if we have to choose between losing one or losing the other it is better to lose a UK based because the loss to the economy is less. There are also a number of jobs within the MOD and the DOE where the unions are in fact involved in trying to get increased civilianisation and specifically in DOE where there is, in fact, at the moment a dispute covering one of these posts and there has been an indication of an attempt from London to move in the opposite direction and to de-localise some administrative posts which is being resisted by the union. What I am saying in bringing this matter to the House is that the philosophy of increased civilianisation and increased localisation of posts which has been so far taken up purely in an industrial relations context without much success, I am sorry to say, should now be helped and assisted by the House adopting as a matter of principle a resolution which endorses that policy and seeks to lend its way politically to get the UK departments to enter into the negotiations that are currently taking place with a more receptive frame of mind than experience over the last few years have shown us. As I quoted, Mr Speaker, something that started off in 1977 that looked quite optimistic in 1979 when the unions were hoping to get 29 jobs, has finished up in 1982 with no jobs at all.

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

HON MAJOR F J DELLIPIANI:

Mr Speaker, I fully support the motion brought by the Honourable Member, Mr Bossano. This is something that I have identified myself with since my early days when I worked for the then War Department, when I was in fact Assistant Secretary to the late Tony Cavilla and also Assistant Secretary to my Friend Isaac Abecasis and also acting Secretary to the then Civil Service Clerical Association as it was then known and we had our struggles in the early 1950's. We managed to progress slightly but the progress has not been enough. I think there was more progress in terms of civilianisation than localisation, certainly in my time. We certainly made some progress in civilianisation because we had National Servicemen in those days and it was far easier, but there was far stronger opposition in terms of localisation. I always felt that there was an element of jobs for the boys in all three services plus the Department of the Environment, or whatever it was called in my days, the MPBW. I think that Mr Bossano has highlighted

the Royal Air Force as one of the main culprits and it was certainly the worst one in my time in 1954. When I think the highest grade was a Grade 1 Clerk in the whole of the Royal Air Force, certainly in the clerical side, and I think we managed to improve on that although part of the work was then later passed to the Dockyard. I am glad he mentioned the Input/Output Study because there it is highlighted quite clearly that though we might lose the job from a UK expatriate or from an army chap, the economic impact is far greater if we lose a job for a local chap and with the pressures that are now on on unemployment, with the harmful effect that the partial opening of the frontier is doing on business and trade generally and on unemployment, generally, with the threat of the dockyard, I think it is only right that this House should show support to the Trade Union Movement because in the final analysis we are going to support our own economy, our own identity, our own community, and it is a hard struggle to convince MOD when they think in terms of secrets and they forget about their Philbies and Burgesses and Mcleans and all the rest. I think that Gibraltar has shown itself to be loyal to the British Government because we are British even though we might be Gibraltarians. It is a hard struggle, it is something that I do not like to give in easily, it is almost the same as land, the same problem as land. I cannot add anything except that I support the idea and the thought behind the motion brought by the Honourable Member.

HON MAJOR R J PELIZA:

Mr Speaker, on behalf of my Party I can say that we also totally support the motion and wish them every success. It would be interesting, of course, from time to time, to hear what progress is being made. I don't know whether the union can publish reports which they can pass to the Members of this House stating what is happening, what are the posts that need filling that they are asking for, if they are refused, why they are refused and what are the prospects in future of further progress. Just passing a motion it is very fine and good, well; it is good public relations but it might lead to nothing in the end. I think that more than just giving lip service to the motion, I think this House must be prepared to do a bit more than that and I hope that the Trade Unions will be able to keep Members of the House informed of progress. We certainly support the motion.

MR SPEAKER:

Are there any other contributors who would like to speak to the motion?

HON J BOSSANO:

I am glad that nobody has suggested removing anything after the word "this House". I welcome the support from both sides

of the House. I take entirely the point made by the Honourable and Gallant Member and I shall make it my business, in fact, to ensure that the situation which is reported back to the Trades Council from the different unions involved in these negotiations, that that report back is then copied to every Member of the House and I think it is quite right that if the House is being asked by me on behalf of the Trade Union Movement to lend its weight to their negotiations, that the Trade Unions should come back and let the House know how successful or otherwise they have been in their negotiations. I welcome the support, Mr Speaker, and very much so the words of the Honourable the Minister for Labour who I think has in fact expressed precisely the kinds of arguments and feelings that are at the root of the position of the Trade Union Movement which is the same now, as he says, as it has been for very many years. Fundamentally the situation is the same, the feeling is the same, the claims are the same, but we feel that now, more than ever, the need is greater than it has ever been before.

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

ADJOURNMENT.

HON CHIEF MINISTER:

Mr Speaker, I beg to move that this House do adjourn until the 28th of June, hopefully, at 10.30 am and necessarily at 9 o'clock.

MR SPEAKER:

It will be at 10.30 am and then we can take a decision once we meet again. I will now put the question since it is not a final adjournment.

HON CHIEF MINISTER:

Perhaps I should say a little more. The purpose of this meeting will be purely to bring in a motion regarding commercialisation, whatever comes out of the wash, and it makes certain assumptions in respect of availability and other results of events from the 9th of June which need not prejudice the results, I don't want to interfere in what happens somewhere else, but it is the best date that I can find within the parameters of what is being discussed. I am just giving notice that there might be a slight change but this is the best date that I can find having regard to all the things that I know have to happen before, it might have to be later and we might have to come here to adjourn formally.

MR SPEAKER:

In other words, you do not anticipate that it will be earlier than the 28th, that is what you are saying. That is correct?

HON CHIEF MINISTER:

That is right, rather later than earlier.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Tuesday the 28th June, 1983, at 10.30 am.

The adjournment of the House to Tuesday the 28th June, 1983, at 10.30 am was taken at 4.30 pm on Wednesday the 25th May, 1983.

TUESDAY THE 28TH JUNE, 1983

The House resumed at 10.40 am.

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 Economic Development and Trade
The Hon M K Featherstone - Minister for Public Works
The Hon H J Zammit - Minister for Tourism and Sport
The Hon Major F J Dellipiani ED - Minister for Housing, Labour and Social Security
The Hon Dr R G Valarino - Minister for Municipal Services
The Hon J B Perez - Minister for Education and Health
The Hon D Hull QC - Attorney General
The Hon R J Wallace CMG, OBE - Financial and Development Secretary
The Hon I Abecasis

OPPOSITION:

The Hon P J Isola OBE - Leader of the Opposition
The Hon G T Restano
The Hon A T Loddó
The Hon A J Haynes

ABSENT:

The Hon Major R J Peliza
The Hon W T Scott
The Hon J Bossano

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, when we adjourned our meeting on the 25th May I said that I hoped that we would be able to meet today to deal with the question of the motion on the Dockyard but I did sound a note of warning that we might not be ready for it as indeed we are not and therefore I am moving the adjournment of the House sine die. It is also a matter of public record that there is a meeting summoned for the 5th July, a routine meeting, at the end of which I hope to be able to have more certainty as to the date when we will meet for the debate which would might have taken place today if things had moved the way one thought at the time but this has not been the case so therefore I move that the House do adjourn sine die.

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

HON P J ISOLA:

Mr Speaker, I was given notice that the Government was not ready to have a debate on the Dockyard around the middle of June, I think the Chief Minister wrote to me to that effect care-of my deputy leader as I was away from Gibraltar from the 10th to the 19th of June. However, I would like as the question of commercialisation of the Dockyard is the most serious problem facing Gibraltar, I would like to ask the Chief Minister before we actually adjourn if there have been new problems or different news with relation to the Dockyard that has brought about changes in plans in the last four days that the House should be informed of?

MR SPEAKER:

Before the Chief Minister replies and I put the question I would like to say the Honourable and Gallant Major Peliza has given notice that he wanted to raise certain matters. He said he would like to raise on the adjournment the question of the enfranchisement of Gibraltarians for the European Parliament. He is not in the House and therefore he foregoes his right to do so.

HON CHIEF MINISTER:

I am happy to reiterate what I have informed the Leader of the Opposition in an open letter. I think it is not unknown that there was a general election in the United Kingdom since the 25th May and that certain events that had to take place were obviously delayed. Certain events that had to take place and certain factors before the proposed discussion on this have slipped like so many other things have slipped part of which, of course, is not our fault. There are no new factors other than those that I have informed the Leader of the Opposition publicly and I cannot go any further on that.

HON P J ISOLA:

Mr Speaker, the thing is this, that I was never asked to join the Chief Minister at any time nor did I expect to be asked, but I was asked on Tuesday evening and what I was really referring to was have factors occurred in relation to the visit, I appreciate the delay there has been because of the British general election, but have factors occurred in the last seven days, I did say a short time, that have produced changes of plans of which we ought to know, that is all.

HON CHIEF MINISTER:

In due course every detail will have to be given here but I reiterate that certain events within the functions of the Government as such have occurred which have warranted having an earlier visit for one purpose, as I say, leaving the other visit pending whatever may arise in respect of that. I cannot go any further than that, all I can say is that I appreciate as everybody must appreciate in Gibraltar, that the Dockyard is the most important factor now taking the concern of the people and particularly the Government who have got certain responsibilities and that it is inevitable that these things happen.

HON P J ISOLA:

Mr Speaker, I will not press the matter any further but it does seem to me odd.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned sine die.

The adjournment of the House sine die was taken at 10.45am on Tuesday the 28th June, 1983.