

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

6 July 1983

Vol. I

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Sixteenth Meeting of the First Session of the Fourth House of Assembly held in the Assembly Chamber on Wednesday 6th July, 1983.

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 Loddo
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.

CONFIRMATION OF MINUTES

MR SPEAKER:

As Members are aware there was an amendment to the minutes which has been circulated and it has been incorporated in the minutes book. May I sign them now?

The minutes were confirmed.

DOCUMENTS LAID

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

The Certified Accounts of the Gibraltar Quarry Company Limited for the year ended 30th November, 1982.

Ordered to lie.

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

The Tourist Survey Report, 1982.

Ordered to lie.

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

The Accounts of the John Mackintosh Hall for the year ended 31st March, 1983.

Ordered to lie.

The Hon the Chief Minister, in the absence of the Hon the Financial and Development Secretary on urgent official business, laid on the table the following documents:

- (1) Supplementary Estimates Consolidated Fund (No 1 of 1983/84).
- (2) Supplementary Estimates Improvement and Development Fund (No 1 of 1983/84).
- (3) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 8 of 1982/83).
- (4) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 9 of 1982/83).
- (5) Statement of Improvement and Development Fund Re-Allocations approved by the Financial and Development Secretary (No 3 of 1982/83).
- (6) Statement of Consolidated Fund Re-Allocations approved by the Financial and Development Secretary (No 1 of 1983/84).

Ordered to lie.

ANSWERS TO QUESTIONS

HON CHIEF MINISTER:

Mr Speaker, I would request that the questions which are first on the list, that is, Questions Nos. 247 to 252, which the Financial Secretary will be answering, be taken later on in question time as he is urgently engaged in important discussions.

MR SPEAKER:

I feel sure that Members of the Opposition will have no objection as the established practice has been that when a Member is unable to attend at the required time his questions have been deferred to a later stage of question time. So we will now call Question No. 253.

The House recessed at 1.15 pm.

The House resumed at 3.20 pm.

Answers to Questions continued.

THE ORDER OF THE DAY

MR SPEAKER:

The Hon the Chief Minister and the Hon the Minister for Public Works have given notice that they wish to make statements. I will then call on the Hon and Learned Chief Minister.

HON CHIEF MINISTER:

Mr Speaker, it is with much pleasure that I rise to make what has now become a customary annual statement on the activities of HMS Calpe. HMS Calpe continues to provide essential personnel to man the Maritime Headquarters and the Port Headquarters in Gibraltar at times of tension and war. The training is geared to these tasks and good results were achieved in exercises during 1982. Officers and Ratings participated in the following three exercises locally:-

- a. "Dense Crop" - A NATO command post or paper exercise.
- b. "Sea Supply" which was primarily concerned with Naval Control of Shipping.
- c. "Open Gate" - An annual NATO live exercise in which ships, aircraft and submarines test the defences of the Straits of Gibraltar. Three officers volunteered to undertake this exercise at sea - Sub-Lieutenant Figueras was appointed to HMS Dido and Sub-Lieutenants Victory and Cardona to HMS Bacanti.

In addition to these three exercises HMS Calpe provided a total of 15 ratings to assist with the manning of two Maritime Headquarters in the United Kingdom during exercise Northern Wedding in September.

In October, the Unit had the honour to provide a Quarter Guard at the House of Assembly for the Swearing-In Ceremony of His Excellency the Governor and Commander-in-Chief.

From time to time, personnel are sent to the United Kingdom for professional training at the various RN Training Establishments. In 1982, fourteen Officers and twenty-four Ratings attended these courses. Eight Officers attended Naval Control of Shipping Courses. Other courses included Personnel Selection; Mine Counter Measures; HQ Typing and Automatic Telegraphy; Training Design, Leadership and Instructional Technique.

In October, a team from the Maritime Trade Faculty of the School of Maritime Operations at HMS Dryad came to Gibraltar to conduct a Naval Control of Shipping training weekend in the MHQ. This exercise proved to be very successful and was well supported by thirteen Officers and seventeen Senior Rates from HMS Calpe.

Four Officers (Lt-Cdr J A Torres, Lt A D Lima, Lt D Figueras and S/Lt D Harrison) were awarded the Reserve Decoration and one Senior Rate (Chief Petty Officer M Parody) was awarded the Clasp to the Long Service and Good Conduct Medal.

On 14 December, 1982, the Commanding Officer, Commander Mesod Massias relinquished his command of the Unit and Commander Joe Ballantine assumed command upon promotion. In recognition for his service to the RNR Commander Massias was awarded the OBE. Mr Speaker, I am sure that Members of this House will wish to join me in publicly thanking Commander Massias once again for all his efforts on behalf of the Unit and wishing Commander Ballantine all good fortune at the Helm.

Amongst the visits paid to HMS Calpe, I should like to highlight the visit by His Excellency the Governor and Commander-in-Chief, who inspected the Unit at Divisions and met personnel at their Training Classes.

At the end of the year, under review, the complement stood at eighteen Officers and eighty-one Ratings leaving a shortfall of two Officers and thirty-four Ratings. However, I am pleased to note that the Flag Officer Gibraltar, Rear Admiral Vallings, has informed me that a very successful recruiting campaign was recently carried out and that the shortfall has since virtually been removed. He has also stated that he has seen a lot of HMS Calpe as it were "in action" during exercises here and that he has been very impressed. He has also just completed his bi-annual inspection and has assessed the Unit as being good.

In conclusion, Mr Speaker, I am sure all Members of this House would wish to join me in expressing our very best wishes to the Unit.

HON MAJOR R J PELIZA:

Mr Speaker, I would like to, on behalf of my party, to associate myself with the words of praise and congratulations to our Naval Unit in Gibraltar. I think it is also a very good thing that the Chief Minister is now able to make a statement with regard to this Unit in this House. It is obviously very much in the interests of Gibraltar and certainly a responsibility of this House to the servicemen who are serving in HMS Calpe and that we should get to know of their progress and, finally, I would like to say that we can all feel very proud of the very responsible work they are doing in connection with NATO and I think with the defence of the West, generally.

HON P J ISOLA:

Mr Speaker, I would like to ask the Chief Minister why he is not making a statement, in addition to that on HMS Calpe, on the other important matter that has occurred recently on his visit to the United Kingdom and does he intend to make a statement to this House and now would be the time to do it?

HON CHIEF MINISTER:

I intend to make a statement and it is my judgement as to the right time to do it, not now.

HON P J ISOLA:

Is it then the policy of the Chief Minister to comment to the press and not to report to the House.

HON J BOSSANO:

Mr Speaker, can the Chief Minister say whether there are plans to move HMS Calpe from its present location?

HON CHIEF MINISTER:

Yes, I think there are plans to move HMS Calpe to a better location, for whatever reason I do not know, and I hope that whatever happens their intended transfer to the old USOC would be a very good thing for the Unit, first, because it is a much better place and, secondly, because they will be more in the public eye. They have not got parades or the Ceremony of the Keys or other opportunities in which the people can participate in the work that the Gibraltar Regiment does and that would be a good place for them to be seen more but the consideration for the removal or not is not a matter for me at this stage. I was reporting on last year, not on next year.

MR SPEAKER:

Then I will call on the Hon the Minister for Public Works to make his statement.

HON M K FEATHERSTONE:

Mr. Speaker, in answer to Question No. 287 of 1983, I stated that I would be making a statement on the introduction of Pay Car Parks.

The Government has decided to introduce pay parking at the Western Beach and at the British Lines Road Car Parks (the latter is sometimes known as 'The Loop'). These car parks will be operated as follows:-

(a) Western Beach Car Park

This area is intended to be a "short term" car park primarily for visitors to the Airport Terminal. It will be open from 8 am to 10 pm and the fee to be charged has been set at 50p per hour or part thereof. Drivers will be issued with a time-stamped ticket on entry which will have to be handed back on exit in order that the Car Park Attendant can determine the fee payable. As I said earlier, the car park will be closed at 10 pm and it is in the driver's interest for his vehicle to be out of the site to avoid a tow-away charge.

There will be a penalty fee of £6 if the driver of a vehicle loses the ticket which was issued to him on entering the car park and cannot therefore hand it back on the way out.

(b) British Lines Road Car Park

This area is intended to be a "long term" car park and a fee of £3, payable on entry, will be charged which will allow an uninterrupted stay of 72 hours. Drivers of vehicles will be issued with a self-adhesive time and date-stamped ticket on entry which will have to be displayed on the vehicle's front windscreen. Vehicles leaving the car park will forfeit any unexpired period of the 72 hours.

The car park will be controlled from 8 am to 10 pm and the Government has decided to allow free access to the car park after 10 pm but vehicles making use of this concession will have to be out of the car park by 8 am the following morning. Vehicles found in the car park without having a ticket on display on the windscreen or those which exceed the 72 hour stay are liable to be towed away by the Police.

Administrative arrangements for the operation of the car parks are now being finalised and it is hoped to introduce pay parking within the next few days.

It is intended to operate both car parks for a trial period of 8 weeks at the end of which consideration will be given to whether these pay car parks will be operated on a permanent basis and whether the fees should be reviewed.

As to the last part of the Hon Member's question the Government does not consider that there was any need for consultation with the Opposition on this matter.

HON P J ISOLA:

Even though commitments were given in this respect by the Chief Minister in this House?

HON M K FEATHERSTONE:

No, Sir, there was no commitment.

HON CHIEF MINISTER:

It was said that this was a municipal matter on which we were acting on our own because there was no need for consultation.

HON P J ISOLA:

I am surprised, Mr Speaker, that we were asked for a meeting and given proposals as to parking and given proposals as to a departure tax and that's it. If that is the way they want to run it so be it.

HON A J HAYNES:

Mr Speaker, are these proposals prior to the agreement with the taxi drivers?

HON M K FEATHERSTONE:

This is a facetious question, no, Sir.

HON G T RESTANO:

Mr Speaker, the car park opposite the airport is said to be for short term periods. How short are these periods going to be and how is it going to be controlled and after how many hours is a car to be towed away.

HON M K FEATHERSTONE:

As far as we are concerned you can put the car in at 8 o'clock in the morning and you can take it out at five to ten at night and pay sixteen hours at 50p an hour, we do not mind, but the normal use is intended as short term, perhaps, one hour, two hours, three hours but if you wish to stay there eight or ten hours you can do so.

HON G T RESTANO:

Are any facilities going to be given for those persons using that particular car park only for the airport?

HON M K FEATHERSTONE:

There is a disincentive. If you are going to park there for eight hours you are going to pay £4 and it would be cheaper to go into the other car park.

HON G T RESTANO:

But if the other car park is full and people want to go across and leave their cars in there what I want to establish is, is there going to be any priority or any facilities reserved for those people meeting people off the aircraft both the London flight and the other one?

HON M K FEATHERSTONE:

I can see the Hon Member's point but if I were going to go to Spain and I wanted to put my car in there and the person at the entrance says: "Where are you going, Spain or the airport?" I would say: "I am going to the airport". He cannot hold a pistol at my head and make me confess exactly where I am going. Having got in there I would then go to Spain and say I have stayed in the airport for four hours. It would be very difficult to administer.

HON G T RESTANO:

So you could therefore get a situation, Mr Speaker, where an aircraft comes into Gibraltar from London, shall we say, round about lunch time, and persons going to meet persons off that aircraft could find no place to park at all.

HON M K FEATHERSTONE:

You could get that situation, yes.

HON G T RESTANO:

Is the Minister for Tourism not concerned about that situation?

HON M K FEATHERSTONE:

How can you prove that somebody going in there is a bona fide visitor to the airport? You would have to take his word and if he said he was going to the airport and instead he went to Spain, well, that would be the situation.

HON G T RESTANO:

What I am trying to avoid is persons using that on a long-term basis. Going to the airport to meet someone the maximum would be an hour, an hour and a half, two hours so if somebody stays for more than two hours then measures should be taken to ensure that those going to the airport do have the opportunity of parking.

HON M K FEATHERSTONE:

Well, if we find that that is happening after the eight weeks, we intend to review the fees and we could make it 50p for the first two hours, £1 for the next two hours, £5 for the next two hours, etc to discourage long-term parking.

HON MAJOR R J PELIZA:

If the Minister is going to review the scheme could he look into the question of having machines as well whereby you get your parking ticket and you display them on your windscreen?

HON M K FEATHERSTONE:

We have looked at machines but we find that the machine on entry controlled by a man and the man on the way out to collect the money is a better system.

HON G T RESTANO:

The other question I had, Mr Speaker, was how many persons are going to be employed to control the car parks to collect the money and so on and what is the cost of the operation going to be?

HON M K FEATHERSTONE:

On a shift system three will be employed at each car park. I am not sure what the actual costs are but the projections are that we should make a profit out of the car parking.

HON G T RESTANO:

How many shifts are there going to be? You say three per shift, how many shifts will there be?

HON M K FEATHERSTONE:

There will be two shifts per day, one from 8 am to 2 pm, one from 2 pm till 10 pm but of course as it has to work on a seven day basis the three men will work on a roster so that each man is doing the correct amount of time.

HON G T RESTANO:

So you have two shifts of three.

HON M K FEATHERSTONE:

No, at each car park there will be three men.

HON G T RESTANO:

Per shift.

HON M K FEATHERSTONE:

No, three men altogether. One man per shift, in one day two different men, but three men to work over a period of seven days.

HON G T RESTANO:

So we are talking of six men for both car parks. Has the cost been estimated?

HON M K FEATHERSTONE:

Some costing was done. I cannot remember the figures as such but assuming an occupancy of some 40% to 50%, it will break even, if it is above 40% to 50% it will then be making money.

HON J BOSSANO:

Mr Speaker, could I ask on a point of clarification? Why is there a time limit of 10 o'clock at night?

HON M K FEATHERSTONE:

If we were to put three shifts running all the way through at the North Front area, it would need five men and that is considered to put the cost up very considerably. The Western Beach car park closes at 10 o'clock because that is one of the conditions under which we inherited that area from the RAF.

HON J BOSSANO:

The RAF have put a condition that the place cannot be used after 10 o'clock at night, is that it?

HON M K FEATHERSTONE:

Yes, that is correct.

HON P J ISOLA:

If the Government is not going to make any money out of it, Mr Speaker, what is the point of having all this hustle?

HON A J CANEPA:

Who says we are not going to make any money?

HON P J ISOLA:

Well, the Minister has just said he requires the place to be 50% full.

MR SPEAKER:

With respect, the Minister has answered a question that he was asked. He was not saying that he is doing this for the purpose of making money.

HON P J ISOLA:

That is why I am putting the question, Mr Speaker. If there is no intention to try and make money from this operation so we can recoup part of the £750,000 of the frontier opening which the Financial Secretary has told us about, what is the point of going through all this hustle and putting everybody through inconvenience and so forth if the net gain to the revenues of the economy is going to be almost nil, unless the Minister has another estimate?

HON M K FEATHERSTONE:

There are two or three reasons why we are doing this, it is not to try and get back the £700,000 of the frontier. It is, firstly, to start a situation in Gibraltar in which pay parking should become the order of the day. Secondly, we do expect to make some money out of it because our projections think that we should get an 80% to 90% occupancy but I just told you that 40% to 50% is a break even figure. It does not mean to say we are aiming at 40% to 50%. Thirdly, it is to provide some jobs at a time when there is a certain amount of unemployment and when I am sure jobs are very welcome.

HON P J ISOLA:

Mr Speaker, can I ask the Minister then if there is 80% occupancy, what is the profit the Government expects to make in a year's operation?

HON M K FEATHERSTONE:

I think we should make about £80,000.

HON P J ISOLA:

Well, that should sort it all out, it should solve the problems that the Government have.

BILLS

FIRST AND SECOND READINGS

THE ELECTIONS (AMENDMENT) ORDINANCE, 1983

HON CHIEF MINISTER:

I beg to move that this Bill 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 CHIEF MINISTER:

Sir, I have the honour to move that the Bill be now read a second time. The Bill before this House seeks to provide for persons who are ordinarily resident in Gibraltar but are temporarily absent on courses of study or for health reasons or residential purposes as in the case of business employment carried out from within Gibraltar, to cast postal votes in elections. It also repeals the provisions in the principal Ordinance that at present entitles persons only having non-residential qualifications to vote in elections. It further provides that to be entitled to vote a person must be a British Citizen, a British Dependent Territories Citizen, a British Overseas Citizen or a British Subject under the British Nationality Act, 1981. These provisions will not apply to persons who under existing legislation are already entitled to vote. May I mention, as an example, for some unknown reason Irish Subjects have the right to vote in Gibraltar because the elections legislation was copied from the legislation in the United Kingdom where Citizens of Eire are entitled to vote in UK elections. The position at present is that all persons who vote have to vote at the polling stations except those who satisfy the Returning Officer by means of a medical certificate that they are unable to attend at the polling station. These are termed absentee voters and their vote is taken at their place of abode, hospital, etc. In the UK all persons voting must do so at the polling station allotted to them except service voters, persons unable to go in person to the polling station allotted to them for a number of specified reasons and do so by post after having previously applied to be treated as absentee voters. Where it is impossible for a voter to furnish an address in the UK to which a ballot paper can be sent, that person applies to vote by proxy. As Members are aware, the desirability of introducing appropriate legislation so that persons who at election time are away from Gibraltar such as

students, holiday-makers, etc, are able to vote by post, has been mooted from time to time. I am now pleased to inform the House that after considering the practice in the UK, which I have explained, it has been decided to amend the existing Ordinance so as to permit absent voters to register their vote by post. However, in order to safeguard the system, applications to register as an absent voter will only be accepted from an elector who is outside Gibraltar - (1) following full-time or part-time course of study at a University or at an establishment of further education (2) for health reasons, or (3) for purposes connected with his employment within Gibraltar and who apply from outside Gibraltar to the Returning Officer to be registered in the List of Voters - (a) by reasons of leave, vacation or holiday (b) for health reasons, or (c) for purposes connected with his employment within Gibraltar and who applies in person to the Returning Officer to be registered in the List of Postal Voters. The opportunity has also been taken to take a fresh look at Section 2(2) of the principal Ordinance which at present entitles persons only having a non-residential qualification to vote in elections. These were in the main British Subjects ordinarily resident in the Campo Area. The qualifying area in Spain is defined in the Ordinance by reference to Her Majesty's Vice-Consular District at La Linea and Algeciras. The Vice-Consulates have since been abolished and it is quite undesirable to keep the existing provisions. I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, may I make a point to start with and that is that as far as Elections Ordinances are concerned, anything to do with method of election, who can vote and so forth, I would have thought that this is a matter on which there should have been consultation.

HON CHIEF MINISTER:

But this follows from questions from the other side.

HON P J ISOLA:

I cannot remember. That is one thing. The other point I would like to see, I think, Mr Speaker, before this is actually enacted, I think that what we ought to see are the proposed draft regulations for postal voting because what this legislation brings in is an ability of people to vote by post which is quite a big thing and I would certainly like to see the regulations before the legislation is enacted because I think they should go together. We are not against the principles of votes

by post, of allowing postal voting, but we want to know how it is going to be controlled, how it is going to be administered and whether the capacity is there to administer it in Gibraltar. These are the things I would like to see. The question of repealing Section 2(2) of the principal Ordinance, does that mean then, not that we are particularly opposed to it, but if people in Gibraltar because of serious housing shortage in Gibraltar, a housing shortage that is likely to go up rather than down, buy flats in La Linea or live in La Linea, are they now to be deprived of voting?

HON MAJOR F J DELLIPIANI:

I hope so.

HON P J ISOLA:

I know that the Minister says he hopes so and I would agree with him if Government were fulfilling its obligation to supply housing to the community which it does not. I think there may be genuine cases of people who in order to keep a family together are forced to live in the Consular district in this area.

HON MAJOR F J DELLIPIANI:

It has not happened for the past ten years.

HON P J ISOLA:

It has not happened, it is true, for a long time but when the frontier was open it did happen and people did vote and did exercise their vote. I am not concerned with making judgements on people as to whether they should live or should not live in La Linea or in the Consular District but I am anxious that people who are living in Gibraltar and making their life in Gibraltar and who are British Subjects or even Gibraltarians should not be deprived of their right to vote and I just wonder whether it is wise now to introduce this particular provision. We would like a little time to consider this Bill although we are not against it, Mr Speaker. I would not like to be rushed into it and I would ask, anyway, that the draft regulations for postal voting should be produced in good time before an election. It would be totally wrong if we were to have an election announced and then because of the urgency, because there is 21 days to go and so forth, the Governor-in-Council should just push in postal regulations, how they are going to vote by post, without any consultations or without any time for anybody to think, consult and reflect. I would ask that the Government agrees not to enact this fully until we have available to us the whole package, including the regulations.

HON A J CANEPA:

Mr Speaker, I find it extraordinary that the Leader of the Opposition in his concern to score debating points against the Government such as by making a remark that the Government is not discharging its obligation to house people in Gibraltar, loses sight of the far wider issues and the far wider implications of people who may take up residence in Spain who thereby have conflicting interests because the moment that you take up interests in Spain or you set up business in Spain, you are under pressure from the Spanish authorities in that connection. I know that before the frontier closed there were a number of Gibraltarians living in Spain. I think that that was a throw-back to the happy days before the Spanish Civil War when there seemed to be the normal civilised movement in both directions of any two close communities but that is no longer the case and I think that too much water has gone under the bridge since 1964 to allow a situation in which a substantial number of British Gibraltarians take up residence in Spain, their loyalty to the interest of Gibraltar could thereby be undermined by conflict and with the emergence of political parties in Gibraltar with policies as regards the future status of Gibraltar which no Member of this House likes, I am frankly surprised at the attitude of the Hon the Leader of the Opposition who is also the leader of the Democratic Party of British Gibraltar.

HON P J ISOLA:

If the Hon Member will give way.

HON A J CANEPA:

I am not giving way, Mr Speaker. We are in the Second Reading of the Bill and I am exercising my right to take part in the debate. I have finished my contribution.

HON MAJOR R J PELIZA:

Perhaps I can give an opportunity to my Hon Friend to be able to say something if he asks me to give way. I think that the Minister for Economic Development has gone a bit far in condemning the Leader of the Opposition just by one remark. I think that the remark is very truthful, the Government of Gibraltar is not providing sufficient houses in Gibraltar there is no question about that, that is a fact.

HON P J ISOLA:

If the Hon and Gallant Major would give way. How can the Minister for Economic Development, forming part of a Government that is actively encouraging by allowing advertising of Spanish products and Spanish flats in Spain, then condemn people for falling to advertising from a Government subsidised organisation?

HON A J CANEPA:

Mr Speaker, when a Member of the Government gives way to me in a minute I will answer the Leader of the Opposition on that point.

HON MAJOR R J PELIZA:

Mr Speaker, I think he went too far in his statement. I think that all my Hon Friend was saying was that we are now in a very transitional situation, no housing, the possibility of having, if not permanent, temporary accommodation in Spain, not that we like it, not that I think anyone would like to see that having to happen but it is also a fact, Mr Speaker, that there are lots of people in Gibraltar living under terrible conditions who if they think that it is not going to affect their loyalty in any way but could improve their living conditions, then they may be tempted particularly if they have not got any children, to move there if only temporarily until perhaps another Government takes over and provides the houses that are not being built in Gibraltar at the moment. That does not mean to say in any way that they have lost their allegiance and what my Hon Friend is saying is that before we rush into this, unless the Chief Minister is thinking of having an election after he makes the statement on the Dockyard, we do not know, if that is the case then perhaps he is trying to rush this through but I cannot see the need to rush it through, I think there is time to give it some consideration. It could be that perhaps a time limit could be given as to how long people in the Campo Area could vote if they were Gibraltarians so that they do not come so much under the influence of the Spanish Government that they are no longer free agents when they are voting. I think there are lots of points that have to be looked into, I do not think my Hon Friend said: "Yes, we have got to include them", all he said was: "Let's give it some thought", so that in no way do we deprive the Gibraltarians from exercising their democratic right because after all, if he is living in England like I am, I would like to exercise and I do exercise my vote and there are other people in Britain who feel the same way, I do not think that certainly in my experience that perhaps this House would see any diminution of my loyalty to Gibraltar and I think it is going too far just to make a statement of that nature. I personally believe that if we do extend this to Spain we have to give it considerable thought before we do that and I agree to that extent with the Minister but what I am saying is let us not rush into it, let us give it some thought.

HON J BOSSANO:

I welcome the decision of the Government to bring this Bill to the House which in fact I raised in a question some time ago and I asked them to look into it and I am glad they should be losing no time in doing it. Let me say I disagree entirely with the arguments that have been put in this House as to why

we should retain, in fact, the right to vote for Gibraltar and let me say that it seems to me incredible that it should have escaped the notice of Members who have raised objections on this side of the House that we cannot distinguish between Gibraltarians, British Citizens, British Overseas Citizens and all the rest including Citizens of the Irish Republic who might be living in Spain and giving them the right to vote and when I raised the question in the House I said that the theoretical right that existed with a closed frontier was meaningless but with an open frontier and with the enormous increase that there had been of non-Spanish residents in that area, we face a hypothetical situation where those people could exercise their legal right to register in Gibraltar and would in fact outnumber the Gibraltarians and I said that in the House and I said the Government must weigh that and this is a very long time ago before the frontier was opened I raised it in the House and I asked the Government to look into it and, in fact, to do it even before the frontier was opened so that we could not be accused of doing things. I think it is wrong to delay, I know that people have got serious housing problems in Gibraltar but I can tell the House that my personal knowledge is that there are already very many people living in Spain who are not in fact Gibraltarians but people from the UK who have been living here in private rented accommodation which we need to do something about like getting on with the Landlord and Tenant Ordinance, about which there are many important interests in Gibraltar who do not want anything done and that might stop people having to go next door to rent accommodation over there. That is an important area which we can tackle, Mr Speaker, so as to make the problem of housing less in Gibraltar but to my knowledge, the people that I know who have moved are the people who cannot afford £40 and £50 a week in Gibraltar and those people in the main are either Gibraltarians returned very recently to Gibraltar, because I think we have to be conscious that part of the problem that we face is that people have been returning from UK and UK Citizens have been coming to Gibraltar because they are free to do so under EEC rules since we have parity and since unemployment in UK has been shooting up and that puts pressure on accommodation in Gibraltar and it is bound to create an over-spill into the adjoining area which already houses many people who under the provisions of this law would have the right to vote in Gibraltar. I think the correct thing to do is to stop it now and I can see, in fact, an even more serious situation developing if we have in fact rights given to UK Citizens who live in the Campo Area and who work in Gibraltar which Spanish Citizens that in a future date might be next door neighbours do not enjoy and I can see pressure building up in that direction so I have got no hesitation in saying that I fully support the measures and I do not think it is premature.

HON A J CANEPA:

If the Hon Member would give way. Mr Speaker, I have no problem about reconciling the question of GBC advertising with the stand that I take on this Bill because I deplore completely the amount of advertising that there is on GBC television of Spanish products. As Minister for Trade I take a very, very hard line on the question of the need to protect our economy but where I do not have any conflict is in the exercise of any professional function, I have no conflict that might also contribute to undermine the economy of the territory and I do not think that every Member in this House can say the same thing.

HON P J ISOLA:

Can the Minister clarify that statement?

HON A J CANEPA:

Yes, Mr Speaker, I will clarify. There is a piece of legislation being brought to the House, a Bill to amend the Control of Employment Ordinance which the Hon Member in his professional capacity has been one of the main instigators in making it necessary having regard to the professional advice that he has been giving certain companies. That is what I am getting at.

HON P J ISOLA:

Will the Hon Minister look to his right to the Chief Minister and then look to his left to the Minister for Labour and Social Security and enquire why certain other amendments have not been made to the Control of Employment Bill on which I will address the House when the Bill comes to discussion and of which they must be aware, having been involved.

HON J BOSSANO:

I think I had given way, Mr Speaker, actually. I think we should, in fact, strictly limit ourselves to the general principles of extending the provisions of the Elections Ordinance and if I may just come to the point I have not touched on, on the question of postal ballot. On the postal ballot I am not very worried about that although it is not something that, quite frankly, I have given any thought or my party has given any thought to because as I understand it the proportions that are likely to be affected are very small and it is only for people who are temporarily away and not people who in fact give up their residence so I think that if we consider that for example, some 3,000 people resident and able to vote choose not to, we may be talking perhaps of 50 or 100 so I do not think it involves a great issue of principle, so since I am interested in getting the other and far more fundamental issue through, I myself am willing to support that part of it although in fact I have to say that it is not a matter on which I have a policy directive.

HON M K FEATHERSTONE:

Sir, the principle that has always been evinced in Britain for being enfranchised is that you should reside in the area where you have the right to vote and this is obvious that it must be applicable to Gibraltar. If we are going to give permission to people albeit working in Gibraltar but residing across the way the right to vote, then the next step will be that if the person is a Gibraltarian but works in Spain he should have the right to vote and gradually we are going to widen our enfranchisement to all sorts of people. We would have, as the Hon Mr Bossano said, all the British residents in the Costa del Sol being able to vote in Gibraltar on the basis that perhaps they have some business interests here or what have you. The obvious and correct solution to my mind is the one the Bill envisages that to be enfranchised in Gibraltar you must have right of residence here and reside here.

MR SPEAKER:

If there are no other contributors I will ask the Chief Minister to reply. Does the Chief Minister wish to reply?

HON CHIEF MINISTER:

Oh yes. I am really surprised by some of the things that come from the other side. This concern about people living in Spain from the Leader of the defunct Integration With Britain Party and so on and trying to give rights to people living in Spain is really most extraordinary. Let me say, first of all, that the question of postal voting has been investigated by three very senior civil servants led by the Clerk of the House in order to ensure that the procedures and regulations follow as strictly as possible those of the United Kingdom and I have no hesitation in saying that I am prepared to send copies of the Regulations to Members opposite before they are implemented. Let me say something else. People jump to conclusions and say things without thinking really what they are talking about. I am referring to the Hon and Gallant Major Peliza. The next election will be fought on the register which is already there and it has non-residential qualifications there because we are not going to have because of the difference in the dates of the election and the period in which it is done, is not going to have a new electoral register because it costs a lot of money but we are concerned in having a supplement to the register in order to bring it up-to-date particularly to have young people in and it is important to get this Bill through all its stages in order that people can be registered properly and they can have the right to vote. The claim for this came from students to me personally and to others of my party and also other parties. I do not say every day: "People of my party", but I have a Party, I have had one for forty years. The Hon Member has only had one when by omission Mr Xiberras went away. I have got a Party and my Party has also got policies and we have been approached by students. Students show their concern when they are here and they show interest

in politics and then find frustrated when at the time when they are most interested - and I do not care for whom they are going to vote - but at the time when they are most interested in their lives, when they are taking an interest when they are already eighteen when they think they have qualified and fortunately for them they are sent away on higher studies and scholarships. These are the people that germinated this idea of postal voting. But when you have an idea about how to do a thing you do it well all along the line and if you allow people who are temporarily in England studying for a profession to vote why should you not allow somebody who is for health reasons in England as a sponsored patient or because he is undergoing treatment, why shouldn't you allow an officer of the Government or anybody else whose duty takes him to England to live there six months and it happens to be at a time when there is a general election?

HON P J ISOLA:

If the Hon Member will give way.

HON CHIEF MINISTER:

No, I am not going to give way. I am replying and you could have spoken during the debate. These are the considerations that have been taken into account, no question of political expediency, this does not alter the thing. The register is there and if there are people with non-residential qualifications in the register there they so remain and unless they have died, they will be able to vote and they can even vote if they happen to be in England by postal vote if we pass this law. This is a straightforward, progressive piece of legislation giving rights which are now being sought in England as a result of the unexpected summer election in the United Kingdom. In England, people on holiday cannot register to vote by post, they can get proxy vote but we do not want proxy votes in Gibraltar certainly not for the time being, and what we are doing is classifying the people who are entitled to this vote by putting the category. First of all, they must be in the register otherwise they cannot vote, and after that they have to have the qualifications to which I have referred in my note, that is, they are studying, for health reasons or for purposes connected with their employment, but once you register like that you cannot vote here, you have got to vote by post. All postal votes are marked, as will be seen in the Regulations and the Returning Officer will keep all the votes in a special ballot box. First of all, you have got to get yourself in the register of postal voters by qualifying because you have satisfied the Electoral Registration Officer that you are entitled to it. We do not need proxy vote for another reason as we have what was done for the purposes of the referendum and which has now been a feature of our elections and that is we have an ambulant polling station and those who register as absentee voters due to illness can vote at home. That is an advantage. I would have thought that the essence of the result

of an election whatever that may be should be that there should be the widest participation of those who are on the register. Because later on percentages of voters are taken as a reflection of support of parties and it becomes a nonsense. They said that one million people did not vote in the last elections in the UK because they happened to be on holiday. That is the reason for the postal vote. The reason why we need to pass this through all its stages at this meeting is because in the supplement to the register we want to be able to include people and people who are probably now qualifying to get to the age of eighteen and there are already people in the register who have qualified subsequent to the preparation of the register, and now the projection in the register will be such that if on the date of the election you are eighteen because the date of birth is on the register then you can vote. If you do not do that in the supplement, people who are going to go away, say, in September on a scholarship and are not in the register now will not be able to vote. That is the reason why it is being done this way. No one who may have the right to vote now is being deprived of any right to vote because there will be no new register of electors before the next elections, whenever that may be, and that cannot be later than the 28th of May, there is not going to be a new register before then but there is going to be a supplement. There are many people who have reached the age since the register was prepared and it is proper that they should be included in the supplement. It is a very simple piece of legislation, it follows the legislation in the United Kingdom except that we have allowed those on holidays who register before they go on holiday, and we have taken away for the future the question of the non-residential qualification. Because it is not going to affect anybody in the register now, I do not think that any great evil is being done now because in fact if there has to be a register, a new register and we left the law untouched, it would be impossible for the Registration Officer to define the people who live across the way as to whether they are entitled because the law says that those living in the British Vice Consular district of Algeciras and La Linea and there is no longer a British Vice-Consul in the district of La Linea and that of Algeciras is very difficult to define as it is now, so really it is an anachronism. The consular changes that have been made in the administration in Spain, apart from anything else that has happened in Spain, makes the law as it is an anachronism and of course if in the fullness of time there was relations with Spain such as that the people could vote there and this House wants to give them a vote, well, the House then dealing with it, in an ideal situation, perhaps this might be, perhaps there might be a possibility. It is not going to affect anybody now who has got the right and therefore we have to get this through but I appreciate that the regulations are of interest to Members opposite and I undertake not to enforce the regulations without giving the Opposition an opportunity to comment on them but I will advance to them that they are very boring reading. They are the absolute reproduction mutatis mutandis of what is required in Gibraltar which is taken from the English legislation and which has been prepared with no political view, we just left it to those who know

about these matters who have done an excellent job and to whom I would like to pay tribute. I will undertake that the regulations will not be enforced without giving Members opposite a copy and I am prepared, if necessary, to debate any point which they might have which we would or would not meet. I commend the Bill to the House.

HON A.T. LODDO:

If the Hon Member will give way. Did I hear him correctly when he said that if you have an overseas vote and you happen to be in Gibraltar at the time you will not be able to vote?

HON CHIEF MINISTER:

You would be voting but by postal vote, you can post your own vote. What you would not be able to do is go to the Polling Station and vote once you are registered as a postal voter.

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

HON CHIEF MINISTER:

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

This was agreed to.

The House recessed at 5.15 pm.

The House resumed at 5.45 pm.

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) ORDINANCE, 1983

HON CHIEF MINISTER:

I very rarely have two Bills in my name, Mr Speaker, and this is one which does not give me particular pleasure but I have to do it. I have the honour to move that a Bill for an Ordinance to amend the Specified Offices (Salaries and Allowances) Ordinance, 1979, be read a first time.

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

SECOND READING

HON CHIEF MINISTER:

Mr Speaker, I now have the honour to move that the Bill be read a second time. As the House is no doubt aware Section 68 of the Constitution provides that any change in the salaries of servants in Specified Offices be prescribed by an Ordinance of the House of Assembly. The offices concerned are those of Governor, Chief Justice, Deputy Governor, Attorney-General, Financial and Development Secretary, Principal Auditor and the Commissioner of Police. The salaries and in certain cases the allowances payable to these officers are charges on the Consolidated Fund and are contained in the Specified Offices (Salaries and Allowances) Ordinance, 1979. As Members will recall, the Ordinance was last amended in October, 1982, to provide for those officers in respect of the salaries review agreed for all Government employees on the 1st of July, 1981. After very long negotiations with the IPCS, agreement has been reached on the salaries for senior grades and the object of this Bill which we did not want to bring earlier until agreement had been reached with regard to the others, is to enable the specified officers to receive the new salaries agreed with effect from the 1st of July, 1982. In respect of the Commissioner of Police because his salary was concerned though he was not a member but had a relation to the negotiation of the senior grades, the matter has been solved in the situation which makes it necessary to make provision for July, 1981, and July, 1982. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Yes, Mr Speaker, I would like to know why the Governor's salary is £20,000 which is a couple of thousand pounds less than the Chief Justice, the Deputy Governor, the Attorney-General and the Financial and Development Secretary and even if we include the £3,600 he gets from allowances which makes it £23,600, he is getting £1 less than the Chief Justice, and £1,601 less than the Deputy Governor and I wonder whether the Chief Minister could explain that.

HON CHIEF MINISTER:

Yes. There are two points arising out of that. First of all, in all territories an agreement is made when the Governor is appointed as to the salary to be received and he is not a member of the union and his salary is not subject to negotiation, it is subject to review on re-appointment or perhaps after a period. The others of course are the subject of parity and in fact all these figures are parity figures against the equivalent on which the officers have been analogued. There is one small but interesting detail which is that under the provisions of the Constitution the Governor does not pay income tax.

HON P J ISOLA:

Mr Speaker, I thought I heard the Hon and Learned Chief Minister say when he was moving the First Reading that it did not give him pleasure to move this Bill because certainly as far as we are concerned we do believe in top salaries being paid to top people provided we have top management and certainly we have no reason to doubt the efficiency of the gentlemen for whom we are being asked to vote salaries but we do believe very much that people on the top salary scale should exercise their responsibilities and exert top management qualifications because this has been shown time and time again, unless you pay your top people properly and they respond, the whole of the edifice collapses. The problem arises in other areas of the Government and we know of some where top salaries are being paid and not necessarily top results are being obtained. Mr Speaker, we support this Bill completely but in Committee Stage we would like to ask one or two questions, and I won't ask it now, but give notice, on the changes in salary of the Commissioner of Police. I am not quite sure why we have three years thrown into this or why it has taken three years to come to this assessment or whatever and of course I need not remind the House that there has been in a normal departmental vote in normal estimates, we would reduce a pound in respect of a department that we are unhappy about and we are not going to do that with the Commissioner of Police but Members will realise that we have been in this House quite critical about the way certain laws have been applied in Gibraltar and one of them has been litter laws and I think it is just the appropriate time to mention in connection with this Bill our concern at this continuing situation. We do not propose, Mr Speaker, to move the reduction of one pound in the schedule of the Bill but we feel we must mention. I would like an explanation, it may be made in the reply, as to why we are voting something like three years retrospection with the Commissioner of Police. Have there been difficulties or having now done this will there now be no problems in the future with that particular salary because there does not seem to be with the others mentioned in the schedule? Mr Speaker, we support the Bill.

HON CHIEF MINISTER:

Mr Speaker, when I said I did not like it it is because it affects people with whom one is working every day and they are mentioned by name, that is what I meant by that. If it were in the general estimates I would not have made that remark and it was not a serious remark to be taken in that way. Let me tell Hon Members also that pending the very long negotiations which is reflected in the Commissioner of Police, because the year before last whilst the negotiations were going on, IPCS agreed to receive the year's increase, which I think was 4% or 5%, and it was then that that increase was reflected in Hon Member's allowances that this year whilst the negotiations have been pending I did not think it proper that the 4% or 5% which under the system of review of allowances is linked to salaries

would have been due from 1st July last year, it is not until IPCS had come to terms with the Government that I thought that Hon Members should receive the increased allowances so that is being done now. I refer to that in order to stress the fact that the negotiations with IPCS have been going on for about three years and it is because they have been going on for about three years and because the Commissioner of Police is one of the only persons concerned affected by the IPCS review though he is not a member of the IPCS, that his salary has been stuck until final agreement was reached with the senior grades and therefore the agreement reached with the senior grades which also covers a period, will be reflected in the allocation made for the review of salaries but in the case of the Commissioner of Police because he is one of the specified officers and the obvious reason for that is that these people must be separate in order that they should not be subject to pressure from politicians, that is really the reason why they are specified offices, that the Commissioner of Police has had to have a longstanding claim pending whilst the senior grades to which he did not belong were negotiated because really one was linked with the other. Of course, we have no hesitation either of paying top salaries to top people and nothing that I have said here in any way reflects on any of the officers. Whatever view one may take about whether litter is reported or not I think is beyond the point, we have a Police Force and we have a Commissioner and we have to pay him.

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

The Hon the Attorney-General and the Hon the Financial and Development Secretary abstained.

HON CHIEF MINISTER:

I beg to move that the Committee Stage and Third Reading of this Bill be taken tomorrow.

This was agreed to.

THE TRADE LICENSING (AMENDMENT) (NO 2) ORDINANCE, 1983

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Trade Licensing Ordinance, 1978 (No 35 of 1978) be read a first time.

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

SECOND READING

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. Sir, at present the business of building contracting is a scheduled business under the provisions of the Trade Licensing Ordinance so that no person can carry on such business unless he is a holder of a licence. The Trade Licensing Authority have also considered applications from time to time from persons who sought to engage in the building industry allied trades, such as painting and decorating, under this same item. Recently, Mr Speaker, in a case that came before the Courts the Courts have ruled that although painting and decorating fall within the definition of building contracting, the reverse is not the case and that the Trade Licensing Ordinance does not apply to the trade of painters and decorators. It has therefore become necessary to strengthen the legislation particularly to ensure that firms not resident in Gibraltar will be required to apply for a trade licence if they propose to engage in the building industry's allied trade and this Bill so provides by amending the second schedule by adding the following new items: carpentry, decorating, joinery, painting, plumbing and woodwork. The Bill, Mr Speaker, which it is intended should come into operation on the 1st August, 1983, includes the usual transitional provisions whereby any person who has been carrying on business before the commencement of the legislation will be so licenced if an application for a licence is submitted within three months of the commencement of the Ordinance. Mr Speaker, I have the honour to commend the Bill to the House.

MR SPEAKER:

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

HON W T SCOTT:

Mr Speaker, although there is a distinction, rightly so, between the building contractors and so forth and the allied trades the Minister has mentioned, I note here that three distinct words have been used to describe one section, that is, carpentry, joinery and woodwork. But on the plumbing section I see, and perhaps the Minister in reply can mention this, whether in fact the allied trades to plumbing which are heating, ventilation and air conditioning, are already included in the schedule.

HON A J CANEPA:

I will have to check, Mr Speaker, on the enactments that have been made from time to time whether those are included. I do not think that they are, I do not think so.

HON W T SCOTT:

In which case, Mr Speaker, it seems to me that they should be included. If one is going to include all these to encompass the building trades, generally, heating and ventilation and perhaps air conditioning should be included as well.

MR SPEAKER:

May I perhaps suggest that carpentry, joinery and woodwork should be one.

HON W T SCOTT:

Not really, Mr Speaker, I am saying as there are three distinctions in the general trade between carpentry, joinery and woodwork and that distinction has been made, the distinction of plumbing and plumbing takes in all mechanical services, generally, has not been made with heating, ventilation and air conditioning.

HON A J HAYNES:

Mr Speaker, I do not think I have an interest, it was in fact my application which was answered in the ruling which held that painting and decorating was not part of the building licence and in that proviso I would like to make some further comments. I am not sure whether this Bill will result in a limited building contracting licence or a specific licence to do these works and I am not sure whether in the case of those who in the past have applied for painting and decorating licences and have had those licences approved and in fact they have been issued a building contractors licence whether they will be amended and I am not sure whether all the aspects that are contained in the building or construction industry which go into electrical installations and so forth are not going to find themselves in the same category, ie you can be an electrician without being a building contractor and so forth. Has Government gone through all the various possibilities or permutations of a sub-divided building contractor's licence? Is it their proposal to do that or are they only making amendments as and when problems arise?

HON MAJOR R J PELIZA:

Mr Speaker, I would like to know and perhaps the Minister can explain, whether under this Ordinance individuals who accompany purchases made outside or who come in order to follow up purchases made outside Gibraltar such as installing durables of one description or another, would be caught by the Ordinance and if they are, how it is possible to implement this since perhaps they are individuals coming in for a day and coming back again or whether in fact the person who carries out the purchase is employing a person who is not authorised to work in Gibraltar and therefore whether in any way that person is

committing an offence? What I am driving at is if the purpose of the Ordinance is to a large extent to protect our economy in one way or another and protect labour in Gibraltar, it is clear to me that in that respect there is a loophole in that there are local companies which are paying certain rates of pay to carry out that sort of work and therefore we are meeting, or those companies are meeting with unfair competition from outside Gibraltar which is to the detriment of trade in Gibraltar and also to the detriment of labour in Gibraltar and I wonder if the Minister when he finally addresses the House will explain if that is covered or what the position is in that respect.

HON P J ISOLA:

Can I ask, again, for this point to be dealt with in the reply? The businesses that have been added, the carpentry, decorating, etc, whereas a building contractor it can hardly be said that a building contract can be just one individual, the business of painting can be carried on by one individual who paints part-time, for example, who has got full-time employment but actually paints part-time and contracts himself to paint part-time, is it intended that that individual should require to hold a licence? I seem to recall in the original Ordinance that in the case of self-employed persons, people working on their own, a licence was not required but we did not have businesses then or as many businesses added to the schedule so that if a carpenter, for example, does carpentry work in his spare time at a fee or at a price, is he carrying on a business and is he therefore required to hold a licence? I can see this could happen with a carpenter, with a painter and a plumber.

HON A J CANEPA:

I will take the last point first, Mr Speaker. This was one of the matters that caused us most difficulty in Council of Ministers when we were discussing the proposed legislation and in fact which has led to the matter coming to the House far later than had been intended to be the case and it was really the decision of the Court which triggered the need to bring the legislation to the House notwithstanding the fact that we had not resolved entirely satisfactorily the point made by the Hon the Leader of the Opposition, in other words, there are now people doing part-time work, plumbing, carpentry and so forth, they do not have a trade licence. What is the position going to be in the future? I think the position, and I will confess quite frankly to the House, is going to be in the future that enforcement is no easy matter and therefore unless you had an army of inspectors doing around Gibraltar I do not see how you can get at the individual who does three casual jobs. He has done them all his life, he will continue to do so and I think that that is a practical fact of life that we have to live with.

HON P J ISOLA:

Could I ask the Minister to give way? Is it the intention that that individual should be caught by this legislation, is that the intention? Is it the intention of Government that any individual doing some part-time work requires a licence?

HON A J CANEPA:

Technically yes, he ought to apply for a trade licence. In practice I do not think it will be possible to follow that up.

MR SPEAKER:

May I ask a question because I am slightly confused? Since it has been held that painting is not building contracting and therefore requires a licence, in the inverse does it mean that a person who holds a building contracting licence will have to have an extra licence for painting?

HON A J CANEPA:

I think that was the point made by the Hon Mr Haynes. I think what happens I am informed at the moment is that building contracting licences have been issued, say, which are limited to painting and which have been limited to plumbing, that is I think what will be the situation, so really the individual will be able to prove satisfactorily that he was engaged in the business of plumbing or in the business of carpentry and therefore he will have no difficulty under the transitional provisions in getting his trade licence. The question of further subdivision of plumbing I do not think is straightforward. I think it is difficult to pretend that we can produce exhaustive lists in the schedule and what happens is that I bring this legislation to the House based, by and large, on the experience of the workings of the Trade Licensing Authority and a stage is reached when it is desirable to amend legislation in order to tighten up or for some other reason as the case may be. I think it is invidious to subdivide plumbing any further at this stage. It could well be the case that in the light of experience of the application of the new legislation we may have to come back to the House but I am not being advised by the Trade Licensing Authority that we should do that at this stage, it is a matter I think that we have to keep under review. I think the situation is monitored by the Trade Licensing Authority.

HON A J HAYNES:

Would the Minister consider something like a Handyman which would cover the Jack-of-all-trades who comes round to do minor jobs?

HON A J CANEPA:

I do not think we want to be unduly restrictive, Mr Speaker, I think a handyman at the moment is a handyman and he does certain works, and good luck to him, without much difficulty. I do not envisage that there will be much difficulty in the future.

HON A J HAYNES:

I appreciate the Minister's interest and concern which we share that we do not want to create a clutter of legislation but having said that, this legislation could cause difficulties to those handymen and, regrettably, a large number that will not avail themselves of the opportunity of registering within the three months period and perhaps at least the Minister will consider giving this Bill considerable publicity to ensure that as many will get to know about it as possible.

HON A J CANEPA:

I am advised that there will not be difficulties for people in that position. That brings me, I think, to the point which the Hon Major Peliza made about people who are coming in from across the border who are doing certain work or are providing a service, some of that is the subject of another Bill on the Agenda later on. I am fairly relaxed at the moment about the situation where because we have been relaxed about certain categories in the past before the opening of the frontier, because we were quite relaxed about let us say, that a lift, for instance, has been installed in a certain building in Gibraltar by a firm from outside Gibraltar and that the maintenance of that lift requires that specialists should come in for a day or two in order to service that lift. My understanding is that the Department of Labour has never put any obstacles in the way of that and I do not think that we should. I think that we have to adopt a reasonably relaxed approach also to a situation where individuals are purchasing goods in Spain, for instance, furniture. They are making arrangements for the furniture to be shipped to Gibraltar and perhaps they are calling upon the services of those suppliers who come to Gibraltar for the day to install that furniture. I am not entirely happy, I am not going to pretend that I would not like to see the position regularised as far as is possible because I do not like to see people working in Gibraltar who are not paying insurance, who are not paying income tax and what have you, but I think that it is unlikely that we would be able to close all the loopholes even if we were to be agreed that it was essential and eminently desirable that we should do so, and I go back again to the army of inspectors. There are loopholes that we will not close. You will not be able to stop a hairdresser from coming across the border for the day and doing business within the private homes of individuals. I think we have to live with that, it is an aspect of what in the United Kingdom is called the black economy and I think that it is just not possible either under

the Trade Licensing Ordinance, certainly not under the Trade Licensing Ordinance because we do not have many enforcement officers. In the case of the Control of Employment Ordinance we are strengthening the labour inspectorate at the moment and there there are steps that have to be taken but I do not think that I can pretend and I hope that Hon Members will agree that we cannot get a completely watertight situation.

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

HON A J CANEPA:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading should be taken tomorrow.

THE PUBLIC HEALTH (AMENDMENT) (NO 2) ORDINANCE, 1983

HON M K FEATHERSTONE:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance (Chapter 131) 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 M K FEATHERSTONE:

Sir, I have the honour to move that the Bill be now read a second time. This Bill has been forced upon us by circumstances which are absolutely out of our control insofar that we are suffering as is the whole of this region of the Mediterranean, from a very severe drought, in fact, this is the third year of drought in succession. The rainfall over the past winter was one of the lowest on record and this has resulted in a number of features which has made our water situation become very precarious. The first feature of course is that with less rainfall we collected less water on the catchments and therefore less storage in the reservoirs. The second feature is that with less rainfall the water falling on the actual ground level has been less and therefore the water in the subsoil is less and our wells are producing less than they normally produce in a usual year, so much so that the yield from the wells has been reduced to about 50% of what we are accustomed to get from them. The third feature has been that owing to the lack of rain during the winter, the distillers were needed to be used throughout the winter period and this has meant that they have had to come into the period of servicing during the summer when normally we try to reserve for production rather than for servicing and maintenance. The fourth feature is that one of our suppliers from the neighbourhood is finding difficulty in supplying sufficient water to its

own area and has consequently restricted the amount of water that they are willing to export to Gibraltar. The normal amount of water that we were importing from this source was some 6,000 to 7,000 tons a week and it has been reduced to between 1,500 to 2,000 tons a week and when I tell you that our consumption in summer time is somewhere between 13,000 and 15,000 tons a week, you can see that there is a very considerable shortfall. The only way that we have seemed to get over the precarious water situation, as Members must obviously know from comments in the press, is by importing water from the United Kingdom and we have already brought a full tanker which we are sharing with the PSA and a second half is due to arrive within a few days. Later on we shall be asking for extra money in supplementary estimates but I would warn the House that I do not think this is the end of the position, we are going to have to import a further amount of water which will in due course create a further demand for financing. As has happened in previous years, when the water situation was precarious we were faced with a decision either to ration water or to keep up supplies of water albeit we tried to ask people to use less water but I am afraid that in most instances our exhortations fall upon deaf ears because the consumption has not dropped to any extent in spite of television and press comments that water is in short supply and should be used with the minimum needs possible. The imported water, as always occurs, is going to cost us considerably over the marginal cost of water, in fact, it is working out to somewhere around £8.50 per ton when the marginal rate is around £4.50 per ton and so as not to throw the cost of this imported water on to the Consolidated Fund to request later on in the year a much greater subsidy for the water, the attitude has been taken as was taken last year, I believe, to put the cost of the extra charge of the water back to the consumer. Therefore the object of this Bill is to put a surcharge into effect for three months of 6p per 100 litres which is the unit of potable water for the next three months billing so that the extra above the marginal rate of the cost of the imported water can be recouped. It is intended that the subsidy to hotels will be increased by the same amount so that the hotel trade will not suffer from the increase as an effort to help tourism. I commend the Bill to the House, Sir.

MR SPEAKER:

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

HON W T SCOTT:

Yes, Mr Speaker. I think in principle it is necessary and we agree to an increase having regard to the circumstances that led to the importation. I am a little bit foxed at what the Minister said was the average rate of consumption at this time of the year is between 13,000 and 15,000 tons per week. And if we are importing 20,000 tons on two occasions, on each

occasion it would mean basically at the very most 1½ weeks consumption and that means on both half tankerfulls we really only have enough for three weeks. Is the Minister satisfied that with 40,000 tons all told which is basically only three weeks supply, we will have enough water till the end of the summer period, that is, the end of October?

HON MAJOR R J PELIZA:

Mr Speaker, perhaps I should, since I am always critical of the Government, I should on this occasion pat them on the back for taking into consideration the question of the tourist trade in Gibraltar and realising that if there had been an added increase to the water it would have made their life a little more difficult and in the end I think counter-productive for Gibraltar so I welcome that. I should also say that we should feel very proud in Gibraltar that notwithstanding the dryness in the area we are going to carry on without any rationing. In that respect I think we can consider ourselves very lucky and on this occasion I congratulate the Government.

HON H J ZAMMITT:

Mr Speaker, as a matter of tribute to the Public Works Department I think I should make it known that the "Canberra" called at Gibraltar recently and on all her ports of call between Southampton and wherever she was going which was Spain, Greece and Yugoslavia, none of those ports were prepared to give the liner any water at all and it was quite ironic that this dry Rock of Gibraltar was able to supply them with double ration of what the ship required and I would like to pay tribute to Mr Maurice Featherstone who did sterling work to ensure that we did not lose that liner and no doubt this will ensure that more liners call at Gibraltar. Today Europe is not looking at the cost of water, it is looking at water at whatever cost. We are totally aware that in the neighbouring vicinity tourists are subjected to water supplies being cut off at three in the afternoon so I think it is preferable to pay for somewhat more expensive water and the assurance of the continued supply as we are getting in Gibraltar than not to be supplied with any water at all. I think the shipping fraternity and tourists will not mind paying that little bit extra if water is assured.

MR SPEAKER:

Does the Minister wish to reply?

HON M K FEATHERSTONE:

Yes, Sir. I am very grateful for the kind words not only from my colleague but from the Hon Major Peliza. It is rather a point of pride with us that we are able to supply water albeit at high cost. Regarding the point the Hon Mr Scott made, this is a very valid point but of course it is not that the tanker bringing in 20,000 tons gives as simply 1½ weeks supply because

we are also getting water from the other sources. It is the difference between the amount we can produce ourselves and the amount we need that is taken from the tanker supply. And the amount we can produce ourselves varies between 9,000 tons if one distiller is working, to some 12,500 to 13,000 tons if both distillers are working, so the draw down is somewhere around 2,000 tons per week and therefore we get eight to ten weeks from each tanker. We feel that our projections for the future should be adequate with the amounts of water we are bringing in if and this is a big IF, if the rains come in mid-October or early November as we hope they will.

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

HON M.K FEATHERSTONE:

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

This was agreed to.

THE NON-CONTRIBUTORY SOCIAL INSURANCE BENEFIT AND UNEMPLOYMENT (AMENDMENT) ORDINANCE, 1983

HON MAJOR F J DELLIPIANI:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance (Cap 113) 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 MAJOR F J DELLIPIANI:

Sir, I have the honour to move that the Bill be now read a second time. Sir, the purpose of this Bill is to be able to contract the time period where the unemployment benefits are paid out. Under the existing regulations you can become employed today and you are entitled to thirteen weeks of unemployment benefit. Those thirteen weeks you can stretch almost forever and the idea is that if we have this amendment it will not go more than twenty-six weeks from his last contribution because otherwise we never know what the true figure of unemployment is if the chap does not report. He can report one month or one week and he gets his benefit that week and he goes away for three months and comes back later and gets his second week and he can carry on ad infinitum and this is one way to be able to find out what the real figure of unemployment is and we will have more realistic unemployment figures.

HON A J HAYNES:

If the Hon Member will give way. He says that the thirteen weeks can be stretched out indefinitely. Does that mean that if you want, you can take one week unemployment benefit this week and

MR SPEAKER:

No, with respect. We have not even proposed the question yet.

HON A J HAYNES:

The Minister has stated that at the moment unemployment benefit entitles someone who is entitled to it to stretch out the thirteen weeks for a longer period. Can the Minister explain how?

MR SPEAKER:

Fair enough.

HON MAJOR F J DELLIPIANI:

Well, you see, to be paid your unemployment benefit, what you have to do if you are unemployed and you have a number of contributions necessary for you to qualify for that unemployment benefit, is that you have to go to the Department of Labour and register yourself as unemployed. You have to be available for work and you are paid. You are then paid for one week, your first payment. Now, if you do not go the following week you are not paid because you have not made yourself available for employment. You can then go five months later and receive your second payment. Since you have not made yourself available during that period you have not got paid but you are still entitled to thirteen weeks of payment so you can go on ad infinitum until you exhaust the thirteen payments. When there is a job which we can offer you, you are not here to be offered that job because you have not registered that week. We are trying to control it and give it a little bit of leeway from thirteen weeks to twenty-six weeks.

MR SPEAKER:

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

HON W T SCOTT:

Yes, Mr Speaker, I think we shall be voting for this measure because it is commensurate, in fact, with what we, on our side of the House have been saying, certainly since the unemployment figures were changed in the way that they were compiled. I think it was late last year. We felt that the new method of

compilation has never ever reflected the true picture of unemployment in Gibraltar. I think that if we are going to continue the limitation to the thirteen weeks, and rightly so, it should only be in the manner presented by this Bill. We shall be voting for that measure and in doing so, I think the Minister might not perhaps agree, we have been making an effort on this side of the House since the new tables first came up, I think it was in November or December of last year, to make them a little bit more realistic.

HON MAJOR F J DELLIPIANI:

Mr Speaker, I welcome the support from Mr Scott and I can assure him, I think that the record stands on its own, that I always give credit where credit is due. I am happy to say that despite the occasional repartee between us, we do have a good relationship and I do listen to the suggestions that Mr Scott does make on labour. If I can make use of them and I find them useful I usually do. I am always happy to cooperate with suggestions from the other side when I can put them to good use. I therefore commend this Bill to the House.

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

HON MAJOR F J DELLIPIANI:

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

This was agreed to.

THE LAW OF PROPERTY (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Law of Property Ordinance (Chapter 85) be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. The rule against accumulation is a matter with which the lawyer Members of the House will be familiar enough. I should like to explain it briefly, however, for the benefit of anyone else who may not be familiar with it. When a trust is created, the law limits the period for which the trust may

run and that is known as the rule against perpetuity. We cannot have an indefinite trust. The law also limits the period during which you can accumulate the income of the trust without having to distribute it to the beneficiaries and that is what is known as the rule against accumulation which the present Bill relates to and which in Gibraltar is dealt with by Section 26 of the Law of Property Ordinance. Under that section, Mr Speaker, it is not permissible to allow the settlement or disposal of any property in such a way that the income shall be accumulated wholly or partially for the purchase of land because that is how it is so expressed beyond the minorities of the beneficiaries under the trust. In England the law is different, property may be settled or disposed of in such a way as to allow accumulation for any one of a number of alternative periods, for example, twenty-one years from the gift under the said law by the person who establishes the trust. The purpose of this Bill, Mr Speaker, is to bring the Gibraltar law into line with the United Kingdom law, subject to one variation which I will mention specifically. In England one of the permissible options is a period that does not exceed twenty-one years from the date that this provision was made in Gibraltar in this Bill we propose to differ slightly from the United Kingdom law in that respect, by substituting a period of forty years for twenty-one years. This, I believe, will make it a little more attractive. That is the only respect in which it differs from the present laws in England as to the rule against accumulation. In all other respects the periods remain the same. Mr Speaker, the Bill is the result of proposals that have been put forward by the group known as the Finance Centre Group in Gibraltar, in order to make Gibraltar a more competitive place for the establishment and for the attraction of trust funds. It is believed that major banks would consider setting up trust operations in Gibraltar or more readily set them up, if the accumulation period is so extended. The proposals have been the subject of, as I say, representations by the Finance Centre Group, Mr Speaker, and the Bar has also, in fact, joined them in supporting their proposals. Mr Speaker, this is a technical subject and it is not proposed to take the Bill through all its stages at this present meeting of the House. I will be asking at the Committee Stage for it to be dealt with at a later meeting of the House so that all Members will have full time to study the Bill. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Mr Speaker, I think that anything which would encourage people to make use of our financial centre is welcome, as far as I am concerned. I would just like to ask the Attorney-General, he says there is a slight difference between our law and that in

England where the accumulation is twenty-one years and in Gibraltar it is going to be forty years. Well, there is a hell of a difference there between twenty-one and forty years. I wonder whether when he winds up he would like to explain what are the benefits for extending this from twenty-one to forty years?

MR SPEAKER:

Does any other Member wish to contribute to the debate? Does the Hon and Learned Attorney-General wish to reply?

HON ATTORNEY-GENERAL:

Mr Speaker, I would like to reply to the question put by my Hon Friend opposite. One of the reasons that trustees are attracted to a territory is, in my understanding, that if you are allowed to accumulate funds over a lengthy period of time, you can minimise the effects of taxation liability. Therefore, the longer the period of time, the more attractive it may be for taxation purposes. That is why the longer period is desired here. I must confess, Mr Speaker, that trust law is not my forte but I have discussed this matter carefully with a person who is well versed in trust law and forty years is regarded, in my judgement, and I take the responsibility for that judgement, as an attractive period of time and one which will cause no harm. We have thought about the possible harm it could cause but can see none.

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

HON ATTORNEY-GENERAL:

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

THE SUPPLEMENTARY APPROPRIATION (1983/84) ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March, 1984, 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 Bill seeks to appropriate, in accordance with section 65(c) of the Constitution, a sum of £1,019,465 out of the Consolidated Fund. The purpose for which this sum is required is set out in Part I of the Schedule and detailed in the Consolidated Fund Schedule of Supplementary Estimates 1983/84. (No 1 of 1983/84) which was tabled at the commencement of this meeting. The Bill also seeks to appropriate, in accordance with section 27 of the Public Finance (Control and Audit) Ordinance, the sum of £192,335 as set out in Part II of the Schedule to the Bill and detailed in the Improvement and Development Fund Schedule of Supplementary Estimates 1983/84 which was also tabled at the beginning of this meeting. The bulk of the expenditure on the current budget is to meet the cost of the running of the Waterport Power Station by Hawker Siddeley Power Engineering for the period 1st April, 1983, to the 30th September, 1983, and the cost of importing 20,000 tons of water by tanker from the United Kingdom. As the Hon Minister for Public Works has explained in introducing the Public Health (Amendment) (No 2) Ordinance, the cost of the importation of this water will be covered by a water surcharge of 6p per 100 litres subject to the approval by this House of the Bill now before it. The additional funds required in the Improvement and Development Fund are to meet the increase in the cost of the Waterport Power Station project and includes a re-vote of some £24,000. Doubtless, Mr Speaker, Hon Members will wish to probe the need for this expenditure at the Committee Stage. Sir I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, needless to say, we have a lot to say.

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 later stage in the meeting.

This was agreed to.

THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE, 1983

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Imports and Exports Ordinance (Chapter 75) 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 beg to move that the Bill be read a second time. With the completion of the new air terminal, it is intended to have shops within it which will sell, from the departure lounge, easily carried items likely to be attractive to air travellers. To do this it is necessary to amend the Imports and Exports Ordinance to extend the range of goods that may be sold duty free from approved premises, licensed by the Financial and Development Secretary. In effect, because of the structure of this Ordinance which has two parts in the Schedule, it is necessary to make two amendments to section 31(B) of the principal Ordinance so that goods which are going to be sold from the duty free shops can come into Gibraltar and be placed in the duty free area without payment of duty and, secondly, that section 31(C) of the Ordinance which provides for duty free premises, will be extended to cover lighters, perfume, jewellery, clocks, watches, portable radios, cameras, photographic films, binoculars, pocket calculators, pens and pencils. I hope that this extension of the duty free zone will have the same effect as we have been having on drinks and cigarettes where we find that they are well below the prices in other duty shops and also even on aircraft. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

Mr Speaker, I would like to say a couple of words. First of all I think that this is certainly a move in the right direction in the circumstances of Gibraltar now. It is obviously going to encourage visitors to Gibraltar to make added purchases which perhaps they would not have made in Gibraltar at all and therefore not only are we going to get the 5% duty that is going to be derived from those sales, but also I think the extra money that would come in from the profit left behind to the traders who obviously trade in these goods. But if we carry this to its logical conclusion and if what we do is

encourage visitors to buy things like this, I cannot see why more serious consideration should not be given to these items to be sold at the same ad valorem duty not only at the airport but all over town. I know that this will obviously have some effect in the revenue of the Government, the revenue derived from duty at the moment, but I would like to know and I do not expect the Financial and Development Secretary to tell me just like that offhand now what the effect would be on the income revenue if the same kind of rate of duty was applied to all these goods not only on those sold in duty free shops in the air terminal, but all over Gibraltar. I think this is a golden opportunity to capture some business from the visitors, let us hope that this summer we may be getting a few more coming in from Spain and that they might be attracted to buy small items like this which perhaps they can carry across without being stopped from doing so, some of them anyway, on the other side of the frontier and also I think from visitors from Morocco whose number I was glad to see from the last survey report, are increasing. Perhaps that will encourage more of them to come over. If the Financial Secretary cannot give me the answer now, I do not know whether he can or not, he might be able to let me know subsequently.

HON P J ISOLA:

I would support my Hon and Gallant Friend's suggestions. We have been saying from this side of the House ever since the harmful effects of the partial opening of the frontier have been building up in Gibraltar, we have been saying as a matter of general policy that action should be taken to try and make Gibraltar more competitive and one of the ways it can be done, it is an act of faith, admittedly, but one of the ways it can be done is by major reductions in import duties. I bow to my Hon and Gallant Friend's view that this is a step in the right direction, but I make this query, Mr Speaker. I think that the majority of people today coming into Gibraltar who can buy, are coming in on the aircraft. A few come in through the frontier but they are not allowed to buy or buy very little and if one allows duty free sales in this range of goods which after all is what is sold basically for the tourist trade in Main Street, are we not running the risk that tourists will be told when they arrive in Gibraltar: "Don't buy any of these items in the shops, get them duty free when you leave", like they did with drink and so forth, and I am a little concerned, Mr Speaker, that this, although it might add to the sales of the duty free shops at the airport, and I am only talking about that I won't question the question of ships, possibly, or export because that is a different story because they come in for three hours, but people who come here for a fortnight, look around the shops and then they are told: "Really, if you are going to buy yourself a watch you can have it much cheaper at the air terminal. If you want to buy any of these things, portable radios, jewellery, perfumes, buy them at the airport". I am concerned, Mr Speaker, that the net result of this, having regard to the fact that the vast majority of our tourists come in through the air terminal at least the tourists who can buy without

being told they are naughty boys at the frontier by the other customs authority, come through the airport. I agree entirely with the reduction of import duty and I agree entirely with the move and my own feeling is that this range of goods which are essentially touristic goods, we should make the cuts across the board in an act of faith and if we cannot do it because we cannot afford it because this, that and the other, I question whether it is wise to extend it to the air terminal because in doing that are we not in effect putting the people who sell these articles in the air terminal in a highly privileged position and putting every other shop in Main Street paying rates, electricity and having great difficulty in selling, are we not putting them in a highly disadvantageous position, and I would ask the Government to consider these points before taking this Bill through all its stages.

HON A J CANEPA:

Mr Speaker, just to answer the point about the further lowering of import duty. Quite frankly, I think Hon Members have got to realise that the Government has got a responsibility for the upkeep of certain services that we are providing for the community, that it is almost impossible I think to make cuts beyond the ones that we made prior to the budget. In any case the Opposition are constantly pressing us to expand our services, to improve our services, because the line that the Opposition as an Opposition has to take here in the House is to press the Government for more and more improvements and those improvements cost money. But at the same time, the Hon Members of the Opposition are pressing the Government to put at risk more and more revenue and the indication so far in the last three or four months is that our expectations on the collection of import duty are not going to be realised in spite of the measures adopted in the budget to make many of these items much more competitive in town. We have a responsibility, I think, for making a judgement as to how far we can go and what is the revenue that we can put at risk. And if by lowering duty to the level that the Hon Leader of the Opposition is suggesting, 5% in town for all these items, all that we find is, who are we going to sell it to? Because these items ought to be already attractive following the measures adopted in the budget, they should be attractive for visitors coming from Spain but the fact is that the number of visitors coming from Spain is much lower today than what it was three or six months ago, there are fewer Spaniards coming into Gibraltar so you are selling to fewer people. Who is going to adopt the attitude in Gibraltar of telling people: "Don't buy here in the shops, wait and buy on the way out". People just don't do that. When we go to the United Kingdom one does a certain amount of buying in town, you do not wait to do everything until you get back to the air terminal and in any case what we are getting from the duty free shops is of interest to the Government and to the economy because if you had a 5% throughout town those shops at the air terminal would have to close down, the Government would not collect rates, jobs would not be provided for the people there and the turnover of the suppliers of those goods would be

smaller so in any case there is a contraction in the economy in respect of the duty free shop. I think there is a limit, as I say, to how far the Government can go. We have the responsibility for exercising that judgement and I think we have to do it with a certain amount of caution because if we were to be bolder and the results were not to be what Hon Members opposite want, they would be the first ones to blame us for putting such revenue at risk and then for having to come to the House and make further inevitable cuts in the services that we are providing.

HON G T RESTANO:

The Hon Mr Canepa almost complains that the Opposition has been asking for improvements in the standards of the Government and he has also said that there is shortage of money and that they cannot be bolder. Of course there is shortage of money, Mr Speaker, there is £2m virtually which has been thrown away by Government mismanagement in the Electricity Department. If there had been good administration in that department there would have been another £1m to put back into the economy. What about Varyl Begg, Mr Speaker? Another £1m lost there. What efficiency is that? And then the sand chute, another fiasco. The Hon Mr Canepa certainly cannot put the onus of not being able to improve on these standards on the shortage of money. If there was more control by the Government on certain projects, if there had been better administration then we wouldn't find ourselves in the position we are today and Government would be able to well afford to follow this particular suggestion of my Hon Friend on my right.

MR SPEAKER:

If there are no other contributors I will call on the Hon the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I think that no one in Gibraltar would quarrel with the Hon and Gallant Member's suggestion that we should reduce import duties not necessarily to 5% but to 0% if we were going to have the through-put and the tourists are coming here so that we could meet Government expenditure in some other way but we are not getting it and until the Government can take a view that there is going to be the through-put then we cannot afford to reduce our import duties. Insofar as many of the items here are concerned, particularly the higher expensive range of goods, jewellery, clocks, watches, portable radios and cameras, you can at the moment with some trouble get them free of import duty by getting them delivered to the airport but this is rather a humbug, people don't like to do it and to have them available easily at the airport would make it more attractive. I will, however, obtain the figures which the Hon and Gallant Member sought on what the loss in revenue would be but it will take a few days and I will let him have it.

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

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

The following Hon Members abstained:

The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Members were absent from the Chamber:

The Hon J Bossano
The Hon Sir Joshua Hassan
The Hon A J Haynes

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 later stage in this meeting.

This was agreed to.

The House recessed at 7.10 pm.

THURSDAY THE 7TH JULY, 1983

The House resumed at 9.35 am.

MR SPEAKER:

We have the Control of Employment (Amendment) Ordinance; the Traffic (Amendment) Ordinance and the Matrimonial Causes (Amendment) Ordinance. Perhaps it might be advisable not to do the Matrimonial Causes Ordinance straightaway so I intend to call the Traffic Ordinance first.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the suspension of Standing Order 30 in respect of the Traffic (Amendment) (No 2) Ordinance, 1983.

HON MAJOR R J PELIZA:

Mr Speaker, I think in the absence of the Leader of the Opposition, I don't know why, but

MR SPEAKER:

The Leader of the Opposition is just coming in and I am going to say this now that you have brought up the question. We announced that the meeting was going to start at 9.15 am. If a Member is not here by 9.35 am then he cannot blame anyone but himself for not being here but we cannot in any manner or form, and I will say this very clearly, accommodate the time of sittings to the convenience of any particular Member.

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

The Hon J Bossano
The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon J B Perez
The Hon Dr R G Valarino
The Hon H J Zammitt
The Hon D Hull

The following Hon Members voted against:

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 Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon Major F J Dellipiani
The Hon A J Haynes
The Hon R J Wallace

Standing Order 30 was accordingly suspended.

THE TRAFFIC (AMENDMENT) (NO 2) ORDINANCE, 1983

HON P J ISOLA:

Mr Speaker, may I ask why this has been taken out of order?

MR SPEAKER:

Most certainly, Mr Isola. The reason why this has been taken out of order, I stated at the beginning of this very morning, was to give a chance to both the Chief Minister and the Leader of the Opposition to be present when the Matrimonial Causes Ordinance was read because I felt you would be interested in being present.

HON M K FEATHERSTONE:

Sir, I beg to move that a Bill for an Ordinance to amend the Traffic Ordinance (Chapter 154) 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 M K FEATHERSTONE:

Sir, I beg to move that the Bill be read a second time. Sir, this Bill devolves into two parts. As Members will be aware, for the last nine months or so the Government has been building at the old Slaughter House site a new motor vehicle testing shed. The intention of this motor vehicle testing shed is twofold. Firstly, it will be available for the testing of all road service vehicles but at the same time Government intends to introduce in due course that all cars in Gibraltar should, at least after a certain period of time, go through an MOT test in a similar way as in the United Kingdom. The intention will be to start slowly. The first cars that will need to be tested will probably be those that are ten years old or over and as time goes by this will gradually be reduced until we are inspecting all cars that are at least five years old or over and perhaps three years old or over. This, I think, will have a twofold benefit. It will see, first of all, that all cars on our roads are in a serviceable condition and secondly, because a fair number of old cars will probably not pass the test, it will mean that those cars will have to be taken off the road and that will I think remove a reasonable measure of congestion. So the first part of the Bill which is clause 2 is to allow for the compulsory periodic inspection, testing, etc of all classes of motor vehicles. The second part, Sir, is to amend the Ordinance in such a way that the prerogative of stating the number of road service vehicles in force at any time, and this is not only taxis but all road service vehicles, that this prerogative should be with the Government. Up to the moment it has been with the Transport Commission although, as I have already stated earlier in this House, the Transport Commission always used to ask the Government for guidelines on what the numbers should be. I think it may be interesting to the House to know that the letter that the Hon Mr Isola spoke about, in which the Transport Commission threatened to take us to Court, was actually dated 1st July, and turned up in the Secretariat on the 4th July and gave from the 1st July seven days notice. It turned up on the 4th July, was processed on the 5th and actually arrived to me in the House yesterday.

HON P J ISOLA:

Mr Speaker, are we going to hear a statement from the Attorney-General on when he knew about it because I am reliably informed as to the time

MR SPEAKER:

We are going to have a debate on the Bill.

HON M K FEATHERSTONE:

We have had the hysterical histrionics of the Hon Leader of the Opposition already on this matter and doubtless he will go once more into his convulsions but that does not worry me the slightest, Sir. The letter is couched in most abusive terms. I think the Transport Commission seems to consider themselves a very important body and wish to be the tail that wags the dog. The other part of the position is that this fact that the Government was going to take the prerogative of deciding the numbers of road service vehicles for itself and to remove that power from the Transport Commission has not come as anything new to the Transport Commission because they were written to on the 13th April informing them that Council of Ministers, following discussions in this House of Assembly, had had a look at the Transport Commission section of the Traffic Ordinance and Council of Ministers had decided slightly earlier to the 13th April that amendments were to be made and that the powers to determine the number of taxi licences available at any specific time and other road service vehicles if required was going to be taken over by Government. So they cannot say they did not know anything about it, they did not have, although they were requested, that courtesy to reply to that letter of 13th April asking for their comments. All they were able to do was to wait until time caught up with them and then send a rather abusive letter. The Bill was ready well before the 1st July.

HON P J ISOLA:

Why wasn't the House given notice of it then?

HON M K FEATHERSTONE:

Because the Bill was in draft, it had not been published. I did not say that the Bill was published, I said the Bill was prepared. In fact, we worked on the Bill somewhere about ten days ago. The Bill was prepared, there was no question that it was only hastily prepared when we got this threat from the Transport Commission because, as I say, their letter was dated 1st July and did not come through until the 4th. This is a very clever trick, if I may say it, to write a letter on a Friday knowing very well it is not going to be processed till the Monday and then to claim that we gave you ample time. This trick has been played many, many times, it is a trick, with the greatest respect, that does not carry very much weight.

HON P J ISOLA:

Will the Minister read the letter or make copies available?

HON M K FEATHERSTONE:

No, I have not quoted from it I have only said the letter has come. Anyway, you must have a copy already.

HON P J ISOLA:

I have not, that is why I am asking you.

HON M K FEATHERSTONE:

I am sure you have been kept fully in the picture by the Transport Commission and by the one or two people who are pressing very much to get a taxi licence.

HON P J ISOLA:

If the Hon Member will give way. I am not pressed by the Transport Commission, the Chairman of the Transport Commission approached me about eight or nine days ago after an application I had with him in Court, full of indignation that the Minister had had the audacity to make an agreement and he showed me the letter he had written. That was the only time I have spoken to him.

MR SPEAKER:

The Minister is not to give way any more. Members may take notes and contribute to the debate at the proper time.

HON M K FEATHERSTONE:

The Hon Leader of the Opposition may say that the Chairman of the Transport Commission was full of indignation. Perhaps his indignation might have been evaporated if he had answered the letter of the 13th April at least within reasonable time because he would have then got a further answer which might have cleared the air sufficiently. Anyhow, the position is that Government feels that it is only correct and right that the prerogative to decide the number of road service vehicles in all categories should rest with Government not with a quasi judicial body which was set up before there were any ministerial responsibilities, before this House of Assembly was even set up they did a very good job during their time, nobody is going to gainsay it but the system now is that Government must be done by Government not by outside bodies and that is the purpose in the amendment to the law being put forward today. The Transport Commission will still have the quasi judicial rights of determining the actual licences to be given within the guidelines that will be set down to them by Government, it is not Government's intention to take away the right of the Transport Commission to hear applications but simply to give the basic guidelines as I say they have done hitherto for many years to now make it enshrined in law and I do not see any difficulty in this. I, therefore, Sir, commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, the Minister, obviously, does not want to disclose the letter that he received from the Chairman of the Transport Commission otherwise he would have accepted my invitation to read it out to the House. Perhaps he will correct me if I am wrong. The letter threatened to take the Government to Court. It was seeking a declaration that their agreement was contrary to law and perhaps this is why the Minister for Public Works does not want to read it.

HON M K FEATHERSTONE:

If you insist I will read the last paragraph.

MR SPEAKER:

No, the letter.

HON M K FEATHERSTONE:

It says: "Unless, therefore, the Minister makes a public statement within seven days of the date of this letter, the Commission will seek a declaration from the Court that the agreement is null and void". It has not said that it is contrary to law but as I say, it was dated the 1st July, it did not arrive until the 4th July and I think seven days is a very clever trick.

HON P J ISOLA:

If the agreement is null and void why would it be null and void if it was not outside the powers of the Minister to make and contrary to law. Perhaps the Minister might withdraw this Bill from the House and be prepared to put it to the test.

HON CHIEF MINISTER:

Why, because Mr Stagnetto wants?

HON P J ISOLA:

No, I am not talking about Mr Stagnetto. I am saying that because the threat was made to the Government that they would be taken to Court, this Bill is being rush through without regard to the rights of anybody else or the interests or the law itself, as I shall point out when making my contribution to the Second Reading. I am astounded that a Bill has been

brought before the House that makes legal one part of the agreement and leaves the rest of it illegal. The only explanation, Mr Speaker, I can think for that is that the Bill has been rushed through the House to prevent proceedings being taken by the Transport Commission on the part of the Bill that is before the House, and I will explain why. The Hon and Learned Chief Minister said nonsense but perhaps he will tell me why it is that legislation is not before the House to implement other parts of the agreement that require legislative authority.

HON CHIEF MINISTER:

I will say why, because the advice that the Government has is that it is not illegal even though you say so.

HON P J ISOLA:

I know that is the advice the Government has but I think the advice has been lacking, if I may say so with the greatest respect to the Hon and Learned Attorney-General, and I think he will agree with me when I have finished addressing the House on the Second Reading of the Bill, that this Bill will require further amendment if the agreement is going to be given effect to. And if he says it is not, then I will be very surprised. Mr Speaker, why have questions been asked about this agreement and why are we opposing the Second Reading of the Bill? Let me make one thing clear on behalf of my Party. It is not our wish in any way to affect the livelihoods of members of the Taxi Association. We consider that the licence for a taxi has a goodwill value and that that goodwill value should not be derogated from by suddenly increasing licences to an inordinate number so as to reduce their value which I think is at the root of the problem. We do not agree that that should happen and that that should be done but what we do say is, firstly, that there should be enough taxi licences in existence to enable service to be given to the community and that this requires, following the partial opening of the frontier, we believe requires two or three or four or five more licences. But, Mr Speaker, it is not for us to decide that. There is the Transport Commission that decides these matters by the law. And if you will recall, Mr Speaker, we have had previous debates on traffic, we have had questions before on the position of the Transport Commission and we have during those debates pointed out the need to clarify the position as to who grants taxi licences. Is it the Transport Commission or is it the Government? The reason we have said that is, and I said it in the House and I got an assurance from the Minister for Public Works that he would make a statement in the House within two months at some stage when we had an amendment before the House on the Traffic Ordinance, because I said we have the position that the people who are seeking a licence, the Taxi Association and others, are approaching the Chief Minister, the Minister for Economic Development, the Leader of the Opposition, the Minister for Public Works, I think even Mr Zammitt has been approached perhaps because he had something

to do with traffic, I don't know. As I see the position, it is the Transport Commission that decides who gets licences and who doesn't. And although I may be critical, although I may say that in my view there is room for one or two or whatever licences more, I do not accept that that is a matter for decision for me or, indeed, for the Government, that is a matter for the decision of the body that has been set up by law to consider the matter. The Government made an agreement on the 23rd June, 1983, which seeks to sort out the problems that they apparently have with the Gibraltar Taxi Association and that agreement said things that the Government was unable to say without getting legislative authority and we have gone over that already. But, Mr Speaker, what the Government has done wrong in my view and that I asked and questioned the Hon and Learned Attorney-General on the matter only yesterday, is that with applications pending for taxi licences to the Commission that is set up by law to consider them and decide on them at the time the agreement was made, it is totally wrong for a Minister of the Government of Gibraltar to sign an agreement saying there will not be any more taxi licences at a time when another body has before it applications and has the responsibility under the law to decide whether they should be granted or not. Mr Speaker, if the pattern followed by the Minister for Public Works of entering into agreements without legislative authority as a result of pressures or as a result of conviction, it does not matter which, if that is the practice that Government is going to follow in the future, it does not augur well for democracy and that is the word that I used yesterday to the Hon and Learned Attorney-General. It does not augur well for democracy because people, however unjustified their application, however wrong, however misguided their application, are entitled to have it heard by the body set up by law to hear it and it is wrong for a Minister to do an agreement publicly which negatives that application whatever its merits. How many times, Mr Speaker, have we been told from that side of the House by the Chief Minister, by the Minister for Public Works, by the Hon and Learned Attorney-General more than once: "I cannot answer this, it is sub judice there is an application pending". How many times, Mr Speaker? And we on this side have accepted that, we on this side of the House have accepted that, have had to accept it. I give Engineer House, I give the Varyl Begg Estate, the Attorney-General has a list as long as his arm in which he has not given information to the House because he thinks it would be improper because there is an application pending, it is sub judice. And here we have three or four applications pending before the Transport Commission and the Minister of the Government publicly ensures that those applications can never see the light of day and can never be granted. That is what we on this side of the House object to, that is not democracy, Mr Speaker. "Huh", says the Chief Minister.

MR SPEAKER:

I will give one single warning and no more. People attend the public gallery to listen to the debate, not to interfere or to make any noises. If I have to clear the public gallery I will not hesitate to do so. I will not have any interruptions or exclamations so that the Member who holds the floor is inhibited from saying what he has to say. I hope I have made myself completely and utterly clear.

HON P. J. ISOLA:

I can assure you, Mr Speaker, that I have been in politics too many years to be intimidated in any shape or form but I am grateful for your intervention. Now, Mr Speaker, why do I say, and I would like incidentally, Mr Speaker, for the Hon and Learned Attorney-General to intervene and to tell the House as the Law Officer of the Crown, whether in his view it is proper for a Minister to sign an agreement that effectively precludes an application being heard by a Commission set up by law to hear it? In this House we do regard and we have long regarded the Law Officers of the Crown as being independent and giving their advice to the House even though they are working for the Government, in an independent manner, and I hope that tradition will be maintained. I am sure it will be maintained by the Hon and Learned Attorney-General. We have said that this Bill has been brought in a rush because of the threat of the Chairman of the Transport Commission to take the Government to Court on a declaration that the agreement is null and void and why have we said this, Mr Speaker? Well, according to the Minister for Public Works, the decisions were made back in April and the Chairman of the Transport Commission was written to on the matter and there has been no reply. As I say, I do not know, we have not got copies of the letters. I obviously accept what he says on that side. Legislation was ready, draft legislation was ready. Well, if it was ready, Mr Speaker, why wasn't the House treated with courtesy, why weren't Standing Orders observed and we given seven days notice of the Bill? Why was it sent to Members of the House precisely one day after the letter from the Chairman of the Transport Commission arrived at the Government Secretariat, and I accept fully that it must have arrived on the 4th because if the letter was posted on the 3rd there is no way anybody is going to get it in the Government Secretariat before Monday because Saturday is a dies non. Why was the Bill then sent to Members of the House a day before this sitting, on Tuesday, if it had all been agreed? Why wasn't due notice given? Why was it a rushed Bill and why wasn't it even on the Agenda for the House, Mr Speaker? The Control of Employment Bill which we also got a day before the sitting of the House, that Bill was on the Agenda, as the Minister concerned was very prompt to point out in his answer to the question. Why was not the Bill to amend the Traffic Ordinance not on the Agenda even of this House? Mr Speaker, the only conclusion that can be drawn from that is that the Government woke up to a situation that they needed legislative authority to back up their agreement and a Bill was hastily prepared and rushed to this House and because it

was hastily prepared and rushed to the House and only dealt with the points that the Chairman of the Transport Commission had brought up, it is incomplete and I will say why, Mr Speaker. I would refer the House to section 64A of the Traffic Ordinance. That section says: "The Commission shall insert in every road service licence in respect of a taxi, a condition that the vehicle shall not be used for hire or reward except by the registered owner or one named driver or where a number of taxis are owned by the same person, by the registered owner or a number of named drivers not exceeding the number of taxis owned by that person. And the Commission shall insert the name or names of the registered owner of the driver or drivers in the road service licence. Provided that the Commission shall not insert the name of any person other than the present registered owner whether as a registered owner or as a named driver". And then there are provisions for temporary registration of owners when somebody goes ill or whatever, or drivers, and then there is further provision under which the Director of Tourism in special circumstances can allow a second driver and so forth. Mr Speaker, there is no statutory authority for a second driver in a taxi. It is not possible under law for that, that is section 64A of the Traffic Ordinance. The Commissioner of Police has a discretion but that is the position and of course if Hon Members will recall, back in 1969 I think or 1968 or 1970, I cannot recall exactly, there were provisions for two drivers and at the request of the Taxi Association the law was changed to ensure that only one driver per taxi, either the owner or a named driver, so that the agreement under which the Government agrees the introduction of a second assistant driver who must not be someone in alternative full-time employment, requires legislative authority, it requires the amendment of the Traffic Ordinance and I am sure, having brought this to the notice of the Attorney-General yesterday, I am sure there will be amendments in Committee Stage to deal with this. Whether the amendments will be adequate is another matter but I am telling the Minister that this point shows to me beyond a shadow of doubt that this legislation is rushed legislation for fear of being taken to Court. The Government has brought a Bill for the House that merely safeguards their position against the complaints made by the Chairman of the Transport Commission that the agreement was null and void. And then, Mr Speaker, and I know this can be done by regulation, there are other factors, other aspects. The agreement relates to a number of matters which I agree are minor matters compared to the main part of the agreement but that also requires regulations, Mr Speaker, otherwise how is it to be enforced, by the Government suing the Gibraltar Taxi Association or something? Anything to do with traffic, anything on which the public is entitled to rely on has to be done by regulation. If you have a disc on a private car, the regulation says it must be exhibited on the windscreen and unless the law said that people could do it or not do it and the same will be the case with this. An agreement has been signed on the 23rd June but the only back-up legislation that we have before the House to implement that agreement is a Bill giving the Government power to restrict the number of licences. I am going to ask the

Attorney-General another question and this is again a matter of some interest in the interest of legislation and good legislative practice and that is that the section that deals with the powers of the Transport Commission is section 63 and I think it is worth reading that. "In exercising its discretion to grant or refuse a road service licence and its discretion to attach any condition to such a licence, the Commission shall have regard to the following matters:- (a) the extent to which the needs of the area of the proposed service are already met; (b) the desirability of encouraging the provisions of adequate and efficient services and eliminating unnecessary and unremunerative services; (c) the applicant's reliability, and in the case of an omnibus service financial stability and the facilities at his disposal for carrying out the proposed service; (d) the number, type and description of the vehicle; (e) any evidence or representation received by it is in accordance with the provisions of section 61 and any representations otherwise made by the licensing authority, Commissioner of Police, any public body or any person carrying on transport service of any kind likely to be affected; Provided that before taking into consideration any adverse representation they give an opportunity to reply to such a representation". Mr Speaker, it is clearly within the intention of the Traffic Ordinance that it is the discretion of the Transport Commission to decide whether in all the circumstances a licence is to be granted and it is the Transport Commission to decide whether the needs of the community are fully met or not. What the Government is doing by putting this particular section into the law is bringing a conflict within the law of the respective duties of the Government and the Transport Commission. One part of the law says it is the Transport Commission that shall decide this and another part of the law says, no, it is the Government that shall decide this. Is that good legislation, I would ask the Attorney-General? On what does the Government decide these matters, on what it is told on the advice of the Transport Commission? Why bother the Transport Commission at all with it? How can the Transport Commission consider an application for a taxi licence, which is the one we are talking about, but this also applies, Mr Speaker, to omnibuses? To my knowledge there are a number of applications today before the Transport Commission in relation to omnibus licences. Is the Government going to do the same thing there, listen to the omnibus owners or whatever and say: "Right, that is it, no more. Applications that are pending bad luck, old boy. We govern - as the Minister for Public Works said - we govern, we do this"? Yes, of course you do but if you want to govern and you want to do this, do away with the Transport Commission, do away with the Traffic Ordinance, you grant the applications. Let us go back to the old days in Housing when the Minister used to allocate houses. Now it is an Allocation Committee. This is the process in reverse, Mr Speaker. The Government is now going to do the taxis. Why, we ask, why? Because we govern, we have not been pressurised, we have not been forced into this agreement, we have been considering it and we govern and we govern and we go on governing. Fair enough, Mr Speaker. If the Minister for Public Works wants to take those decisions himself he has got the power and he has got the majority in the

House to put it into effect but then let the Transport Commission off the hook, say: "Thank you very much, gentlemen, you have done a good job in the past. We do not really need you because we know how many taxi licences are required in Gibraltar, we know who should get them and who should have them", so away with it. The Government can do that but they cannot hide behind the Transport Commission, Mr Speaker, which is what they are now doing. There is the Transport Commission the authority vested with the power to grant or not to grant licences and the Government comes along and says: "Yes, you should only be able to grant any that I give or any that I allow". Mr Speaker, I know what I would do if I was in the Transport Commission and if I were in the Government I would not have signed that agreement. And I will tell you why, and I have explained why. Whatever the merits of the case might be and there may be merits, I would not have signed that agreement without finding out first, at least, basically, elementary, are there any pending applications for taxi licences? That is the first thing I would have done, direct the Transport Commission to hear them and then make your decision. But, Mr Speaker, as I have said, this has been a rushed Bill brought in to cover the Minister's position, to cover the mistakes made by the Minister of signing an agreement which really he had no right to sign having regard to the provisions of the law, having regard to the obligations set out in the Traffic Ordinance that has to be carried out by the Transport Commission, he signed an agreement and when he was told that he was going to be taken to Court he got this Bill put on the Order Paper a day before the House sits and the Bill that is before the House is inadequate even in its present form, Mr Speaker, and that shows that the agreement was signed through pressure with the Taxi Association. The Bill is brought through pressure of the Chairman of the Transport Commission. That is the position in fact and I would ask the Government because I notice that under the Bill the Government has or the Governor, Mr Speaker, the Governor is the man who says how many road service licences may be granted for any type or types of public service vehicles, I would ask the Government to give this House an assurance that they will ask the Transport Commission to hear existing applications and dispose of them according to the law in existence when the applications were made and then fix the limit. As I understand the position the Government should have nothing to fear from that because as I understand the position, the Transport Commission are not very happy about granting any more licences but at least let them hear them and let them adjudicate them as they are required by the Traffic Ordinance to do. And that, Mr Speaker, is the reason why we are going to vote against this Bill. Not because we are against curtailing the increases of taxi licences, not because of that but because, Mr Speaker, we think the Government has set about it in the wrong way. I was promised from the Minister a public statement in this House as to Government policy on the matter. The record of that debate will show on what it intended to do with regard to that part of the Traffic Ordinance. Instead of getting a public statement here, we read in the news of an agreement signed by the Minister and a Bill rushed with 24 hours notice into this House to protect the Government from a lawsuit from the Transport Commission which it had set up under the Traffic Ordinance. Mr Speaker, we cannot support under these circumstances this Bill.

HON CHIEF MINISTER:

Mr Speaker, I picked up one or two remarks. The Hon Member on this session is particularly aggressive throughout, no doubt as a result of his frustration at not being able to be in the limelight except by calling attention and trying to interfere or trying to make a lot of noise when the Government achieves something which leads to industrial peace and proper and satisfactory arrangements with the people concerned. At the time of the rubbish collection incident he would have wanted us to have a confrontation with the Union and we were being urged to do that. We were looking for solutions which would suit the Government and would not bring confrontation and I said so here and I say so now that we do not want confrontation with the Unions. The Hon Member was making great play the other day at a party saying that what was wrong with me was that I did not want to confront the Unions and that if he were in Government he would confront the Government and fight the Unions over the Dockyard. Well, these are all very nice remarks to say socially but being in Government it is a different matter and if he wants to confront the Unions I do not think he will ever have a chance because he will never be on this side of the House.

(Interruption from the Public Gallery)

MR SPEAKER:

I will clear the gallery immediately if that happens again. I have said it once and I will not say it again. The public gallery is here to listen and not to take part in the proceedings. If they cannot restrain their emotions then my only alternative will be to clear the gallery and I will next time.

HON CHIEF MINISTER:

The Transport Commission, I have been told by the Chairman repeatedly, have a list of about 68 or 70 applicants from years immemorial and they have done nothing about it and suddenly they may become very militant and threaten action. Incidentally, when I said yesterday that I had not seen the letter it was perfectly true. Let me tell the House that I saw the letter this morning when the Minister showed it to me. It was received on Monday and I was doing other things perhaps as important if not more important for Gibraltar during that time. The other thing that he said was that this procedure does not augur well for democracy. There are many things that are done in Gibraltar that do not augur well for democracy and give a bad name to democracy. Let him not try and preach in this House when he is the first that is not fit to preach in this House.

MR SPEAKER:

Well, let us come down to the subject before the House.

HON P J ISOLA:

I would ask the Hon Chief Minister to withdraw that.

HON CHIEF MINISTER:

I do not have to withdraw anything. The conduct of the Hon Member does not want warrant my withdrawing anything.

MR SPEAKER:

I think we should now come back to the orbit of the debate.

HON CHIEF MINISTER:

I just took some notes about what he said that this was not good for democracy. Well, I think the Minister has shown that one thing has nothing to do with the other and there was no threat in that letter, only that if they did not get a reply they would seek an order, whether they would get it or not is a different matter, they did not go as far as saying that they were right, they said they would seek an order. Of course you can go every day for an order to the Court and most of the time you come out and you do not get it, but the Government -- and I say this in all solemnity because this is a very important matter -- have not, repeat, not brought this amendment because of the threat of the Transport Commission. It is not the first time that the Government has been taken to Court to find out whether any action taken by the Government is legal or not and the Government have been represented. In one case, in the case of the Price Control Ordinance it was found that an amendment that we had brought here was contrary to the Constitution and we accepted that, that is democracy, that is the Constitution. The Court has a perfect right to question if we acted within the Constitution. We are not hiding behind the Transport Commission, not in the least. In fact, the Minister has very clearly said that if and when the Government, in pursuance of the rights that I think it has and it is in any case seeking a legal authority to continue to have or to have formally to decide the number of taxis if that is to be increased, the Government is not going to exercise the patronage as to who should have taxis or not, that will be left for the Transport Commission to decide on the merits. With regard to the other matters that the Hon Member has questioned about the legality of the rest of the matter, well, of course I will leave that to the Attorney-General to deal with. As far as I am concerned legal advice to the Government is given by the Attorney-General and he may be wrong but he can also be right even though the Hon Member thinks not. In that respect, of course, he will answer for that part of it but let it be said quite clearly that the functions of the original Transport Commission when traffic was under the hands of the City Council, were delegated to the Transport Commission and when the IWP came into office a Minister became Chairman of the Transport Commission to try and control from that Government the workings of the Transport Commission

and we appointed an independent member of the Transport Commission, so independent that he threatens to take the Government to Court so nobody can blame the Government for doing that and good luck to him. I respect the independence of the Chairman and the members of the Transport Commission and I have so told him and in fact if he had wanted to he would have done that and that would have been his privilege. But we never interfered with the Transport Commission by putting a Minister as Chairman as that Government in the limited time that they were in office did. Immediately on return to office we took away the Chairmanship from a Minister and left it to an independent person whose independence cannot be questioned when he being a lawyer of experience and so on, wonders whether the action taken is legal or not. But the Transport Commission must also take a considerable amount of responsibility. They cannot blow hot and cold. If they have 68 pending applications they should have made up their minds. If they are so independent why didn't they hear all the applications and decide that there was need for 20 more taxis or no need for them? They have been sitting on the fence and done nothing at all about this trying to be kind and pleasant to everybody without taking a decision. This is why the Government has had to take action and put the matter in a proper form.

HON J BOSSANO:

Mr Speaker, I support the Bill brought by the Government and I support the agreement entered into between the Government and the Taxi Association and I reject entirely the arguments put by Mr Isola. Let me say first that as far as I am concerned, the Gibraltar Taxi Association is the body that represents the overwhelming majority of those involved in that area of employment. Most of them are self employed, they are in a way small businessmen which should appeal to Mr Isola, but in fact the Association is a registered trade union and I believe that the Government should in fact work in close consultation with those who have themselves a vested interest in the prosperity of the taxi service since their whole security depends on the viability of the service. They have no pension to look forward to, they have nothing to fall back on, they are not even entitled to unemployment benefit, Mr Speaker, or to industrial injury precisely because they are self employed. So, in fact, they have themselves a vested interest to ensure that the service works efficiently and I urge the Government to move in this matter and in ensuring that the public is getting a service in close consultation with the Association as the sole representative body of those involved in the trade. Coming to the question of the taxi licences. This matter has been raised before in the House, Mr Speaker, by Mr Isola. And, in fact, if my memory serves me right, his accusation the last time was that how was it that the Minister was having meetings with the Committee of the Taxi Association discussing licences when that was not within the prerogative of the Minister's powers, that it was a matter for the Transport Commission and that he should not even be discussing it and that if we wanted

to do it let him come out openly and give himself the powers to do it. Now he comes out openly, he gives himself the powers to do it and the Minister gets told: "Well, why are you taking away the powers from the Transport Commission?" Because in fact he was all out to do it. He was asked in this House to do it by Mr Isola, he was told by Mr Isola that if the Transport Commission had to consult the Government on the number of licences then they ought to say so and the law should be changed so that it would say so. Well, that is what the law is doing. I accept entirely the argument that Mr Isola has put and that the Commission has put that in fact as the law stands today the Government would not be able to deliver on the question of the agreement as regards guaranteeing that no licences would be issued. They would not be able to deliver, so what? If you are not able to deliver, you are not able to deliver. All the Transport Commission has to do whether we pass the law today or we pass the law in six months' time, is what it has been doing for the last 25 years and that is consult the Government extra legally and unofficially as to whether they should grant licences or not. That is all they need to do and then the agreement is enforceable. Because in fact all the agreement says is that the Government agrees to the maintenance of the licences at present levels which it is not able to enforce by giving a directive it is certainly able to enforce in the way it has enforced it in the past. Does, in fact, the law say that the number of licences shall be static? It does not say that, what the law says is that the power, the legislation, establishing what should be the maximum number of public service vehicles licences is now going to be provided for and presumably that figure will be known and will be public and we will not have the situation that we have had until now where all sorts of arguments and campaigns are started are based on totally spurious analysis of what is the availability of business and how the livelihood of those involved will be affected by opening the doors to others. It is all very well for the Hon Leader of the Opposition to try and water down his opposition to this by saying that in principle he recognises that there is goodwill there. I would like him to explain to me how he thinks once you start giving away licences free, you are going to be able to retain any sort of goodwill because I cannot imagine how anybody can tolerate that somebody should transfer his licence to somebody else and then get a new one issued to him and still talk about goodwill. I think it is quite right, Mr Speaker, that the question of taxi licences should be bracketed with other types of public service vehicles because they are plying for the same customers and in competition with each other. When the Transport Commission gives a licence to a tour operator to put a bus outside the airport to pick up 20 passengers, what does the Hon Major Peliza expect the taxi drivers to do, to all sit in their taxis watching the bus getting full up? Therefore, Mr Speaker, it is quite right that the matter should be in the law and it should be on the basis that in fact this is an area of business which is entitled to the same protection as other areas of business insist on having every time we talking about protecting the Gibraltar economy, every time we talk about protecting local jobs and local businesses we are talking about the same issues.

The decision of the Government, to my mind, is not premature, in fact, it is something that should have happened a long time ago and it is right and proper that it should be out in the open and in fact since this House as a maximum has only eleven months to go, if a great injustice is being done to those who have been waiting for twenty years to have their application heard, all that the Hon Member has to do is to include it in his election manifesto and say that if he gets elected he will use that to increase the maximum so that the 68 applicants who have been waiting will also get licences. Having waited twenty years, to wait another eleven months is not going to be a disaster assuming that in fact there is any possibility of the Hon Member getting into Government and in any case then one would imagine that he would also include in his manifesto that he was going to build more houses, reduce income tax, control the Trade Union Movement, lock people out and so on and so forth. In which case, Mr Speaker, if you win after all that, he probably deserves to win.

HON A J CANEPA:

Mr Speaker, in giving full consideration to the legislation before the House today, we have to consider the background against which the Transport Commission was set up and the extent to which the realities as they were then back in 1959 as against what they are now the extent to which these have changed. When the Transport Commission was set up it had power to advise the Governor on all matters affecting traffic on the roads. In fact, what was happening was and until very recently when the first amending Bill was introduced earlier this year, what was happening was that in fact the Transport Commission was the body determining policy in all traffic matters. That situation may have been alright then in the 1950's but that cannot be the situation today when there has been considerable constitutional advancement and when it is Ministers, collectively in Council of Ministers, who are the executive body. The requirements of traffic in the last eighteen months or so, have inevitably led to a number of changes. Because of the anticipated implementation of the Lisbon Agreement the Government had to take a more active part in bringing about certain changes in traffic than had been the case previously. The first thing we did as a result of that was to transfer responsibility from the Minister for Tourism to the Minister for Public Works because it was in fact the Public Works Department which was in the forefront of the implementation of these changes and it was logical and sensible that it should be the Minister also responsible for the Public Works Department who should be the determining factor on policy in traffic matters. Then we discovered that in fact the Minister was having to constantly seek the advice of the Transport Commission on any changes in traffic matters even if they were of a very minor nature. If the Minister wanted to have a traffic island somewhere in the middle of the road, he had to mandatorily because the Ordinance said the Commission shall advise the Governor on all matters affecting traffic on the roads. And the Minister had to go almost cap in hand to the Transport Commission: "May I please have a traffic island somewhere?" And if the Commission said no, and they did from

time to time, the hands of the Government were being tied in the deployment of such policy on traffic matters as it saw fit. And so early in the year we amended the Ordinance to take account of that situation. I think that it is quite correct for the Transport Commission to sit in a quasi judicial function and determine who shall get a traffic licence. I think it is for the Government ultimately to decide, after consulting interested parties, amongst them no doubt the Transport Commission who would advise the Government on the number of public service vehicle licences that there should be. And once the Government has determined that after consultation, and that has been given effect as prescribed in the Bill now before the House from time to time by notice published in the Gazette, it would be for the Government to go to the Transport Commission and say: "We think that another five taxi licences or six or seven taxi licences should be given, will you please from amongst the applications that you have pending, will you please decide who should get those licences". But in effect what has been happening, as we have heard, has been that the Commission has been sitting for many years on a number of applications and I do not know why. To the extent that recently, on behalf of some of those applicants, an application has been made to the Court for an Order requiring the Transport Commission to adjudicate once and for all on these pending applications. The matter has been most unsatisfactory and that is why the Government, through their Minister responsible, has acted in the manner in which it has. Where I think the Leader of the Opposition is making a mistake and we have seen that from his performance in the House this morning when on the one hand he seems to be sympathetic towards those who have applied for taxi licences and which the Transport Commission has not dealt with, and on the other hand he is sympathetic to the point of view of the Transport Commission in respect of the blandishments which they have made against the Government, where I think the Leader of the Opposition is making a mistake is that in my view he is trying to run with the hares and hunt with the hounds and sooner or later that catches up with you.

HON A T LODDO:

Mr Speaker, I will be brief and I would like to remind the House that this Traffic Ordinance amendment deals as well as with the taxis, with the testing of vehicles. We all seem to have forgotten that part of these regulations is the testing of vehicles. On the question of the taxis, I will say nothing more than without going into the merits or demerits of the case, I remember in this House not so long ago a similar situation occurring with regard to landlords and tenants when a piece of legislation was brought to the House whilst there was a certain case pending and I would question the wisdom if not the morality of bringing forward legislation and there are matters to clear up. Having said that I have nothing more to say on the question of taxis or the merits or demerits of the case such as it might be. Mr Speaker, it is well known that I bring up the question of traffic and parking whenever I can in this House. I believe that the problem of traffic and

parking can never be completely solved but I do believe, Mr Speaker, that given courage the problems of parking and traffic congestion in Gibraltar can be substantially alleviated. I am quite happy with little (a) on the Bill, namely, the part which deals with the testing of vehicles. This will go a long way to decongesting our heavily congested streets and roads and, Mr Speaker, I would hope that this is only one of a number of measures which the Government will take to reach this goal, namely, the decongestion of the streets. I hope that the Government will also consider the question of time limits for parking, free parking and paying parking zones and the introduction of traffic wardens. Mr Speaker, I am quite happy to go along with (a). I am not so sure about (b) for the reasons I have mentioned.

HON ATTORNEY-GENERAL:

Mr Speaker, I think what I said yesterday is now a matter of record and there is nothing more I wish to add to it as to the knowledge I have of the letter that was written or has been written and has been referred to in the House this morning. I said yesterday what my position was on that letter and that is correct, that is the position on it. I received this morning a letter from the Chairman of the Transport and Licensing Commission which invites me to correct a misleading impression I have given the House. Well, I have read the letter, I will be writing to him and I have no misleading impression to, correct. I have told the House what happened as far as I was concerned.

HON P J ISOLA:

Sir, the Chairman of the Transport Commission was here yesterday during question time. Perhaps the Hon and Learned Attorney-General will tell the House the nature of the Chairman's complaint to him.

HON ATTORNEY-GENERAL:

The Chairman, first of all, refers to two letters of which I do now have copies. This is the first time I have had them, I saw one letter this morning which the Hon Minister for Public Works has. He referred to the fact that I said yesterday I had no knowledge of two letters and I think only one letter was being discussed yesterday from my memory.

MR SPEAKER:

Certainly, only one letter was discussed.

HON ATTORNEY-GENERAL:

He goes on to say that my denial came as a surprise to him, I am paraphrasing this but I think I am giving the gist of it. And then he refers to a telephone conversation he had with me last week. He did have a telephone conversation with me last week and I think I adverted yesterday to the fact that I knew that there was a possibility of a Court action but I think I adverted to that not as being in the form of a letter but in some way I am sure I did advert and I have checked with my Learned Friend that there was a prospect of a Court action. But if I listened to every threat that I receive in the course of my job as Attorney-General, I would be asking to waive Standing Orders a great deal of the time, Mr Speaker, because frankly I would not have time to get on with the law drafting. I say that in general terms and I do not mean that in a personal sense against the Chairman of the Transport Commission.

MR SPEAKER:

I am sure that you are not insinuating that whatever was said in that letter that you received from the Chairman of the Transport Commission or whatever was said in the conversation the Chairman of the Transport Commission held with you was in the nature of the threat. Because as you have said that if you were to pay lip service to every threat that you received then you would not be able to do your job properly. You are not insinuating that you have received a threat from the Chairman. I think one should clear on that in fairness to the Chairman who is not in a position in this House to answer what you have said now. At least you can clarify the position if you wish to do so.

HON ATTORNEY-GENERAL:

I was venting my spleen slightly, Mr Speaker, but I did not mean that in any personal sense whatsoever. I appreciate that the Chairman of the Transport Commission has a view that what the Government has done is not legal but I would like to explain why I think that the law has not been broken. The Government is perfectly entitled, Mr Speaker, to make an agreement, it can come to a view as to policy as to what it wants to achieve and it can make an agreement with somebody. In this case as I think I said yesterday at question time the Government has made an agreement. The Government has made an agreement with an Association and that agreement has indicated a policy that the Government will follow, and it has indicated certain commitments given by the Association. As a matter of policy the Government wishes to be able to control the maximum number of public service licences specifically taxi licences that may be in issue at any one time. Under the present law it is indeed the function of the Commission to be able to say how many licences there shall be and therefore for the Government to sustain the agreement does not mean the agreement is illegal in the first place, Mr Speaker, but for the Government to sustain the agreement the Government must amend the law and this is what this Bill is doing. That does not mean the agreement

itself is illegal. There is a question, I appreciate, of outstanding applications at the time that the Bill, if passed, comes into operation. As Members well know, Mr Speaker, in some matters - and I am thinking particularly of trade licensing - where one brings an additional licensing requirement where a requirement did not previously exist, then it is normal and in fact a Bill before this House contains just such provisions, it is normal to provide a transitional mechanism so that people who have been carrying on that business can apply for a licence and will get a licence within a certain time, that is quite normal and it would be harsh if that were not so although it would not necessarily, in my view and in my experience, Mr Speaker, be undemocratic because I think there are some matters of policy which are so important that one might in some circumstances curtail existing rights to carry on business. But in any event this particular situation is not the same as the trade licensing situation because in that case what is happening is that people are already carrying on a business, the law is saying: "For the future if you want to carry on that business you must have a licence" and therefore the case for having a transitional provision is that much stronger. In this case what is happening is that people who have not got licences where there is an existing obligation to have a licence, have applications in the pipeline but they are not carrying on business already and that is not quite the same situation. It may, in effect, be inconvenient to have some applications that are part heard at the time the new requirements come in but, Mr Speaker, I think it is a question of balance. I think if it were not inconvenient or if the Government's policy was such that it felt it could make those transitional provisions then they could go in but I think the fact that they are admitted is not in any sense an undue infringement on democratic rights, I think it is a risk people run when they try to do something for which an existing licence is already required. The only other matter I would like to refer to, Mr Speaker, is the question of whether this legislation and perhaps I should not labour the point, whether it has been introduced in response to a threat and I repeat what I said yesterday, the answer is no. It is introduced because I appreciate that to carry that part of the agreement into force of course one has to amend the Traffic Ordinance because the law already vests that power in the Transport Commission. I disagree, with respect to the Hon and Learned Leader of the Opposition, that it is necessary to have legal sanctions or legal amendments to carry into force other provisions of that agreement. I will concede that there is one which I think must have legislative backing, section 64 does require an amendment in due course to the Traffic Ordinance but I do not think I see the nature of the agreement in the same way as he does so far as the rest of the provisions are concerned because it is quite possible to have an agreement which will work perfectly well and not to rely on any legislative backing for it and an example I can give I think is tobacco, the understanding with the people who sell cigarettes and there is no legal statutory backing there. The thing is efficacious by virtue of an understanding and I think that is the same kind of thing except on the two points that have been mentioned.

But the most pressing of those two points is the question of the maximum number of licences because in fact the fact that the Bill is being introduced shows that the Government is not acting improperly because the Government without a Bill cannot control the number of licences and I cannot see why the Transport Commission will want to go to Court because the Court would say if we did not have the Bill in force and the Transport Commission went to the Court, I think the Court would say: "With respect, what are you doing here? You are the Transport Commission, the Government cannot give you directions why do you want a declaration why don't you just go ahead and carry out your function?" That is what I think the weakness, Mr Speaker, is in the view taken by the Chairman of the Commission that the Government is already acting illegally and requires to be restrained by a Court action.

HON P J ISOLA:

If the Hon Member will give way. Why is it urgent to change the law to limit the number of taxis and not to change the law to introduce a second driver? Is it because of outstanding applications in order to quash them?

HON ATTORNEY-GENERAL:

No, that is not the case. To my knowledge that is not the case at all.

HON P J ISOLA:

But why the urgency?

HON ATTORNEY-GENERAL:

The urgency is so that the Government can lay down a limit because the Government has no legal powers to do it at the moment, I appreciate that. That does not mean that the agreement with the association is invalid, that is a separate matter but the urgency is to alter the law not so that the Government issues taxi licences but so that the Government can lay down policy guidelines within which the Transport Commission will work which is what the maximum number of licences is to be. In the case of the other point, the point as to the second driver, it is my understanding that there is no urgency about that at this stage but there will be action being taken. I think, Mr Speaker, I have dealt with the questions which were expressly raised. I would like to say I will be writing to the Chairman of the Transport Commission on the letter he has written to me but I wanted to let the House know that I have his warning and I have considered it and I am satisfied that what I said yesterday is factually correct.

MR SPEAKER:

Are there any other contributors?

HON MAJOR R J PELIZA:

Yes, Mr Speaker, I would like to say a few words because obviously I am going to vote against the Bill. Perhaps I should start on the question of the MOT which I think only my Friend referred to and the Minister when he opened up. This is an important matter, I think that the House gives careful consideration to. I think it is certainly going to affect perhaps the lower income group of Gibraltar mostly. I do not know if sufficient consideration has been given. It is indeed for the man who can hardly afford a car, quite a headache in that every year he has got to put this to the test or whatever period the Government may decide. In Britain it is every year. If it is not going to be done regularly you might as well not do it because the whole object of introducing the test is to make sure that cars on the road are safe. Therefore this is why I support the idea of having an MOT. But in doing so we must not forget the other side of the problem which has just been produced. A car is almost a necessity in modern life. Most working people now, thank God, do possess a car. It is those people who have the older type of car, cars bought second hand and so on and so forth. I think the Government must be very careful how much they are going to charge for those tests because the fellow who gets a new car and can always change it after two years is not going to pay a penny, he is going to be sitting pretty. It is the poor bloke who obviously has to buy a second hand car who is going to be paying for that. I would bring it to the notice of the Government that they should be very careful as to how much they are going to charge for those tests. Secondly, I think one has to be absolutely sure that these are carried out properly. Anything that is restrictive in this way can lead to corruption in that you can get through the MOT if I give £20 underhand. That is a fact and people are just hypocritical if they do not accept that this is so.

HON CHIEF MINISTER:

Is that what happens in England?

HON MAJOR R J PELIZA:

I am not saying it happens in England.

HON CHIEF MINISTER:

If the Hon Member will give way I will explain why I have made that interruption. Because there is an insinuation that we are going to start with something that is going to be corrupt and he has spoken about the fact that this happens in England. As we have not started it here and he lives in England perhaps he knows about it and he can tell us how to avoid it.

HON MAJOR R J PELIZA:

Mr Speaker, I have not insinuated anything. I am saying that anything which is subject to a licence of that nature, which has got to go through an inspection, is open to that kind of corruption. And the Chief Minister is just saying: "Yes, it is happening here now". Well, I am right then.

HON CHIEF MINISTER:

No, what is happening now is inspection.

HON MAJOR R J PELIZA:

Well, it could be happening in those inspections already and the Chief Minister does not know about it. I am not making any insinuations. The Chief Minister is putting words in my mouth. If he wants to make insinuations he can do that. All I am saying is that anything of that nature leads towards that and therefore all I am trying to draw attention to the Chief Minister is that when this thing is organised, this is what I am trying to say, care should be taken to ensure that that sort of thing can be prevented inasmuch as it can be prevented. Otherwise there will be questions in this House and perhaps he will get as excited over them as he has got excited this morning already, Mr Speaker, over a matter that had nothing to do with the public gallery and which I think he tried to make an issue of.

MR SPEAKER:

No, with due respect. I have warned Members over and over again. Will you please sit down and listen to me. I will not have reference by Members to the public gallery. It is not the practice and it is not allowed. Let us continue with the speech now.

HON MAJOR R J PELIZA:

Having dealt with that matter, Mr Speaker, I go now to the second point which is the one which seems to have taken most of the time in this House. First of all, I think the Chief Minister was totally irrelevant when he started. I have to make comments on that, Mr Speaker, because it is most unfair on my Hon Friend here who was in no way personal about anything and which the Chief Minister as usual, when he has no argument, the only thing he can do is become personal and make a personal attack on my Hon Friend which was totally unjustified, producing matters that have nothing to do with this debate, Mr Speaker, and for that I am sorry. I am very sorry because the impression is given outside this House that we are almost a "patio de vecinos" and that, Mr Speaker, is the last impression that we want to give to Gibraltar. We are here debating a serious matter, we may agree, we may disagree, but it is a very serious matter and I think, Mr Speaker, the Chief Minister's attitude in that direction has given a very bad

impression of how we debate issues in this House. Now I am going to say why I am voting against this Bill, Mr Speaker. I do not know the merits of whether there should be more licences or there should not be any more licences. I do not know about that, that is not the question we are debating in this House. Let us be absolutely clear that we are not debating that matter. The Taxi Association may be a hundred times justified, Mr Speaker, in trying to make sure that no more licences are given and perhaps they are right or they may be wrong, I do not know. I do not want to go into that question because I do not have the facts and in any case I do not think it is right that this House should make decisions of that nature because all that can happen is that at the end all we are seeking is votes and not doing justice and that is not good democracy. We are here to express a view in a democratic manner. Our main objection, Mr Speaker, is that there was a body instituted by the Government, a statutory body whose function was to look after these matters. They were doing it rightly or wrongly, that is for the Government to decide, I agree, and no one is quarrelling that if in their best judgement the Commission was not acting properly then action should have been taken by the Government to do what they think is best even in what they are doing now. The Chief Minister referred to my Government and I felt that in the nature of the Commission as in fact my Hon Friend Mr Bosseno said yesterday, there should be some rapport, some understanding between the Government and this particular trade. And because of that, Mr Speaker, I had a Minister as the head of the Commission which the Chief Minister said was wrong and then immediately said: "Let us take him off because this is not democratic". But then we hear later his deputy, Mr Speaker, the Minister for Economic Development, saying that they could not get on with the Commission because even when they wanted to have a little traffic island changed it took so long and they could make no progress and therefore it was no good having it that way. Obviously, the big mistake of the Chief Minister was not to follow up the precedent that was already established of having a Minister as the head of the Commission and then that understanding, that rapport, would have existed all the time without having to create the furore that has now been caused precisely because the link was not there. What do we see now? We see a violation of democracy and this is why I am voting against the Bill. Whatever we do we must stick to the rule of law. That is absolutely vital if we want to have democracy here in Gibraltar and as my Hon Friend said it was already violated in the Landlord and Tenant Ordinance. Already we have seen Government trying to avoid a decision taken by the Courts by legislating, jumping over the judiciary which is a very dangerous thing because today we are talking about the licences but any individual who has a licence today in the Taxi Association in other matters respecting his life may find that when he is trying to get recourse to a Court of law the Government comes along, legislates and he has no recourse in the Court of law. This, Mr Speaker, is why I am voting against. I am defending the right of those people who do not want to have the licences increased but this is not the way to do it. That is all we are saying. This is not the way to do it because

this undermines democracy in Gibraltar and this is why I am voting against the Bill. I am not going to go into the case of how this was brought about, whether the letter arrived or the letter did not arrive. What I am concerned is that here we have the Government having to suspend our Standing Orders to get through the legislation almost giving no time to anybody in Gibraltar to comment about it. There is no public debate on this issue, Mr Speaker. Today it is about the licences, tomorrow it could be about hanging for all we know and there is going to be no public debate in Gibraltar because once we accept the principle it starts eroding and this is the way people have lost democracy in other places. It creeps in, it is like the mouse that bites a bit of cheese, sees there is no trap and carries on nibbling and nibbling away. Particularly when a Government has been in power for so long. Mr Speaker, as the one in Gibraltar. This goes on, Mr Speaker, and if they feel that they can bulldoze in this matter particularly if they win the next elections, let us hope they do not if they do, then, Mr Speaker, God knows how the rights of the people of Gibraltar as they are being now, now, already on two occasions, this is the second one, being I think taken away from them. It is a very subtle way but it is there all the same. It is open to discussion but it is there all the time. The principles are very sacred and we have got to defend it. I was elected above all because I am a democrat and if I feel I am a democrat and above all this is what I will always defend. I have done it before, Mr Speaker, on the question of printing in Gibraltar where I felt very strongly that that could lead to the censoring and suppression of freedom of the press, of freedom of speech, of freedom of writing and it is on the same principles that I am speaking today. Nothing to do with the merits of granting the licence or not granting the licence. It is the principle of democracy that I am defending. We know that the Government is going to pull this through, there is no question about it, they are going to do it. Mr Speaker, I suppose the Transport Commission I don't know, will resign. If any members of the Transport Commission has any honour they will say: "Well, if they think that I am a trickster", which is what the Minister said here in this House, I think very unfairly because they cannot defend themselves here, I think he went a bit too far and perhaps he would like to withdraw that when he speaks today because I do not think it is fair to suggest that he was just being tricked. But, anyway, Mr Speaker, he still has time to retract it and I think he should do that elegantly as it would be in the interest of all concerned. The Government have still got time, the Government can pass this legislation but all I ask from the Government is do not introduce it today, wait for the next meeting. If the Transport Commission have taken so long to look into those things that are pending, they are going to take many more months, in fact, seeing the way the Government is behaving there will probably be no Commission so there is no fear of more licences being granted. If no more licences are being granted and this is what we are concerned with, it is obvious, this is the reason why this is being rushed through. It is very clear in this House both by the words that have been said and physically by what is happening

in this House today that this is the case so what I suggest to the Chief Minister in order to uphold the principles of democracy is not to allow this Bill to go through the other stages until the next meeting. That would be of great satisfaction to me and I think it will be a move towards upholding the principles of democracy.

MR SPEAKER:

If there are no other contributors I will call on the Minister to reply if he so wishes.

HON M K FEATHERSTONE:

Yes, Sir. We have had what might be called an interesting debate. We had, as I said, histrionics from the Hon Leader of the Opposition and a certain measure of spleen I should think. We have also had histrionics from the Hon Major Peliza. The Hon Major Peliza made some very interesting remarks about the MOT and the possibility of corruption coming in. This I think is a shocking thing to say. He might also have said that perhaps the granting of a taxi licence by the Transport Commission could also be open to corruption and this is something I know could not possibly happen. I think the suggestions of corruption by the Hon Major Peliza were very much out of place. We have had very great pride in our civil service in Gibraltar. There is to my knowledge no corruption in the way the relevant civil servant who takes you for a driving test, passes you or does not pass you, you do not flick him £5 and he gives you a licence. He is a responsible person, he is going to see that he is not going to jeopardise the general public for the sake of a few pounds of filthy lucre as it is known, and I am sure that the people who ultimately have the responsibility of passing vehicles for an MOT test are going to take the same responsibility towards the public at large. They are not going to allow vehicles on the road which are in bad and dangerous condition to everybody else using the roads and it shows how out of touch the Hon Major Peliza is with Gibraltar and things that happen in Gibraltar because it is not the lower income groups who seem to be the ones that go around with old bangers.

HON MAJOR R J PELIZA:

If the Hon Member will give way. I did not say there was going to be corruption, it is most unfair that he should be saying that and even dragging people who are taking people for the driving test. I think it is most unfair to act in that way and again I think the Minister is coming to a very low level. All I said was that the Government should take the necessary precautions to ensure that that will not happen. That was what I meant.

HON M K FEATHERSTONE:

Well, perhaps the Hon Major Peliza expresses himself in such a way that he is open to misinterpretations but he did bring in the question of corruption but I will accept his clarification. He should say what he wants to say in the first place and not to have to clarify afterwards. The people with the old bangers at the moment seem to be certain gentlemen who are resident in Gibraltar although they are not of Gibraltar or British Nationality and they are the ones who seem to have a lot of old bangers around the Casemates area but, be that as it may, the situation must be that the vehicles that use the roads in Gibraltar must be in good condition and an MOT test is the obvious answer to it. I was very heartened by the Hon Mr Dotto, I often call him Dotto I don't know why, the Hon Mr Loddo who wants to see that the traffic situation should be considerably improved even at the risk of strong measures. I hope when some of those strong measures will come to the House in due course we can count on his support because obviously it is an important thing that the traffic situation in Gibraltar should be as good as it possibly can be. The question of the taxi situation, it seems astonishing that the Hon Major Peliza says there has been no public debate. Does he want a public debate on each and every item that comes to the House, he seems again to be somewhat out of touch and if there is to be a public debate, well, this House is the place for it and the reason Standing Orders are suspended is because it is classified as a matter of urgency. I think we are going to be asked to have Standing Orders suspended once again

HON P J ISOLA:

Will the Minister give way?

HON M K FEATHERSTONE:

I think the Hon Leader of the Opposition is going to ask for Standing Orders to be suspended because he wants to put in a resolution.

HON P J ISOLA:

Can I ask the Minister why is it so urgent that it should go through all stages without giving an opportunity to members of the public who have feelings on it to make representations?

MR SPEAKER:

May I explain the Standing Order. It is not a matter of urgency that determines whether a Bill should go through its three stages on a particular day. It is a matter of convenience and it is a matter that can be done if all the Members of the House agree. If not it has got to be done on a subsequent day but there is no reference to urgency.

HON P J ISOLA:

I agree but the Minister is saying that it is going through because it is so urgent. Where does the urgency lie, is it the Court case or something else?

HON M K FEATHERSTONE:

I think once again we come back to the Court case. Government was not under any threat of a Court case. It was an application to Court and Government does not react to threats like that but as I have said it was Government's intention before April, following a suggestion by the Leader of the Opposition that we should have another look at the powers of the Transport Commission, that the decision was taken and as I said I wrote to the Transport Commission in April and I never had the courtesy of any reply. They were told in that letter, fairly and squarely, what the Government's attitude was and what they were going to do. The Hon Mr Isola said there should be enough taxi licences. Well, I quite agree with him but then he goes on to say there could be two or three or four or five more. On what does he base this arbitrary figure? Two licences out of 114 is not going to make any difference whatsoever. If we need to increase the number of taxi licences it will be at a time when there is a determinate need to make an increase and then it would be an increase that would be substantial, it would not be two or three. An increase of two or three will make no difference to the taxi service whatsoever. When one does determine to have an increase it is going to be something which will make a required improvement in the taxi service that has been proven. At the moment it is considered by Government there are sufficient taxis. It might be pertinent to note that the number of taxis per head in Gibraltar, even allowing for tourists, is one of the greatest in the world. But should the Lisbon Agreement come into force, should there be a tremendous influx of tourists from Spain, should there be seven or eight airlines coming in every day, then of course the Government would look at it and say: "Now it is obvious that there is a need for an increased number of taxis, let us increase by 10%, 15%, 20% to cover the need". But at the moment the situation as has been stated in the agreement it is considered as far as the Government is concerned there are sufficient taxis. That there may be a shortage in one place temporarily at some taxi stand for a time, this happens anywhere. I have been to London airport, I have waited ten minutes for a taxi. Obviously this happens at all times but with the improved service that the agreement has envisaged with the use of radio taxis, with the agreement that we have made with the improved service the taxis promise to give, then of course we hope that the situation will be as we would want it. I am told why don't we make regulations for the putting on the roof sign? Why don't we make regulations for the disc inside the taxi? If you make a bona fide agreement with somebody you presume that they are going to adhere to the agreement they have signed. If they do not adhere then you have recourse. Your recourse, first of all, is to say: "Look here, you have not carried out the terms of the agreement, what about it?" And if they do not take notice, then you can go to

regulations. There is no need to shove regulations down people's throats from the beginning when they have come amicably forward and signed an agreement and promised to do what is actually stated in the agreement. The Hon Leader of the Opposition says: "On what does the Government decide, on advice? On advice of who, on advice of the Transport Commission?" It is the Transport Commission which has been coming to the Government for advice on many matters dealing with traffic and transport. In fact, they have actually been seeking the advice of the Government and of the Minister concerned about the question of private hire cars. Well, if they have got the powers why didn't they take it into their own hands? Why haven't they given the 68 licences that have been on application for years? Is it just because there are two or three people at the moment being a little vociferous and pressing very hard for reasons best known to themselves that they suddenly want to take action? Two can play at histrionics. I do not think I said that the legislation was read in April nor do I remember saying that I would make a statement about the matter when the Hon Leader of the Opposition brought it up. I think what I said was that Government would look into the matter and would be coming forward with possible amendments but doubtless Hansard will tell us exactly what was said.

HON P J ISOLA:

If the Hon Minister will give way.

HON M K FEATHERSTONE:

No, I have given way twice..

HON P J ISOLA:

Mr Speaker, on a point of order. He has referred to something he said when his actual words were "assurance". He gave the House an assurance, it was a pledge to the House. He cannot now get up and describe it as a statement he made or something, he should describe it properly, surely.

HON M K FEATHERSTONE:

It was claimed that I said to the House that I would make a statement in due course. I think I gave an assurance that we would look at the situation of the Transport Commission and we would probably amend the law in due course and this would be coming when we are ready for it but, anyway, Hansard will tell that. I do not remember, I may be wrong, I am not infallible, I may be wrong, I may have said that I would make a statement. But if that was so instead of making a statement as such the situation is we have acted determinedly on changing the law and a statement has been made in the speeches of today. The question of clause (c), the introduction of a second assistant driver, the Hon Leader of the Opposition is

correct there will be need to further amend the Traffic Ordinance on this matter. If he wishes it, we can do it as an amendment to the Bill today in the Committee Stage but I do not think there is so much urgency because I will tell him for his information it has been agreed by Government and the Taxi Association that the introduction of a second assistant driver will be deferred for the time being until the situation so warrants it in the view of both parties concerned and when that situation does come the amendment can be brought to the House and passed but if he insists we can pass it today and then he can say we have shoved even more down his throat. I do not think there is much more to say, Sir. I have said that the Government is very appreciative of the Hon Mr Loddo's intervention. We are very pleased with his intervention and we do look forward to his supporting further traffic measures that we will be taking. Thank you, Sir.

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

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

The following Hon Members voted against:

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

The Bill was read a second time.

HON M K FEATHERSTONE:

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

This was agreed to.

THE MATRIMONIAL CAUSES (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Matrimonial Causes Ordinance (Chapter 101) be read a first time.

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

SECOND READING

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, it was only a short time ago that the report of the Select Committee on Matrimonial Causes whose recommendations this Bill would implement, were submitted to this House and in moving that the report be adopted I spoke at some length on the recommendation and I do not want to repeat myself. There are, however, two particular points I would like to refer to because I think they are rather fundamental points as far as this Bill goes. The first is whether or not the measures in the Bill amount to proposals for easy divorce. That is of course for Hon Members to deliberate on but I would like to reiterate personally that I do not believe that they are proposals for easy divorce. The Supreme Court will adjudicate on petitions and as Members who are familiar with the Court will be aware that lends a certain gravity to the proceedings, and the grounds on which a divorce may be obtained are, I think, carefully defined and tightly defined. It is true, of course, that it will be possible to obtain a divorce in circumstances in which at present it is not possible to do so and that is one of the major purposes of the Bill, obviously, but that is not the same thing as an easy divorce with the imputation that the word easy contains. The other closely related matter I would like to speak to, Mr Speaker, is whether or not the principles or the proposals of this Bill will have the effect of undermining the family as a fundamental unit in society because I think that is closely related to the first point and a very important one. It is a matter which obviously needs to be considered very carefully. I can recall myself that when the Committee was hearing evidence there was one witness, one distinguished witness, who made the point that the concern was not merely for the present but for future generation, or words to that effect. I think in any important matter or status, Mr Speaker, and that is what the law as to marriage is about, it is about status, individual status, I personally believe it is important to look that far ahead, to look to future generations and see what effect the proposals will have. But again while it is a matter for the House to deliberate on, I do not believe that the effect on this revision of the Matrimonial Causes Ordinance will be to undermine the structure or the fabric of the family. Also, I have reservations, I cannot put them any more strongly than that

because obviously I do not know enough about it and one has to be the expression of the sociologist, but I have reservations about whether legislation of this nature really has that effect in other societies. I say whether the legislation has that effect in other societies, there may be other causes. The purpose of the Bill is to grant relief where marriages have already broken down not to encourage them to break down. If it is true in other places that people do have an easier or a less committed approach towards maintaining their marriages and maintaining their families, then I do not really think that it is because the law has created a more casual attitude, I think the causes are deeper than that and Members may well think the same thing. I think that depends on one's social attitude, one's customs, one's religious convictions. And I repeat what I did say when I moved the adoption of this report, that it is very clear to me, I think it is clear to people from outside Gibraltar that have the advantage of living in Gibraltar for a time, that people here will not forego their social or their religious convictions and commitments to their families simply because a change happens to be proposed to the law as to Matrimonial Causes. Those are two particular matters I wanted to refer to, Mr Speaker, but there are other matters I would like to speak about which has been raised but they are matters of detail such as what is meant by the term unsoundness of mind, for example, and obviously they are more appropriate to be dealt with at the Committee Stage. I should also mention, Mr Speaker, and I think the Hon Chief Minister has already indicated, that the Government will not be seeking to have the Committee Stage of this Bill taken at this meeting of the House. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, I rise not to speak on behalf of my elected colleagues at all but to give entirely a personal view on the Bill before the House and in doing so let me express my amazement at the statement of the Hon and Learned Attorney-General that this Bill does not provide for easy divorce. Mr Speaker, I do not object, obviously, and I respect people's views for wanting to have the divorce legislation streamlined having accepted that legal divorce should be available and I can appreciate the logic of the Bill before the House but there is no question about it that the Bill before the House which is in many respects similar to the Divorce Reform Act of 1969 in the United Kingdom, is an avenue for easy divorce and I put "easy" in inverted commas because it provides so many grounds, although there is only one, irretrievable breakdown, but it provides so many grounds in which this can be found that it is a comparatively easy matter, Mr Speaker, to get a divorce. I agree that we have not got to the stage to which Russia got to

that you just lined up and you were divorced. Divorce by consent, fullstop. I agree we have not got to that, Russia did, then when they saw the effect on the family, they saw the effect on the State, they went back on it and now they have to do a little more to get a divorce than what they used to, as I understand it, I am not an expert on Russia, Mr Speaker, but please; please, do not say that this is not in effect providing easy divorce in Gibraltar. I can respect the Hon and Learned Attorney-General's view of his experience about Gibraltar and of him saying that in his view, having seen Gibraltar, having seen how strong the family is in Gibraltar, he thinks we have nothing to fear. I respect that view and I hope he is absolutely right for the sake of Gibraltar. But what I can tell the Hon and Learned Attorney-General that what he said that what he is saying is not proven, put it that way, by what has happened in other places where the family has been a strong unit or used to be, but which has been undermined by successive pieces of legislation allowing easy divorce. It is an opinion anybody can hold and I respect other Hon Members' opinions in this House on the matter but I think it is wrong factually to say that the Bill does not provide for easy divorce. Mr Speaker, the Government has brought this Bill before the House following a decision of this House in which by a majority of one on a free vote the House decided that the Report of the Select Committee on divorce should be accepted and approved and the Government had respected that decision. They said: "Well, it is a decision of the House and therefore the Bill is brought to the House, it is put on the Order Paper and the Government's Attorney-General proposes it". But, Mr Speaker, I hope we shall have assurances from the Government that having accepted the decision of the House, they will implement the decision of the House and the decision of the House in accepting the Select Committee's Report on divorce, Mr Speaker, involved accepting the whole of the Report and a very important part of that Report on which comment was made, I think by myself by Hon Members of this House, by Hon Ministers on the other side, was the vital importance of providing marriage counselling services, of the vital importance of giving marriages at the beginning a chance to succeed and certainly, Mr Speaker, if on the one hand you are going to have easy divorce or easier divorce, if that will please the Hon and Learned Attorney-General a bit more, it is equally important for the social fabric of the family in Gibraltar, that the whole of the Report should be implemented and that the Government should announce measures for a marriage counselling service and I hope we will hear from the Chief Minister the arrangements that the Government has in hand for providing this service to go alongside with the implementation of the law. If the Government has accepted the decision of this House to accept the Report of the Select Committee, they should accept the whole of it and not just implement the easy part, which is a Bill that was already drafted, and push it through without making provision for the more difficult part but an equally important part of the whole thing. I think it is the Gibraltar Women's Association have made reference to the importance of marriage counselling and, Mr Speaker, I would refer to paragraph 58 of the Select Committee's Report which deals with this: "The

view of your Committee is that Government should consider the provision and promotion of more marriage counselling services. To the extent that they are supplied or supported by the Government, they should contain, in addition to a nucleus of officials, provision for participation by other persons such as medical practitioners, psychiatrists, financial advisers, and clergymen. They should of course deal, as they at present do, with matrimonial problems, generally, and not merely those where divorce is likely. They could be considered by way of a specific extension to the Family Care Unit". I think, Mr Speaker, it is very important, although I am voting against the Bill, but I recognise it is very important if the new divorce legislation is going to go along the lines that the Hon and Learned Attorney-General hopes, the lines that a lot of the people who have supported hope and that is that it is going to merely provide for that nucleus of really hard cases that should be allowed to divorce, that it is very important that that nucleus of really hard cases should be kept to an absolute minimum and therefore I hope that the Government, I am sure they have made no plans for this I am quite sure but if they have I will be very pleased, but at least let us have an assurance that the Government will, as a matter of urgency since the Bill is not going to be taken through all its stages at this time, that the Government will announce at the same time as we take the Committee Stage and Third Reading at the next meeting of the House, announce the measures and the plans that it has for providing marriage counselling services so that the two can go hand in hand. Mr Speaker, I have given the reasons why I will vote against the Matrimonial Causes Bill and I do not think, frankly, I am going to repeat them. Basically it is my view that easy divorce provides a basis for an attack on the family as the unit of society and therefore anything in my view that attacks that basic and dearly loved concept in civilised society should be resisted and unfortunately because people have been persuaded of arguments that have been used with the Select Committee, that the Select Committee have used, have been persuaded of this, in other countries the rate of divorce has multiplied to an unacceptable degree and causing as a result huge problems in these societies. I mentioned Russia, I should not be very concerned of what happens there but I suppose we should, they are fellow human beings, the problems they have had there, the problems that they are having in England today and the problems, of course, in America where the family unit is now almost totally destroyed. What do we say, that human beings have changed over the years or is it that the sanctity of marriage, the sanctity of the family, the concept of it, we have not done enough to support. I was interested to receive, Mr Speaker, a broadsheet or something, I do not know whether other Members have got it, by people called Family and Social Action, Gibraltar. Anyway, they refer to "a political party has recently published a pamphlet on divorce" - I am quoting from it, in it they say: "It is apparent to us that the influence of the Catholic Church hierarchy has been an important factor in limiting grounds for divorce". The only thing I would like to say at this stage, Mr Speaker, to be absolutely clear on the matter, that my party has not issued any pamphlet on divorce because we are not agreed as to what the policy should be and I do not know whether the GLP/AACR have issued a pamphlet on divorce.

HON A J CANEPA:

The PSG.

HON P J ISOLA:

It is the PSG, I thought it was my Hon Friend here, he has not either. I just wanted to make that clear.

HON A J CANEPA:

That is not a political party.

HON P J ISOLA:

I think you just give yourself a name in Gibraltar and you are immediately heard. Because now I get this and I do not know who they are, Mr Speaker, but I do agree with some of the statements they have made, that is why I am going to quote from them: "And we say why not, 90% of Gibraltar is Catholic". I do not think that is particularly relevant. They complain that the proposed divorce Bill is more conservative than similar laws in other advanced European countries. But they make statements which I would advance and make my own: "Most of these so-called advanced European countries are now facing tremendous problems of delinquency and vandalism which are the direct result of broken homes and consequent one-parent families". They make that statement and they say: "Is this what we want in Gibraltar?" I would say, no, I agree with that statement. Then: "In one Housing Estate in the London Borough of Lambeth 40% of the flats are occupied by one-parent families. The estate is a muggers and delinquents paradise, not only old ladies but even grown men walk the streets in fear even in broad daylight. Is this what we want for Gibraltar? Easy divorce does not help to solve their problems, it only leads them to escape from them. Growing is facing problems not escaping from them, divorce leaves unhappy children. Is this what we want in Gibraltar?" I have quoted from it, Mr Speaker, because I think it puts my fears on the results of easy divorce, that the family units will be under attack and that if that happens then society as we know it could change not in one year, Mr Speaker, not in two years, over a period of years and having said that, Mr Speaker, I will say nothing more and say that I will oppose the Bill although obviously I will respect the views of my elected colleagues and other Members of the House. I am glad that the Committee Stage will not be taken until the next meeting of the House so that we can consider the Bill in some detail, I will have something to say on that, and also of course allow people to say anything they want to say about it or forever hold their peace. Thank you, Mr Speaker.

HON J B PEREZ:

Mr Speaker, I intend to make a very short contribution primarily because I think this matter has been debated ad nauseam and not only that, since I was a member of the Select Committee which looked into this and which in fact made possible this particular legislation which is before the House, really, my feelings on the matter are thoroughly contained in the Report which was debated in the last meeting of the House. However, I think I must comment on some of the points that the previous speaker has made to this debate. Primarily when he says that he is of the opinion and he thinks that it is quite clear that this legislation will in fact provide for easy divorce. I regret, Mr Speaker, that I do not share that view and the only thing that I would say to the Hon Member that is in fact clear as far as I am concerned, is the unfairness and the injustices which is produced by the present state of our legislation and I would just quote two examples which have been quoted before and that is cases of cruelty and cases of desertion. That there will be more divorces once I hope this particular Bill becomes law, of course there will be more divorces in Gibraltar. I think there can be no doubt about that but that, Mr Speaker, does not mean that the number of marriages that have broken down will be exceeded. I do not share that view in any respect because I do not consider that the Bill in any way will in fact encourage breakdowns in marriages. What I think it really does is it recognises those marriages which have in fact broken down to such an extent that there is no chance of the parties getting together and, in other words, the marriage has for all intents and purposes ceased to exist. I do not consider therefore that one should say leave the law as it is and quote statistics of the number of divorces, say, in the last ten years and pretend to be proud of those statistics because you can say: "Oh, in Gibraltar the family unit is very strong because you only have ten divorces in the last five years". That I think is totally wrong because you are not taking into account the actual number of marriages that have been broken down and I think the injustices which have been apparent on our present legislation I think has been accepted, I would say, by all Members of the House except perhaps by the Hon the Leader of the Opposition. This brings me to the second point that I would like to clear up. Mr Isola says that this has been brought into force by a majority of one. Well, Mr Speaker, that is not entirely correct because the majority of one was only concerned with the amendment to the motion which was moved by my Hon Colleague Mr Canepa and that was defeated by a majority of one. Following that the motion was in fact passed in this House and if my memory does not fail me I think there were six abstentions and everybody else voted in favour.

HON P J ISOLA:

If the Hon Member includes the Official Members of the House he is right, I was really talking about the elected Members who after all represent the people of Gibraltar and the Official Members do not.

HON J B PEREZ:

I am prepared to exclude the Official Members of the House. What I am saying is that the majority of one only came into force when my Hon Colleague Mr Canepa put the amendment to the motion and proposed the referendum. That was defeated by a majority of one but following that the motion was carried in its same wording. The other point, Mr Speaker, is that when Members spoke on the motion I would say that every Member except Mr Isola accepted the recommendations contained in that Report and therefore in no way can one say that this has been passed by a majority of one and that is all I wish to say, Mr Speaker.

HON J BOSSANO:

Mr Speaker, I will also not be taking up a lot of time because obviously there is little new that needs to be said on this subject on which we have already spent a lot of time. But I would like in fact to refute the analysis of the Leader of the Opposition and consequently to reassure him that his fears are unjustified and will not be fulfilled. I would also ask him therefore that in the future, if he accepts the validity of the argument, in looking at whether in fact what is happening is that the family unit is breaking down in Gibraltar or not, he should not do so by reference to the number of divorces granted which will inevitably go up, of course they will go up, and the fact that they go up does not mean that we are giving easy divorce or easier divorce unless the Hon Member says that it is easier to commit adultery than to beat up one's wife because in fact at the moment that is the reason for which one can obtain a divorce but the fact that in a marriage there can be physical violence of one partner and another is not a sufficient ground for divorce and if allowing people to divorce because of that is making it easier then he must think it is easier to do that than in fact to commit adultery but I do not see the logic of that analysis. I think the way to look at it, Mr Speaker, and it is the way that I would like him to look at it in order to reassure him that the danger that he sees happening will not happen is that if he accepts that today there are at least 100 families in existence who theoretically in law do not exist because one or both partners are in law married to somebody else. That is the situation we have in Gibraltar, there is in fact a very strong family life amongst separated people some of whom have got grandchildren by their second "marriage", which is a marriage in fact but not in law. That shows the stability of the family life in Gibraltar because in fact one would have thought that that would be an impossible situation to sustain and it has been sustained but all that we are doing, I think, is not increasing the rate of separations but in fact legitimising unions that have taken place after separation and really, Mr Speaker, the only ground on which one can justify the existence of divorce is on the grounds that the people desire to get married because that is the only reason why they need to be divorced really in order to get married. If they do not

intend to marry it does not really make any difference whether they are separated or divorced because it does not really change anything. I think the fact that all the evidence that the Committee had was precisely from people who felt that the status that they had of living with somebody with whom they were not married was something that they felt should be put right in the eyes of society because they felt it made social life and relationships with other people put it on a proper footing, shows the stability of the institution and the fact that some of the people who came to the Select Committee said that they were not prepared to invent stories to get a divorce shows that this is something that is not being taken lightly and that this is something that is responding to a serious need in our society and I am confident that time will prove those who support the Bill to have made the right judgement.

HON A T LODDO:

Mr Speaker, I will also be brief. There is very little that I would like to add to my contribution the last time we debated this. One thing I would say and that is that I do not believe for one moment that there is any other or there can be any other objection to divorce, let alone reform to the divorce law, other than religion and I will accept that. If on religious grounds you object to divorce I accept that and I respect it but that is the only thing I will accept as an argument against divorce. We have heard from my Learned Friend Mr Isola that in western society the divorce rate is going up at an alarming rate and he maintains it is because the law on divorce is easy. Mr Speaker, this is a chicken and egg situation. Is it because divorce law is easy that you have more divorce or do you make easier divorce laws because you require them, the demand is there? Mr Speaker, I believe that your divorce rate and your breakdown of marriage has nothing to do with the law that you have. I believe that the divorce rate and the breakdown of family life is to do with the society in which you live. If you have a very sophisticated, a very affluent society where material interests take precedence over anything else, then you have the breakdown of the family life. If parents are too preoccupied with going out to work not to make a living but to be able to afford two cars, a motor cycle, a video, three colour televisions and all that, that is when you begin to get a breakdown of the family. If you have a family unit where the children return home to an empty house at a very tender age when they need the parental control and the warmth of the home, if you have that situation then you get the breakdown of the family life and that will lead to divorce. Otherwise, Mr Speaker, I do not believe that divorce laws encourage divorce and if we are going to go into statistics, Mr Speaker, I will quote statistics. It is proved that a lot of marriages, in fact, the vast majority of marriages that break down the first time are a huge success the second time round. But, Mr Speaker, I frankly do not believe all the statistics I read or hear. Mr Speaker, I have nothing else to add, I will be voting in favour.

MR SPEAKER:

Are there any other contributors?

HON A J HAYNES:

Mr Speaker, I have a short contribution to make and this relates to a circular sent to all Members by the Gibraltar Women's Association on the subject. I think they have raised a very valid point in respect of the minimum age for marriage. In this respect I shall be moving, at a later stage, a further amendment to Section 11 of the main Ordinance which is Section 18 of the draft Ordinance which relates to paragraph 52 of the Report. I am sorry it sounds complicated, Mr Speaker, and in fact it is one of the other points I would like to make. I believe that an amendment as long as this one should really come as a new Bill in which you see both the old and retained parts of the Ordinance and renew amended parts of the Ordinance rather than have this constant to and fro between a draft, a main Ordinance and a Report and for assimilating purposes, I should say, it would be more convenient to have it all in one. Having said that, I will be proposing an amendment to what is Section 14 of the Ordinance, I shall be abstaining on the whole of the amended Ordinance for all the reasons given at the proposed amendment by my Hon Colleague Mr Canepa, at least in this venture, who asked for a referendum and to which amendment I still subscribe and I shall therefore abstain on the Bill as a whole.

HON G T RESTANO:

Mr Speaker, also a very short contribution. When the motion was first brought to the House by the Hon Mr Bossano I was of the opinion then that this matter should come for referendum, this is how I voted when the Report of the Select Committee was brought before the House and the amendment was put in by Mr Canepa and I still hold the view that rather than the House passes the law as it stands, the people of Gibraltar should have been given the opportunity in a referendum to decide how they wanted the divorce laws or if they wanted the divorce laws changed and therefore as I still hold that view I shall be abstaining on the whole Bill.

HON A J CANEPA:

Mr Speaker, I shall also be abstaining for the same reasons which the Hon Mr Haynes and the Hon Mr Gerald Restano have adduced.

HON MAJOR R J PELIZA:

Mr Speaker, I think I expressed my views previously, my personal views on divorce, and I am sure the House does not want to hear them again so I am not going to repeat them.

Nothing has happened since then, Mr Speaker, which has led me to change my mind as to my stand on the question of the people of Gibraltar having the final say on this matter and as that, unfortunately, has not been carried by this House I have no option but to use my almost protest vote by abstaining.

HON CHIEF MINISTER:

Mr Speaker, just a few matters of logistics and the Report. In the first place, no arrangements have yet been made with regard to extending the existing marriage counselling service which is provided under the Family Care Unit because a vote has not been taken on the Second Reading of the Bill and until that happens there would be no justification in doing that though, of course, the result is not unpredictable particularly as the statements of abstention appears to increase which means that the majority is likely to be higher. But, anyhow, not only is it intended to add to the marriage counselling services if the Bill is passed or rather arrangements made once the Second Reading of the Bill is passed if it is passed in the affirmative, but that I think that would not be sufficient to carry out I am sure the spirit of the Report of the Select Committee. I think the Government is certainly prepared to discuss with religious bodies for a common approach and design and their help as well as doctors and others provided in the Report, in order that the best possible counselling service particularly if volunteers are prepared to contribute it would be much easier and, of course, the Government will give the necessary support and will bring whatever votes are required before this House to provide that counselling service which I agree must go hand in hand with the enactment of the law. We have the whole of the summer recess in front of us for people to make representations on particular matters so that when we go to the Committee Stage the Bill comes out with the best possible results. There may be different views in different respects. The other thing, of course, is that it was natural that if the Report was produced by the Attorney-General and moved, it is an option that he should vote for it but in respect of the substantive Second Reading of the Bill I have directed that the two Official Members will abstain. It is our business, with the greatest respect to them, as to what happens and we do not want it to be said that we need the support of people whose duties are very welcome in this House but who really are not directly concerned in this matter other than to make sure that the Bill is a correct one from the point of view of the legal drafting and that we get the necessary advice as we go along in respect of the various sections to which there may be amendments to consider. The Hon Mr Loddo made two very important points. I won't go into the principles of the Bill, they were discussed generally last time but I am bound to say that I must agree with the Hon Mr Loddo on two points. First of all, that the society in which we live is the direct factor of the result of the break-up or otherwise of the home and apart from that being a statement which I think can be reasonably accepted and he has given particular instances of where it breaks and so on. There are

communities who have had divorce as part even of their religious laws, who have family units much closer than others who have fulminated against it. Finally, I think in reference to the second marriages I think he has been attempting, no doubt indirectly, to make good that famous statement by Oscar Wilde that when a man marries a second time it is the triumph of hope over experience.

HON W T SCOTT:

Mr Speaker, I also do not intend to keep the House long because we have gone through lengthy diatribes on at least two occasions dealing with the same subject, except to make a couple of points. The first, I think, is as a result of the Report and the draft legislation contained within the Report and the results that that had in the voting procedure of the House, the Government obviously was under a commitment to introduce the relevant legislation at an early stage and for that, I think, I am certainly grateful on two counts because I believe intrinsically in the principle of divorce and secondly because I was a member of that Select Committee. We are not talking here of party policy and AACR party policy, we are talking about Government commitment and I would have thought that the commitment of Government was to act collectively and in its collectivity have all the Members of the Government vote for this piece of legislation.

HON CHIEF MINISTER:

Perhaps he will explain it again, I do not understand the commitment.

HON W T SCOTT:

Government acting collectively and proposing this Bill to the House have the collective responsibility and the individual responsibility for all of the Members of Government to vote for this piece of legislation.

HON CHIEF MINISTER:

I am afraid the Hon Member is completely wrong. This matter has been put forward through as a matter of conscience. They will be having perhaps next week or the week after a debate in the House of Commons on hanging in which no doubt there will be a measure produced by somebody perhaps from the Government if it is the Government who are now saying that it was part of some of the people who took part in the elections attempting to reintroduce capital punishment and that will not bind the Government itself. I think the Government has a duty to accept the Report of the Select Committee and produce the Bill that the Select Committee produced. It does not bind the conscience of Members because it is brought by the Government because the Government is the machinery for producing the legislation. It will be a free vote on the Second Reading as it was on the Select Committee and there is no more reason why the Government

should be committed collectively than the Opposition should be committed collectively to oppose. I think the two things go hand in hand. I think that the position, with the greatest respect to the Hon Member whose remarks I always listen to with great attention and respect but I think he is slightly wrong there. The Government have got a commitment to carry out if there is a Second Reading positively, to carry out the recommendations of the Select Committee. That I have already stated and that was made by the Leader of the Opposition regards counselling services and the Government have said collectively, as the body to produce the build-up or the logistics for the counselling service that if the Bill is passed that will be provided, funds will be sought from this House to provide that service in order that the Bill will be backed up by the recommendations of the Select Committee. But let there be no misunderstanding about this, there are Members on this and that side of the House who have views and the matter has been taken from the first as a matter of conscience and it will continue until the end.

HON W T SCOTT:

I am grateful to the Chief Minister for that intervention, Mr Speaker, but I did say I would have thought, that is how I started, I did perhaps qualify. Also I drew a distinction between a Private Members' Bill and a Bill brought to the House by the Government because of the Report of the Select Committee. I think there is a difference between one and the other.

HON CHIEF MINISTER:

If the Hon Member will give way. There is a very great difference in that this arises out of a Select Committee in which Members of both sides are present and therefore it is not a Government measure, it is a Select Committee measure in which all parties were represented.

HON W T SCOTT:

But notwithstanding in fact what the Chief Minister has said, Mr Speaker, it is a Government measure and it is in the Order Paper as a Government measure although perhaps individually the conscience of the Members dictate the way they will vote. As far as I am concerned, the way I still read it it is a Government measure but however, there is only one further point I would like to make, Mr Speaker, in dealing with the whole concept of divorce as such. A point I think which might have been made before certainly in the House and it is contained within the Report and because of particularly something that the Hon and Learned Leader of the Opposition was saying when he was quoting from the pamphlet from the Family and Social Action. He quoted saying: "Divorce leaves unhappy children". With the greatest respect to my Hon Leader it is not divorce that leaves unhappy children, it is broken marriages

that does so and this is precisely the whole concept of this Bill and this Report and as we said in the Report in paragraph 39: "There are clearly cases in Gibraltar where the marital relationship between a man and a woman has ceased to exist". It is very categorical, Mr Speaker, and what we are trying to do is precisely to avoid the situation of having a lot of unhappy children. At least, if the marriage has broken down and there are offspring give the children a chance of a second parent, two parents not one.

MR SPEAKER:

Any other contributors? I will then call on the Hon and Learned Attorney-General to reply if he so wishes.

HON ATTORNEY-GENERAL:

Mr Speaker, I think there is nothing further I wish to add on the debate and I do not propose to make a reply.

MR SPEAKER:

Before I put the question I would suggest that perhaps we should have a division.

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

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

The following Hon Member voted against:

The Hon P J Isola

The following Hon 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 Zammitt
The Hon D Hull
The Hon R J Wallace

The following Hon Member was absent from the Chamber:

The Hon Major F J Dellipiani

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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.

SUSPENSION OF STANDING ORDERS

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move the suspension of Standing Order 30 in respect of the Control of Employment (Amendment) Ordinance, 1983. In doing so I wish to explain the reasons for this motion. The subject to which the Bill relates is one over which concern was recently expressed in this House. The Government is also aware of a measure of public concern about the subject. It was therefore desired to place the measure before the House at the earliest opportunity although the Government does not wish to take it through all stages at the present meeting but it does want to give Members the opportunity, as I say, to consider and study it rather than leaving its introduction to the autumn of this year. Sir, I move accordingly.

Mr Speaker put the question which was resolved in the affirmative and Standing Order 30 was accordingly suspended.

THE CONTROL OF EMPLOYMENT (AMENDMENT) ORDINANCE, 1983

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Control of Employment Ordinance (Chapter 33) 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 beg to move that the Bill now be read a second time. The Control of Employment Ordinance was intended, and I think it is widely recognised as having been intended, to require employers to obtain work permits to employ staff to undertake clerical or manual or similar work unless the workers are residents of Gibraltar. As Hon Members will be aware some employers have sought to circumvent the scheme of the principal Ordinance by engaging staff and appointing them as company directors for whom the requirements of the principal Ordinance are not intended to apply and do not apply. These workers were then engaged on manual or clerical work in the same way as any other employee in such a capacity. Mr Speaker, their appointment in these circumstances as directors is plainly a device.

The function of a director in a small company as well as in larger ones is to direct the affairs of the company, for example, to make decisions as to the course of its business and in smaller companies also to perform the function of management whereas in bigger companies those functions are sometimes separated. But the workers with whom this Bill is aimed at are in no sense directors of companies, they in no sense perform such functions. The amending Bill is therefore intended to prevent an abuse of the present principal Ordinance and of the scheme of the present principal Ordinance. I may say that personally I do not agree, it is a matter of legal opinion I think, but my own personal legal opinion is I do not agree that the device of appointing a worker as a director necessarily makes the employment of that worker without a work permit legitimate and in point of fact my Chambers have certain actions in hand which will put this in issue, will test this, because I think the law does distinguish between the role of a director and the role of an employee and I think the law also recognises that a person who is a director can also perform the functions of the employee and may be acting in two separate capacities whilst he is doing each thing. Be that as it may, the Government considers it desirable to put beyond argument the principle in the main Ordinance and that is why this measure now appears before the House. The amending Bill defines who is a worker and it also defines who is employed as a worker. It has to define who is employed as a worker because when you look at the principal Ordinance where it controls his employment as a worker, there is nothing wrong with a person being a worker privately on his own account and not for profit, what the Ordinance is concerned to control is the employment of the worker. This amending Bill defines who is a worker and it further defines who is employed as a worker. The definition provides that if in fact a person is employed as a worker it will be immaterial that he also holds an appointment as a director or as a principal in a company or a firm and in order to draft widely or any other position which is not the position of the worker and that is really the main point of the Bill. It would be a mistake, however, not to recognise that there are many small companies which have persons who are bona fide directors and those bona fide directors do from time to time undertake necessarily and I think quite reasonably, clerical or manual functions in the same way as I said before that in a smaller company the director sometimes undertakes management functions, I think in a very small company of necessity they sometimes do undertake clerical and manual functions. A typical example is where you have a family shop which may very well be incorporated for reasons of administrative convenience and financial reasons, and the husband and wife may be directors of the company and at the same time they may very well be employees of the company working for a wage and the work they do may be clerical or it may be manual work, not in any sense director work. The other consideration which I think is important, Mr Speaker, is that we do have the situation of offshore companies and directors of offshore companies may from time to time come to Gibraltar and those companies may be of such a size that they do not want to have to employ separate workers and they may from time to time want to do work of a clerical or a manual nature as reasonable incidence of their

directorships. The Bill does not think to hamper the activities of these persons, these bona fide persons by requiring them to submit to the scheme of the work permit, that is not the intention of this Bill. On the other hand in order to administer the more stringent definition which the Bill seeks to put into the Ordinance, I do think it is reasonable in this instance and I know that one has to be careful about shifting burdens of proof but in this instance to make the scheme workable I do think it is reasonable to put the onus on the particular employer to be able to show if the issue arises that a person is a bona fide director or a principal of the firm and that the work that that person is doing is a reasonable incidence and a normal incidence of his function having regard to the small size of the business, and I think that genuine directors will have no cause for concern in the administration of these requirements. If I can just be clear on that, Mr Speaker, what the Bill is proposing to do is to say on the one hand we define workers so explicitly that we make it clear that the fact that you are a director does not release you from the obligation to have a work permit in respect of you, that is the general proposition. Then in order to cater for the case of the genuine director I have referred to, the small company director, the offshore director of a shop, you say that a person by way of defence may show that he is not breaking the law if he can show that he is in effect a bona fide director who is doing something reasonable and incidental to his business. The opportunity has also been taken in presenting this Bill, Mr Speaker, to deal with one other matter of proof. I mentioned before that the scheme of the Ordinance is to control the employment of workers, and that means that in a prosecution one has to prove that a person holds employment which can be a difficult thing to do, it can be easy enough to prove that a person does certain types of work in fact but it is another matter to go further and say not only does he do those types of work but he also stands in an employee relationship in doing them and the Bill therefore contains the provision that where the prosecution in a case under this Ordinance proves that a person is doing the kind of work which is described in the Ordinance as the work of a worker, it is up to him to show that he does not stand in an employer/employee relationship. Mr Speaker, as Members are aware it is not intended to take this Bill through all its stages at this meeting. It has been prepared as a matter of urgency because there is an area for concern but I think the Government's view is that it is important that Members should have due time, of course, in which to consider the proposals and it is therefore intended to deal with the Bill in Committee at a later meeting. Sir, one other matter I have mentioned which is not really concerned with the principles of this Bill but with your leave if I may refer to it. The Government is also aware, of course, that this is not the only area of concern, there are other areas which the Government is presently looking at. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON P J ISOLA:

Yes, Mr Speaker, I wish to speak. We are supporting this Bill but we find it thoroughly inadequate as not dealing with the main problem it wishes to deal with and that is foreign labour working in Gibraltar under one means or another and I think it is appropriate that I should get up and speak on behalf of the Opposition in this matter to illustrate the difference between a lawyer acting as a professional man and giving advice and a lawyer who happens to be a politician and I am sorry that certain Members of this House do not appreciate that distinction and I would refer to the Minister for Economic Development and my Hon Friend Mr Joe Bossano as well. Let me make it absolutely clear to Members of this House that until we have full-time Members of the House, until we have full-time Ministers, full-time Members of the Opposition, we cannot prevent people carrying out their calling and a lawyer, unfortunately or fortunately, has to deal with a great variety of problems dealing with workers, dealing with great capitalists or whatever and a lawyer would be failing in his duty, Mr Speaker, if when asked for advice he gives distorted advice or refuses to give it. He should not be a lawyer in those circumstances. I told the Hon Member when he made the remark that I was undermining the position of workers. I did make the point to the Minister that perhaps he should have looked to his right, to the Chief Minister who is also a practising lawyer and also has to give advice to clients and the left to the Minister for Labour who happens to be in business and whose company has also been involved in these matters.

HON CHIEF MINISTER:

I am afraid the Hon Member is misinformed.

HON P J ISOLA:

Well, I am going to say what I have been told by a Government official.

HON CHIEF MINISTER:

I am not here to defend the Minister for Labour and Social Security. If he were here he would be able to do that himself but let me warn him in any remarks he makes about this that there may be a misconception about the Minister for Labour having anything to do with the building company of which at one time he was the director and in fact, manager. He has ceased that function a long time ago although it may not be generally known. The rest, I am not going to interfere what the Hon Member says. Let the Minister be here and let him

answer for it, I am not going to do that. I just want to make that statement because it may be a clear misapprehension which might avoid more acrimony later on.

HON P J ISOLA:

Mr Speaker, I am grateful to the Hon and Learned Chief Minister for his remarks but I can assure him I was not going to say much more than what he will hear I will say only as a means of illustrating the problem that there is under the Control of Employment Ordinance. And to my Hon Friend Mr Bossano I would say, I will deal with the Minister for Economic Development in a minute, my Hon Friend Mr Bossano I recognise that he is a union official and he is paid for what he does in union circles. For example, we have the situation that we only talked about yesterday of the Power Station where he is as a union official rightly fighting for better terms for his members but as a politician in this House he must look aghast at what that site is costing the general body of taxpayers, £1m so far. But I will not criticise him for carrying out his function

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. I think he should stick to facts. I cannot possibly be aghast at what is being negotiated or discussed in the Steering Committee costing £1m because in fact no decision of the Steering Committee has cost a penny to anybody. The Hon Member has already accepted, I think, that point. Whatever money is being spent as far as I am concerned is not the result of any payment made to anybody over which the Steering Committee has got any control other than the Chairman which I voted against and he voted in favour, in fact.

HON P J ISOLA:

Mr Speaker, I assure my Hon Friend that I take the point he makes but he must be aghast, for example, possibly at the inability of the Steering Committee probably through the intransigence of management of coming to an agreement which as a result is causing the Government to have to come to this House and vote something like £1m to keep the Power Station going. It is unfortunately the conflicts that arise in our everyday life. I agree the Minister for Economic Development has no such conflicts, he is fine, he just has his job and he is a Minister and he goes to the beach when the civil servants finish, he goes as well, fine, that is his position but I do not think you can say that is the position of any other single Member of the Government or in the Opposition and this is unfortunate. I am not free, Mr Speaker, to say 'give the advice I gave in the matter', I am not free to say it. It would be a grave breach of professional privilege. What I am free to say is that I was asked for advice and I gave the advice on the law as it stood with a particular situation put to me and I cannot say, unfortunately, what I said but what I can say is that the action was taken because of another

situation about which a Government official informed those whom I advised, where Spanish workers were putting marble up on a building in Convent Place and the Government official told me or told him rather and he reported to me, that they had been advised by the company lawyers, and I must mention and I hope he does not mind but this is what I was told, J A Hassan and Partner, that because the company was trading from Spain there was no way by which the Government could stop the workers working because they could not bring the Spanish company in Spain to Court for a breach of the Trade Licensing Ordinance or whatever and he was told "the Government is urgently considering this matter". That was before anything happened on appointments of directors. I know lots of people have appointed directors, I was picked out, my firm was picked out because it made good political sense. Lots of people have done it but it was only done because I was told if that can happen, if the company that was doing Convent Place, and I am measuring my words, is reputed to have connection with a certain Minister in the Government although the Government were very worried about it and they were sitting in Council of Ministers about it, they are not going to prosecute me if I do this, that was the story. I was told, Mr Speaker. But I only tell that story (a) to ask the Minister for Economic Development to measure his words when he is making accusations of undermining the workers' position in Gibraltar and instead of making those accusations produce legislation - they have had enough time, this has been three months or four months overdue - produce legislation that actually meets the problem because it is not just a question, Mr Speaker, if we are thinking, and I think that is what we would all want to do, if we are thinking of protecting the worker substantially in Gibraltar and I think we all subscribe to that and I think the Hon Mr Bossano subscribes to that, if we are thinking about that then a more careful look should have been taken at the legislation than has clearly been done and not just bring a Bill that deals with the question of directors and does not deal with the problem of Spanish firms in La Linea sending their workers into Gibraltar to fit out cupboards or to do work in Gibraltar and because there is no employer about, the Labour Department cannot do anything about it and to stop individuals who are coming in undermining Gibraltarian females who do housework by working in houses on their own and a question was asked, I think, by one of my Friends on this side of the House, a question was asked about how many people are coming in every day, did Government keep any check on that precisely with that in mind? Mr Speaker, the amendment that has been brought to the House only deals with directors and does not deal with the major problems that are affecting the industry and I think that that is a matter for great regret, that these problems have not been tackled and have not been dealt with. I really think the Hon Mr Bossano has great power and he knows it. The People came up with a headline and with a story and that is the hole that has been plugged. Perhaps if the Hon Mr Bossano had said nothing, nothing would have happened, I do not know, but the fact is, Mr Speaker, that this legislation is inadequate and for the Hon and Learned Attorney-General to say it has been prepared in a rushed way when the matter was known back in April, three months, Mr Speaker, and the question of a

company in Spain having their own workers working at Convent Place and putting up the marble there, presumably they were the only specialists who could do it because that was the argument used in the other place - I do not know whether that is the one - that nothing has happened, Mr Speaker, and that was before the problem of directors. I personally think the decision this House has to take is to make it an offence for a worker who should be holding a permit to work without a permit. That is the amendment that should have come to this House and then include in the definition of "worker", director, manager include anybody under the sun and then how can a company in Spain then send workers to do marbles in Convent Place or send workers to do a cold store or people coming in to do work part-time in the streets or in the houses or in the lorries or anything. Make it an offence, Mr Speaker, for a worker, make it a requirement not just as against the employer, keep that requirement, do all that, but let a worker who is required under the Control of Employment to have a permit before he can work, let him be required to hold a permit and then, Mr Speaker, I know the problems of enforcement they are very great because I completely understand the position of the Government and the Labour Inspectors who I understand are on industrial action on this issue, I do not know, I heard it last night in a party. I can understand the Minister for Economic Development and Trade say it is impossible, you would need 1,000 labour Inspectors to catch everybody, I can understand that. I can understand the problems of enforcement in practical terms but at least have the requirement there in law. I do not know, Mr Speaker, if it is constitutionally possible to do this. I would have thought it was because if workers from outside coming to Gibraltar require a permit, I would have thought it was. Keep out EEC nationals I can understand that position, but I am surprised that the Hon and Learned Attorney-General should say that this is the only problem, when everybody knows that the problem is much vaster, much vaster than that and it is not tackled in this Bill. All this Bill tackles is directors and in tackling that I know he is getting into more problems and I heard him say and I was very interested to hear that remark, Mr Speaker.

MR SPEAKER:

Heard whom say?

HON P J ISOLA:

The Hon and Learned Attorney-General say that in his view the question of directors, he was not so happy that they did not require a permit. He was not so happy that nothing could be done without changing the law, I heard him say that, and that in his Chambers they were looking at it. Well, let me tell him a secret, I am not either. So it might have been a good thing for the Government to have had a go, I do not know, but what I am saying is that if what we are trying to prevent is not just, Mr Speaker, a loophole for people getting a few people in to do work, not that, but what we are trying to prevent is a general invasion which is very much on the cards

unless Government passes legislation, which is very much on the cards, then the legislation that should have been brought to this House, Mr Speaker, is something to meet that situation and I cannot believe that it is not possible to do that in law. I can believe there are tremendous problems in enforcement. For example, the trade licence was extended yesterday and I asked can one man run a business of plumbing? Would an ordinary man who works part-time require a licence? And it may be in the interest of workers generally in Gibraltar, I know a lot of them do part-time work in plumbing, in painting, to require the licence and give it, well not give it, you have a Trade Licensing Committee but that is another way of stopping a man because if you find a Spanish worker, for example, working on his own, painting a house, well, where is his trade licence, if he has not got it you arrest him or you amend the Trade Licensing Ordinance. I know there are a lot of problems, Mr Speaker, but what I am saying is that the legislation that is coming is inadequate to deal with the problems that are occurring today and the example I gave of Convent Place in Gibraltar is one that has repeated itself, I know, for a fact. A firm in Spain sends five people here, who is the employer? John Smith SA of La Linea. So you go and tell him, you prosecute him, apart from the fact that the Foreign Office would throw its arms up in despair and in horror at the thought of moving across, apart from that, Mr Speaker, they cannot do it, they just cannot do it, they are not within the jurisdiction and what has to be brought to this House is legislation that deals with this realistically, Mr Speaker, and we will support in this side of the House, ruthlessly. That has not been done with this Bill. All this Bill has done, in my view, is to highlight the position of the Leader of the Opposition. It seems to me the only purpose in it. Fair enough, if you want to do it, I have said my position, if I get asked for advice I will give it without fear or favour whether I have got 2,000 people outside the House or not and if I did not do that I should give up both in politics and in my profession, Mr Speaker, and I am sure the Hon and Learned Chief Minister will say the same thing. We are not going to be covered but as a politician, Mr Speaker, as the leader of the DPBG, we accept all legislation, we encourage legislation that will protect the position of the Gibraltarian worker in Gibraltar to its greatest degree as it can be protected and we think for those reasons, Mr Speaker, that this Bill is inadequate, we won't stand in the way of its going by, but certainly we are going to give thought, Mr Speaker, and I am glad in a way that the Committee Stage is going to be taken at a later stage because we will give thought to making amendments unless the Hon and Learned Attorney-General assures me that he will be doing it, we will give thought to moving amendments at Committee Stage in this House that really meet the problems that have arisen and have been highlighted by my Hon Friend Mr Bossano's newspaper. But I do not think he had to do it because I think it has happened, from my information, in a great number of cases all over Gibraltar and it is continually happening and I think that requires measures and we support such measures but this does not do that, it is just directors, Mr Speaker. A lot of people would think twice before making

somebody a director of their own company, there are consequences as no doubt the Hon and Learned Attorney-General knows and other Members well know, if there is an easier way of doing it I think they would opt for an easier way and therefore, Mr Speaker, I would urge the Hon and Learned Attorney-General that at Committee Stage we either change the name of the Bill, not calling it Control of Employment, call it Control of Labour Ordinance, and bring in amendments that effectively deal with the problems that we are facing in Gibraltar with this particular aspect of the matter. Thank you, Mr Speaker.

HON J BOSSANO:

Mr Speaker, it was very interesting to hear the Hon and Learned Leader of the Opposition drawing the distinction between being a lawyer and being a politician. I certainly hope that in the future if that is his thinking he should be able to extend that to the distinction between a trade unionist and a politician because I have spent ten years interrupting him whenever he has told me that how can I not take a line here which is the policy of the Transport and General Workers Union who employs me and I have had to interrupt him to tell him that I am employed by the TGWU to do a job of work and that the policies that I reflect in this House are the policies on which I was elected to the House. But I could not see how I could actually come here, Mr Speaker, and propose a piece of legislation and then go out of here and advise those affected by the legislation to strike against it, that I could not see. As far as I am concerned my role here politically is in fact a commitment to socialism which is the same commitment that makes me work for the Transport and General Workers Union and in the Transport and General Workers Union I seek to defend the rights of workers and the interests of workers in their relationships with their employers and in this House I seek to introduce legislative changes which will enhance the position of workers in society and if there was a conflict I do not think I could do it. I do not think I could serve competing interests outside and inside the House but I do not think that I am here elected to the House of Assembly to further the interests of my employers any more than any other Member of the House is. I would accept entirely that the Hon Member would say that he is not here to propose measures of legislation which will give privileges to his clients or to his business, that I accept entirely, but I do not see how in fact he can disassociate the two things to the extent that, for example, he proposes a way of closing a loophole and then he says that it is perfectly legitimate for him to advise somebody how to get round that loophole, then why then close it in the first place, unless all that we are doing in the House of Assembly is creating business for lawyers who then tell people how to evade the laws that they introduce here. I assume we are doing more than that.

MR SPEAKER:

Avoid not evade.

HON J BOSSANO:

The nuances escape me sometimes. I accept that he has been put in a difficult and I think an embarrassing position and I think perhaps his client should have had more sensibility and recognise that they should have gone to somebody else perhaps in the office to get advice but that is another matter altogether. Let me say that I agree entirely with the other point that he has made. I think that although the question of the directors quite frankly is what inflamed most, I can assure the Hon Member, the Gibraltar Trades Council who considered this, was because in fact it seemed and I can tell the House that professionally I also dealt with the firm in question and I was told in no uncertain terms that they were getting very good legal advice and that in fact if there was any attempt by the Trade Union Movement to interfere physically with the work there would be an injunction and damages and lawsuits against the Trade Union Movement and I do not know where they got the advice from but in fact it is not inconsistent with some of the advice the Hon and Learned Leader of the Opposition has given the Government on occasions on how to deal with unions. Although I cannot vouch as to the source it is not altogether surprising but I can tell the House I was told that quite categorically and I do not mind saying it because in fact I will say it to the person's face, the director now. I think the reaction that we had there which was the reaction that was reflected in the people was because it seemed that whereas in the cases that we had reported previously to the Gibraltar Trades Council and the Trades Council had made representations to the Government and so had the employer, in fact, I think the building in Convent Place which was being done by Dell Construction had a marble facing on it put by Spanish workers who apparently supplied and fixed the marble, when that was brought to the attention of the unions and the unions made representations, the workers had come and gone but I understand that previous to that, in fact, Mr Anes who is in that line of business and was facing competition, wrote I think to the Government and possibly to the Leader of the Opposition but certainly by the time he brought it to the unions and the unions went to the Labour Department the marble was up and the job was finished and the people had gone and in fact the reaction from the Labour Department was in fact the reaction that the Hon Member has said, that the workers themselves were not breaking any law, that in fact the employer was breaking the law and that you could not prosecute an employer that is not in Gibraltar and I am not even sure, in fact, whether the law says what is the actual relationship of employer/employee if the person who puts up the marble or the person who put up the roof in the building in Waterport is in fact paid in Spain and employed in Spain and sent out to do something here, I am not quite sure whether strictly speaking he is employed in Gibraltar at all. I can see that the Trade Union Movement in fact has been demanding action on this particular point from the Government but it is not easy to see how it can be done given these complications but we have got, I would have thought, enough legal minds in this House of Assembly, Mr Speaker, to be able to find an answer here if an answer is available at all because

presumably it is a question of drafting legislation that will catch everybody. In the past the question of issuing work permits to workers, for example, has been resisted by the Labour Department primarily, I think, on the grounds that that would give people permanent employment rights in Gibraltar, that is that if in fact the person at the moment, the control of immigrant labour, is through a system of quotas based on an industrial distribution and therefore if there are 400 jobs in the construction industry the individual worker is not confined to the construction industry, he does not get a construction worker permit, he does not get any permit at all, the employer gets a permit to employ a carpenter and tomorrow that carpenter leaves that employer and moves to DOE and provided DOE has got a work permit to employ an immigrant carpenter there is no problem so there is flexibility within the grade that the immigrant worker is and irrespective of the industry in which he works but the control is through the employer because we are controlling the size of immigrant labour in that particular sector of industry. I imagine if you move to a situation where individual workers get a work permit to work in Gibraltar then either you would have to have a much bigger machinery in which case they would have to hand in permits and take out new permits every time they change from one area to another of employment or you would have to do away with the quota system breakdown and have a quota that says 3,000 immigrant workers irrespective of what they are doing and irrespective from where they are and then it would just be a question of saying what is the maximum of immigrant workers that we allow in Gibraltar at any one given time. I can see that creating problems for employers in terms of the distribution of skills because you might then have a full quota and they might not be the people for whom there are vacancies but you cannot fill those vacancies because the quota is already full with people whose skills are not required anyway. I think the argument, in fact, that has been put by the Labour Department that shifting the permits from employers to employees means a completely different system of control is in fact an accurate objection in that I am not saying that it is impossible to do but it requires a completely different machinery from the one where you have got now three Labour Inspectors visiting 100 firms in Gibraltar. You will never do it like that. I think that we need to do, perhaps, something which puts the definition and the onus of responsibility on the place, perhaps, where the person works because presumably if somebody is coming out, for example, to put marble in Convent Place and we cannot prosecute the person who sells the marble well, let us prosecute the person who bought the marble but I think to prosecute the workers for not having a permit is irrelevant. What are you going to do, arrest them and put them in Moorish Castle? They will go the next day and that is the end of it, they will never come back again and the next time they will send another group of workers to put the marble and you are going to be chasing the 7,000 unemployed in La Linea in turn until you have been through the lot of them? Apart from that I can see that even that would not be seen with very benign eyes in the Foreign Office, if we had a long string of

immigrant Spanish workers coming across the frontier and ending up in the Moorish Castle every day. I can really see that it is the customer at this end who should be required to ensure that the contract that he gives out just like the Government itself, the Government itself as part of its condition of issuing contracts requires that the person tendering for that contract has got the necessary permit and is paying the necessary rates of pay. I think that we must think of extending that so that private clients in the private sector and I think they have to accept that, Mr Speaker, because I think the thing that annoyed me most about a situation like this and in fact I can tell the House that I told that particular person where we had quite a lot of harsh words to say to each other, is that the businessman that uses illegal labour because it is cheaper, when he finishes his building would still expect that he should be protected so that his customers buy from him and they do not go over there and buy the stuff cheaper and I think that we have got to accept that we are all in the same boat and the same law must apply to all of us and I accept that people must be persuaded to buy in Gibraltar but then the suppliers in Gibraltar cannot expect to enhance their profit margins by they sub-contracting to firms in Spain who can come in and do a cheaper job and I think it is important to put a stop to this because in fact although there is a great deal of concern I do not think the practice is as widespread as it could be but I think if it really snowballs because I think a lot of people are sitting by the sidelines and seeing what are the repercussions politically and socially and in a number of respects because I do not think it is just a question of breaking the law it is also a question of getting a lot of adverse publicity that perhaps may worry some firms that might consider bringing in labour from outside. I think they are waiting in the sidelines and if they think that all that is going to happen is there is going to be a lot of hot air in this House and nothing practical is going to be done to stop it, then there could really be an avalanche and then I can see both a serious threat to employment in the private sector and a serious threat to the survival of a lot of small businesses who if they lose a bigger chance of their turnover than they have already lost, that might be the thing that breaks the camel's back and tips them over the edge so that their overheads and their other costs swallow whatever remains of their business and they just left without and in particular, Mr Speaker, we are facing today a situation in the construction industry with what happened to the development programme and with the lack of confidence for private investment in the private sector because nobody is quite sure what is going to happen with the frontier in the long term and what its implications are, we are really facing a situation where the construction industry has shrunk to such an extent that if it shrinks any further we would then be faced with having to ask Spanish contractors to come to Gibraltar otherwise it would be impossible to get any work done because there would be nobody left here to do it. I really feel that this is one of the most serious steps that we need to take and although I myself do not like the idea of it being delayed till the next meeting

of the House because of the urgency, I prefer quite frankly, that that loophole should be open for another three months if necessary and then closed definitely once and for all than we should half open it and half close it and then have to come back in a year's time and have another bash at it.

HON MAJOR F J DELLIPIANI:

Mr Speaker, the Hon Mr Bossano has highlighted some of the problems that the Department of Labour has in the question of control of employment because that is the only powers that we have, on control of employment, but I think that the question of alien or foreign workers working in Gibraltar must be closely tied with the immigration side and unfortunately immigration borders on the Foreign Office affairs matters. I would like to see a stamp which was put on my passport when I went to the Commonwealth Parliamentary Association in Bahamas which said I must not engage in any occupation and that is the kind of stamp that we need in Gibraltar for everybody who comes into Gibraltar, gainful or otherwise, because they might say that they are not being paid. In the Bahamas stamp it said "gainful occupation" but here people are so clever that they come in and they say: "But we are not being paid". That is the kind of stamp that we have to have in Gibraltar but unfortunately it is not within our powers and I cannot imagine the Foreign Office allowing us to put that kind of stamp. So we have to do things within the limited scope that we have in the Control of Employment Ordinance and by plugging as many loopholes as we can in the Control of Employment Ordinance and also in the trade licences because in the case that has been mentioned on the question of the marble the Spanish firm wrote to the Department of Labour requesting permission to put up this marble because it was a supply and fix contract and the Department of Labour passed that request on to the Trade Licensing Authority to see if those people could do it, whether they had a licence to trade in Gibraltar, and the Trade Licensing Department, as far as I gather, wrote to the Spanish firm because the Spanish firm were quite open about it, they wrote, they did not sneak in through directors or anything like that. They wrote quite openly saying that it was a supply and fix contract and they asked permission for the workers to put up that marble and the Department of Labour realising that it could be a matter of trade licensing passed it on to the Trade Licensing Department. I gather the Trade Licensing Department wrote back to the Spanish firm saying no. If there is one thing they are not good at in Spain is in their postal services because I remember sending a Christmas card early in December and I met my friend in March and he said: "I have just got your card today", when he came over to Gibraltar. The firm came here without any permission but without receiving the letter saying no. The position of our inspectors, and I was involved with the inspectors, was that they could not do anything because the people who we were acting against were over in Spain. There is no legislation against the employee. I am not very sure but I will look into it. I think under the International Labour Organisation there is not much you can do about fining employees for this kind of

breach. I think it is against the International Labour Organisation Convention. I think whether it takes two or three months to do this Bill we have to do something and I agree with what the Hon Leader of the Opposition has said that there are other ways and means of coming into Gibraltar and doing work without being a director but the directors thing was highlighted because it was so flagrant that the people were not directors and this is what annoyed people. I was not pointing at him or anything like that and I have not, I have not said a word against him, I have not said one word against him. The other question of the marble did not annoy people so much because they were workers, they never claimed they were directors, this is the difference.

HON W T SCOTT:

It highlighted it.

HON MAJOR F J DELLIPIANI:

I think that what we need to do is to control the trade licensing part. We are not doing this solely because of Restsso, we have been wanting to do something about this for many, many years in respect of other members of the community who have been trying to do this and getting away with it. I have been working on this since I got there in 1981 because I have many problems of people trying to get into Gibraltar especially in a situation where we have unemployment. We could afford to get anybody in Gibraltar before but now we have to look after our own people and the people who have served us well over many years and let me make it quite clear to the Hon Leader of the Opposition. When I went into politics in September 1976 I sold my company, Dell Construction, to Messrs W M Lynn in 1976 so I have no shares in Dell Construction Company Limited. I have nothing to gain, I am like my Hon Member here, a full-time politician. What I am trying to get across is that there are loopholes to every law but what is important here is that we have not got the best form of controlling labour into Gibraltar and that is the foreign affairs connection. If we had that same right which the Bahamas has, which Bermuda has, which New Zealand where my Friend the Attorney-General comes from, I got that stamp too when I went to New Zealand and I was there on the CPA Conference, that I could not engage in any work. That is the kind of thing we need in Gibraltar but can you imagine the Foreign Office allowing us to put that stamp? Never in a million years. We have to try within the means that we have available and we must try and convince the Foreign Office that if we do not deal with this there won't be any jobs for Gibraltarians especially if they go on and close the Dockyard. That is all I have to say, Mr Speaker.

The House recessed at 1.00 pm.

The House resumed at 3.05 pm.

HON W T SCOTT:

Mr Speaker, I have paid particular attention throughout the course of this debate today to all the contributors and it seems to me that there are two things that stand out like a sore thumb. The first and this is irrespective of what the Minister for Labour and Social Security said earlier this morning that he had been looking at this ever since he took office in 1980 and it seems to me to be rather a poor result for three years work where it covers, I think, half a page. This amendment seems to cover, Mr Speaker, only one aspect and that aspect has been gone into at some length by the Hon and Learned Leader of the Opposition earlier on this morning but it omits sadly other aspects that I think every Member of this House is concerned with and rightly worried about. It does not, for example, cover companies that have employees but where the jurisdiction is outside of Gibraltar and my Hon Friend on my left this morning said how invidious or perhaps even impossible it would be to summons a worker, one of 7,000 I think he mentioned, because these people can continually come in on a daily basis. They come in once then perhaps they are either thrown out or prosecuted or whatever and then they are replaced by other people but I would suggest to him that the word spreads round like wildfire and if it is necessary to protect the Gibraltar worker, the worker in Gibraltar, to that extent then it is right that we should take those measures as well where the worker himself can be prosecuted if it is to mean that by doing so we are protecting the resident worker in Gibraltar. Mr Speaker, I also look at this with the background of the over 100 youths that we have unemployed in Gibraltar. I look at this because there are other loopholes, as I understand, where a number of shops in and around Main Street have already clandestinely employed young Spanish men and women and by doing so they do not create those vacancies or give the young Gibraltarians, man and woman, the opportunity of filling up that vacancy for whatever reason the employer might or might not have but this is something that has to be plugged as well, Mr Speaker, because my information is that as soon as a small company or a small shop is found to have employed clandestinely a Spaniard without any work permit the matter is reported to the relevant Department of Government, that is the Department of Labour and Social Security, whereupon a Labour Inspector goes to the premises, sometimes on occasions he might find the worker still there, sometimes perhaps the owner of the shop having had pre-warning advises the worker to leave but in any event there is a report that is made by the Labour Inspector to the Department concerned and I know it has happened and I know it has continued to happen up to a short while ago but I see no evidence of any prosecution which I understand under the Ordinance I think it is a maximum of £500 penalty. I see no prosecution, Mr Speaker, having taken place and this is sad for Gibraltar because we might spend a lot of time here going through legislation of this nature and other legislation and yet the law is not enforced and I suspect, Mr Speaker, that perhaps the Labour Inspectors have adopted this industrial action precisely because what they do has not been implemented and has not resulted in any

subsequent prosecution by the relevant department and I think we are all wasting our time here, Mr Speaker, if we are going to talk at length on items of this nature to protect the Gibraltar worker if the law is not enforced and I would like at some stage either from the Hon and Learned Attorney-General or perhaps the Minister for Labour and Social Security who sadly is not here and I will give way readily.

HON ATTORNEY-GENERAL:

If the Hon Member will give way, Mr Speaker. May I ask what the Hon Member means by the relevant department?

HON W T SCOTT:

The relevant department of Government which is responsible to carry on the process of prosecution to the relevant business concerned. Mr Speaker, looking at that factor of the youth unemployed I would have expected that to have been contained here to protect the youth because this is an increasing problem that we have in Gibraltar and Members on my side of the House have been fighting now for quite a long time in addition to this, when an amendment to the Control of Employment Ordinance was first asked for by Members of this House some time, I think it was in the March meeting and again yesterday because we have a two-tiered approach here, this is a youth training programme as well as the Control of Employment Ordinance and these figures of the young unemployed people are rising every month, they are continually rising and they are at the highest figure certainly that I can remember shortly before the school term ends. God knows what that figure will be come September when there will be all the school leavers who have not been able to find a job registering as unemployed through the Youth and Careers Office. Mr Speaker, the other point I think which has been laboured by a number of Members this morning was the one dealing with how can you prosecute a company, an employer, that does not trade in Gibraltar, that is not resident in Gibraltar? Well, Mr Speaker, I do not know, it is up to the Government and perhaps the Hon Attorney-General but a simple solution to me certainly would be to define the word "employer" within the Control of Employment Ordinance and that is to define it to take in a customer because he is the man, he is the entity ultimately responsible. It is the customer at the end of the day that is going to pay for the goods or the services given and that is the man, that is the entity, that is the company that has the overall responsibility. Whether it is Dell Construction or Restsso it does not really matter but they have the ultimate responsibility and I would like Government to seriously think about this in re-defining the word "employer" within the context of this particular Ordinance. Another thought occurred to me, Mr Speaker, when these Spaniards are employed here, whether it is in Convent Place or whether it is at Waterport, it does not really matter, but I wonder what would happen if an accident occurred which involved a member of the public. Whether the original building company, the original contractor, who is presumably

covered through a public liability policy as he ought to have been in law, whether that would cover workers who are not registered workers in Gibraltar. Finally, Mr Speaker, I do not think I ought to let this occasion go by without saying two things. The first is when I originally posed the question in May, in fact, and again yesterday it was the Minister for Labour and Social Security who replied to my question and I would have thought it would have been his responsibility to introduce this amendment and not the Attorney-General so perhaps I might have an answer to that. The second, and I am not given, Mr Speaker, as I think all the Members of the House are well aware, to personal attack but when a personal attack is made to a Member of my party and I think the Hon and Learned Leader of the Opposition is very much capable of looking after himself but on occasions like that it would be less than fair if one would not jump to his defence as well and rightly so because this morning the Hon and Gallant Major Dellipiani said that, I think he said it was in 1976 that he had severed his connection with Dell Construction and I think the expression he used was that he was no longer a director or had any shareholding.

MR SPEAKER:

No, he never mentioned either shareholding or directorship. He said he was not interested in the company and that he received no financial gain but I do not think he either mentioned directorship or shareholding. He said he had no connection with the firm.

HON W T SCOTT:

Yes, he did say that at a later stage that he was the same as Mr Canepa, a full-time Minister. Well, Mr Speaker, I would have liked him to have been here to hear what I have said and perhaps his colleagues will repeat it to him. I have evidence, Mr Speaker, of his signature or what looks very much like his signature on a Dell Construction Company cheque dating back only a few months ago and I think he ought to be given an opportunity to answer that and perhaps expand on what he said this morning, I think it is only fair.

MR SPEAKER:

Are there any other contributors?

HON MAJOR R J PELIZA:

Yes, Mr Speaker, I would like to say a few words and I would like to start by tackling an issue that took considerable time this morning on this particular Bill which is due to the conflict of interests of Members of this House since it appears that the matter has been hastened because a Member of the Opposition was involved in his professional capacity with a company that acted in a manner that precipitated the Government to try and take steps and protect labour in Gibraltar, a

protection I think which this House is unanimous on and the only difference is to what extent should we extend that protection and make it as effective as possible and I think on that we all agree. The only thing that strikes me as strange is that whilst one side of the loophole which has come to light is being plugged the other side of the loophole which has also come to light is being left as it was and unattended to and that obviously I think calls for some explanation and explanations which up to now have not been satisfactory from the Government side and I think the Government should be more explicit as to why it is impossible or they think it is impossible to plug the other hole because the arguments they have used so far, in my view, are not convincing and I will address myself to those arguments in a moment. I think I should start first of all on the question of conflicts of interest. It is a known fact, Mr Speaker, that for as long as Members of this House do not have to resign their work whilst they are in Government, which is much more serious than being in the Opposition because after all in Britain, even in Britain, Members of the Houses of Parliament are not required to resign from their own occupation so we might say that on this side of the House we are totally free from that side of the problem. It is the Government which is the one that really carries the burden in that respect in that in every democracy that I know of I think Members with Ministerial responsibility have to resign their other occupations and of course Members of the Opposition as in Britain have to declare our interests although that is not compelled by law and we have Mr Enoch Powell in Britain who totally refuses to do that but Mr Enoch Powell is always on his own in many issues and one has sometimes to admire the courage of his conviction even if we disagree with him on many things. But, anyway, Mr Speaker, dealing with the conflict of interests. If it is going to be impossible for a member of the community to stand for election unless he is going to resign his other occupation it is going to be almost impossible for anybody to be able to stand for election because, by and large, people have a family. If you have a profession or engage in any other kind of work it is obvious that there are times when he is going to change hats particularly, I think, in the case of barristers and lawyers that is very obvious and it is not something new. I remember the famous case of the lighthouse when we had, I think it was the Chief Minister on one side and the Leader of the Opposition on the other and I do not know who was standing for whom and who was looking after the interest of the Government or who was what. Mr Speaker, it is not something that has suddenly arisen and it is something that we have with us today and it is something that perhaps we shall have to live with for many years to come. I would like to see, of course, as soon as possible, Members of the Government having to resign their other interests, I think this is absolutely vital. But that is moving away from the point, Mr Speaker, I will not labour it any more only to say that certain insinuations have been made that the advice that my Hon Friend gave to his client was perhaps that he should go ahead and act in the best interests of his company. One does not know, in fact, if that is what he said. Obviously he is not going to divulge here

what he said but one does not know whether he said that, perhaps he said, and this is possible: "I do not think it is in the interest of your company to do that because even if you save a few pounds" - or whatever it may be - "your name is not really going to gain very much by doing so". It is possible that that is the advice he may have given. It is also possible that the company did not take that advice. So how can we here accuse anybody of giving advice of that nature when we cannot get to the facts. I think it is unfair to do that and I suggest that anyone who had it in mind or made such a statement should withdraw it because in conscience he cannot say it and in fact I believe that perhaps that is what he said because if you look at it logically it is what an intelligent lawyer would have told his client: "Don't do it". This is what an intelligent lawyer would have told his client because in the long run he stands much more to lose. You have seen it, the name of that company has been bandied around and I do not think it is worth really whatever he might have saved, it is not worth the goodwill that he has lost. There are many clients in Gibraltar who know what the products are, lots of workers who may well black, put it that way, products coming from that company because it was of course wrong that he should have done it and as we can see it is so wrong that we are supporting legislation to stop it and the very barrister who advised his client is acting in his capacity as a Member of this House to make sure that this does not happen again and that no client can refuse the sensible advice that perhaps he gave him not to act in this manner. But what does the client do? The client looks around and he says: "Mr so and so, you tell me to do this but look around at the other companies, they are doing it, they are getting away with it, it has been going on for some time now, your advice is wrong, no one is going to put my name in the newspapers". Little did they know, of course, that being a client of Mr Peter Isola his name would appear in the paper not because of him but because somehow it was getting at the Leader of the Opposition. That is the true situation of the case, Mr Speaker, that is the true situation of the case. We now see that the Government, according to the Minister for Labour and Social Security, have been aware of something like this going on. The Minister said so earlier, since 1981 he said: "I have been trying to find out how to plug this hole", since 1981. There is a lot of poverty of imagination in this Government to have been since 1981 trying to find ways and means of stopping this and then say: "even now we can only plug one hole". And we find the reasons that they give being listed one after the other. He said: "If I could only have a stamp which says one is not allowed to engage in any activity in Gibraltar, in any gainful activity or taking any job or doing any work, that would be the answer". I do not think that would be the answer because no matter how many stamps you put on passports unless, first of all, there is legislation to prevent a person from doing it one way or another he is going to take little notice of that stamp. That stamp by itself means nothing yet if we have legislation even if we have not got the stamp it means a hell of a lot and so I would, quite honestly, not advise the Minister to

give a lot of thought to the question of the stamp but I think I would give advice to the Minister to think very carefully how to go about to prevent this. Suggestions have been made in this House, I think we must agree that the onus, if there is no other way or even if there is another way we can also make it so, that the onus must fall on the person who knowingly engages a person who is not authorised to work in Gibraltar because, first of all, even if it is going to be difficult to find the individual either because he is working and we do not know who he is or the other person because we do not get to know or there are ways and means of shading it up, the fact remains that he would then be committing an offence and that in itself would be a deterrent to lots of people and we would not have people saying then: "If so and so and so and so are doing it I cannot see why I should not do it", even if the advice of the lawyer is that he should not do it because then the lawyer can tell that client: "That is against the law". I think he would be a very stupid client who would act against the law knowing the consequences. So I would say that the Minister should give reflection to this. I agree with the Hon Member that the other stages of the Bill should be put off, they should try and extend the protection and I would say that is one point that I would do, place the onus on the person who engages labour directly or indirectly. The other thing is of course I would also include labour itself, the individual who is coming and working without the authority to do so. I think he, too, should be put in. We are told it is very difficult to have sufficient inspectors to go round. Well, there again, Mr Speaker, he then knows that he is breaking the law so that is partly a deterrent. Secondly, we must realise that if the workers of Gibraltar come to understand

HON J BOSSANO:

If the Hon Member will give way. The argument that I have heard used against this, in fact, against the question of making the worker responsible is that at the moment workers are not given permits to work in Gibraltar. I would like to have his views on that because that seems to me to have been the strongest arguments used against. At the moment the permit is held by the employer and if a worker loses his employment he loses his right to be in Gibraltar. You cannot just apply this to people across the frontier, obviously, it has to apply to everybody which means you would give 3,000 permits to the 3,000 workers who are here and the permit would be held by them and not by their employer and it is a completely new system.

HON MAJOR R J PELIZA:

Well, I cannot see that being an insurmountable difficulty because just by having a duplicate of that permit or an attachment which can be torn off and one is kept by the employee and one is kept by the employer, I do not see that insurmountable. I think it should be possible to be able to let the individual have sufficient evidence to show to the person who is employing

him, at least he could do so, say: "Show me your permit", and the permit could be produced and he says: "Yes, I am working for so and so, I am just working part-time for you but I have authority to work in Gibraltar", and that in itself would probably even overcome the question of part-time workers.

HON J BOSSANO:

Mr Speaker, it is not a question of being handed a copy, that is not the problem. Anybody can be told that he must have a copy of the work permit. What I am saying is the law does not in Gibraltar require workers to hold work permits today, it requires employers to obtain work permits and therefore if an employee leaves his employer the employer then returns the work permit to the Labour Department but the worker does not have a permit which he holds himself. In a situation where you give the worker a permit which is an alternative system, then in fact somebody working for him, for example, could tomorrow get a job somewhere else and move away with his permit and he would not be able to employ somebody else unless that somebody else had a permit as well whereas at the moment, in fact, I think the system benefits employers and I think he has to understand that there is a fundamental difference.

HON MAJOR R J PELIZA:

I follow what the Member says that at the moment the permit for the individual to work is given to the employer and therefore when the employer ceases to employ him or is dismissed for one reason or another, the worker ceases to have that permit.

HON J BOSSANO:

And the right to be in Gibraltar.

HON MAJOR R J PELIZA:

And the right to be in Gibraltar, correct. I still believe the same situation could hold in that all that happens today, and this is the way we are protecting labour, is that an individual who is working for an employer who ceases to be employed by that employer has to leave Gibraltar. He has no right to work in Gibraltar. Would that be right?

HON J BOSSANO:

Yes.

HON MAJOR R J PELIZA:

That is right. So therefore if he has this duplicate which he has from the employer it is a way of him showing to any person that he wants to work for that at least up to then he has the right to work in Gibraltar. If he is dismissed by his present

employer he would have to surrender his other side of the work permit so it would be impossible for that employee to go anywhere and say: "I have the right to work in Gibraltar". "Alright, show me your permit", and he would say: "Well, I am sorry, I have had to surrender it because I ceased to work for so and so". I may be over-simplifying the problem but I think that there is a basis there on which perhaps the Minister could look at and I cannot go into the details but I do not believe it is insurmountable, I think with some imagination ways could be found in which the onus is not only placed on the person employing labour, directly or indirectly, but also I think on the employee himself if that is at all possible. I think it is vital, Mr Speaker, that this should be done and we should not because we feel that it is going to be difficult to actually trace the people who are doing this that we should not do our possible best. It is obvious, therefore, that if the Gibraltar worker or those working in Gibraltar already are interested in protecting their own livelihood and I have no doubt that they must be, and if they are aware that there is a law which does not allow people like that to come in and work, I think we shall have lots of people who would complain to whoever it is that the complaints have got to be taken to, to say: "I have seen so and so who is working there. He has not got a permit". And then I would not think it is all that difficult for whoever is the inspector to knock at the door and say: "I believe that you have one person working here", or whatever it is and then, of course, finding out whether that is the case or that is not the case. I do not believe that that can be impossible and I go further, this is important for Gibraltar and as time goes by it is going to be all that more important. I do not believe it is only important for the worker only it is also important for the employer in Gibraltar in that the employer in Gibraltar obviously has got to abide by local standards which we all want to adhere to, it is in the interest of everybody not just for the worker or the employer and of the community as a whole that our standard of living is kept up to a certain degree, and is not brought down to the level of our neighbourhood through cheap labour. This is vital, it is so important and this is why I am asking the Government to go back and reconsider that they have been doing this since 1981 and that now I think they have come with something which is at half cock because obviously they have not given the matter the consideration it deserves and I would suggest without any further ado, they withdraw this bit of legislation, go back, have a good rethink, forget about conflicts of interests because if we start thinking on those lines everything is going to be wrong. This is why this piece of legislation is that way because it was wrongly couched right from the beginning and the moment you start putting all sorts of ulterior motives behind things you finish up not doing the right thing. I would suggest they take it back, have a good look at it again, you have heard the views of the Opposition, I think I can speak for Mr Joe Bossano, I believe that he would like to see this re-enforced. I believe the Government itself would like to see this re-enforced because it is in the interest of everybody. I do not think there is such a

hurry, there might be a few more directors who are prepared to take up spades and picks and shovels. I suggest therefore there is no immediate hurry, take it back and then come back again.

HON MAJOR F J DELLIPANI:

There is, I think, a bit of confusion with regard to work permits. The system we have now on work permits is that the work permit is given, as explained by Mr Bossano, to the employer. No employer is supposed to employ any alien unless he is an EEC member without a contract. The problem arises almost daily in the fact that when the employer makes out a contract he immediately thinks that he is covered. He makes up a contract for somebody and the employer is under the wrong impression that the contract has been approved, legitimised, the chap can start work immediately. That is not the system. The system is that if an employer needs an employee he is supposed to advise the Labour Department that he wants a particular foreign national who is not an EEC member to work for him and he does this by announcing a vacancy. If there are no Gibraltarians or permanent residents in Gibraltar or unemployed aliens who have worked in Gibraltar and who are not in employment, if there is no one in that category and that vacancy cannot be filled and there are numbers enough within the quota which has not been taken up by other employers, every industry has its quota of alien permits, then the chap is sent back to the employer, the employer fills up the contract and the contract is submitted to the Labour Department. The Labour Department then looks at the contract and, first of all, looks at the conditions of work, the wages that he is going to be paid, where he is going to stay, his permit of residence, they need to know whether the Medical and Health Department have allowed this to happen, whether he has got good accommodation, etc, etc. If we introduce the system that you are suggesting where the employee has the permit, and sometimes the union side puts that argument, there are certain pitfalls in that, first of all, if I am employed with you and I dismiss myself I might be within that quota of that particular industry but not of this other industry and I go there and there is no quota for that particular industry, this is the problem. The other thing is that we always require where there is a movement of employment between an employee of one employer and an employee of another employer for another contract to be done and this gives us the opportunity to check where his permanent residence is, to check whether he is still living in the same place, whether the place is still up to the normal health standards and once an employee has in his possession a work permit it will be very hard to trace because there would be no need for contracts or anything like that. I think it would be more difficult to control. The law as it stands now is that if you are not an EEC member or a resident of Gibraltar by way of employment because you have been employed here for some time, you cannot employ him without our permission so that is illegal already. Even if you sign the most marvellous contract giving the chap \$1,000 a week and only two hours of work a week, that contract is not valid until it has been

approved by the Department of Labour and comes within the quota that we have allowed in the Manpower Planning Committee. And let me say one thing on the Manpower Planning Committee of which I am the Chairman and in which the Hon Member, Mr Bossano, also serves. The idea of the Manpower Planning Committee is to try and control the labour coming into Gibraltar so that we encourage the existing labour that we have to work in different areas which have been untouchable before by Gibraltarians and since I have been Chairman of that we have cut down the number of permits, probably the biggest record that we have ever had, but I do not always agree with what the Hon Member has to say and with what the representatives of the Chamber of Commerce have to say because at one time I overruled both of them because they both said: "You do not need any more labour", and I said: "Yes, we need more labour for the Power Station", and that was the only time I have ever gone against the decision of the Manpower Planning Committee. I think I was right in that and I was probably right because none of them resigned and they normally would have all resigned but they knew me to be a hawk on the question of the control of alien workers and I think that is why none of them resigned, otherwise they would have resigned. The other point I would like to make is that the Hon Member Mr Scott, brought the question of conflict of interests in my case. To me there is no conflict of interest whether he received a cheque signed by me from Dell Construction. I said I sold the shares of Dell Construction in 1976. That company was bought in 1979, part of the contract of my selling Dell Construction was that I had to stay for three years with the English chap who bought the company in 1976. In August 1979, I went on holiday to Portugal and I came back and I found out that I only had one more month to go to complete my three-year contract. I came back and found that the company had been sold to a local business concern. I immediately approached the local business concern and said: "You have done something daft, this company is in ruins. It owes £19,000, if I had been here I would have strongly advised you not to buy it", because there was a £19,000 loss. The chap then employed a manager who used to be a Clerk of Works from the Public Works Department and he asked me whether I could stay on as the signatory of the company because he did not know this Englishman and I said I would because it had my name and I wanted to take away all these debts that we had. I immediately went to my Chief Minister and I said: "You know I have sold my company. My contract was due in September 1979, I have been asked to stay on as signatory and I have been offered £500 a month, but I do not like the idea of getting paid for anything I do because I think it would inhibit me in the way I would work because having been used to being my own employer I did not like to work for anybody else". And the Chief Minister advised me that there was nothing wrong in getting paid £500 a month for being a signatory but I said: "Thank you, Sir, for that advice, I still will refuse to get paid". That is why I say that there is no interest for me in Dell Construction because I have no remuneration from Dell Construction and I have never had any remuneration from Dell Construction.

HON P J ISOLA:

Is the Hon Member saying that he signs cheques for nothing, is that it? So his only connection with Dell Construction is that as a favour to the present owner he does all his cheque signing?

HON MAJOR F J DELLIPIANI:

That is right and I was offered £500 for that and I told the Chief Minister and the Chief Minister said there was nothing wrong in doing that and I said: "But I won't do it because I think that I might be inhibited in what I have to do". I do not like the idea of anybody being on top of me and this is why I said I had nothing to gain because I have nothing to gain, I am quite honest about it.

HON P J ISOLA:

You must love the new owner if you sign the cheques.

HON MAJOR F J DELLIPIANI:

No, I love my company because I have men working there who have been working with me since I started the company in 1973. That is my interest and that has always been my interest, the name of what was my company and the men who are still working there who I employed in 1973. Another dilemma that we had in the Labour Department with regard to the directors of the famous building in Waterport and the marble facing in Convent Place is that because I am a hawk I was tempted to say: "Well, let us get some money out of them. Let us try and make them pay social insurance. Let us try and do something about the income tax", until people who are quieter toned than I am said: "If we do that all we are doing is legitimising their stay in Gibraltar. If we accept the chap paying social insurance, after thirteen weeks he can stay in Gibraltar forever". This is what stopped us from trying to react in my hawkish way because I said: "At least let us get something out of them, social insurance, income tax, whatever". I was advised that if we did that we would legitimise their position in Gibraltar and it would make it more difficult to get rid of them. So we had that dilemma that if we did it officially by making them pay social insurance, etc, etc, we would legitimise their position. I still think that this is better than nothing. Whether we can improve it further on, yes, but at least this will alleviate the situation somewhat. There are other loopholes which I mentioned. I have mentioned the question of trade, that is another loophole. There is another loophole which the Hon and Gallant Major has not realised and I know and this is why I am talking about trade licensing all the time because I do not believe there should be a schedule saying what you need to trade in because, for example, an electronic engineer, if I repair television sets, I could be an alien from the Philippines, come to Gibraltar, register myself as a trading company in repairing television sets and

then there would be nothing to stop me, I do not need an employment contract if I am a registered company and there is one Moroccan who has done that already, he has opened up his own business to repair television sets. That is another loophole. We find another chap coming and saying that he is this kind of expert and he will open up, if it is not in the schedule, he will open up another trading business on a one person basis and he won't pay any social insurance, he won't pay anything, he won't pay any tax. Thank you, I am very grateful to the Hon Major.

HON MAJOR R J PELIZA:

Mr Speaker, if you give a man plenty of rope he will hang himself and I was trying to see if he was going to hang himself, I don't know how he has fared in that respect. Let me first of all say I am grateful to the Minister for giving us so much information, information which quite honestly at times I just could not follow and I must say that I still believe, after what I have heard, that it should be possible to have some control if it takes some time between the application coming in and the approval of the application, well, first of all I hope that the Minister can do something in the system to make it speed up because nothing is worse than the kind of bureaucracy that keeps people waiting for days and days before anything happens and usually if the system is smooth and quick it is also less costly because it means that fewer people are required to get it done and we all know what bureaucracy is, it tends to grow by itself like a cancer and anything that is done to keep it down to its smallest size the better. I cannot say how the thing is done administratively but the principle I still believe is possible, which is if you employ a particular person for a particular kind of work the tear-off that he takes with him will specify there the kind of work that he is entitled to do and that man will not have that in his possession the moment he is dismissed. I cannot see how that cannot operate and I cannot see that there should be any additional administrative burden on the department if that was done because it is almost automatic. Once the individual is employed, not when the application is made, once the individual has been employed, anyway, I won't argue the point, Mr Speaker.

HON MAJOR F J DELLIPANI:

May I clear one point, Major Peliza? What you are losing sight of is the quota system that we have to control employment. How can you control employment if the chap holds the permit himself? You cannot, it is impossible.

MR SPEAKER:

I am afraid that we must not go on like this.

HON MAJOR R J PELIZA:

Mr Speaker, I do not understand why it cannot be done because that individual will only have that particular permit in his hand for as long as he is employed. The moment he ceases to be employed he has not got it, he cannot show it to anybody. As I say, I do not know enough about these things but I believe that a method could be devised which would to some extent make it possible to ensure that the individual cannot work without a permit and also put the onus on the individual and also on the employer directly or indirectly. He mentioned the marble operation which he was trying very hard to try and stop but again I would like to hear from the Attorney-General whether it would not have been possible to try and get an injunction to stop them working. Would there be anything there to prevent the Government from doing that?

MR SPEAKER:

With respect, I am going to stop you. That has nothing to do with the legislation. Whether anything could have been done and was not done is not the subject matter before the House. What we are talking about is the Control of Employment (Amendment) Ordinance.

HON MAJOR R J PELIZA:

Mr Speaker, we are talking about the control of employment but we are not going to have any loopholes for that unfortunately and if that could not have been done then, this is why I am trying to seek advice from the Attorney-General, if it could not be done then it could be done in the future but if it could have been done then I hope it will be done in the future but I am not satisfied with that way of going about it. I think we should have included it in the law, I believe that the matters that have been said in this House now show how important it is that something which will cover every possible loophole and I believe that we are really wasting, totally wasting our time by just putting this through the House now without all the other protection that I think the situation needs and I would advise the Minister who, I think my friend is absolutely right, he should have been the first one to introduce this, he is the person responsible, he should have introduced it, he would have been able to have the last word. I would not have had to sit down and I will allow him to speak again for his own sake, I think it is only fair that he should have done this, I think it has been most unfair that he has not brought the Bill himself to the House and all I say is that if he has any influence on the Government I would suggest that gets the Chief Minister to withdraw the Bill and then start all over again.

HON J B PEREZ:

Mr Speaker, I did not intend originally to speak on the Second Reading of this particular Bill but I think there are a number of points which have been made by the previous speaker which I think I ought to comment on. Major Peliza has told the House that in his view the Government has wrongly focussed the whole situation and that we are in fact introducing this particular piece of legislation for entirely wrong motives. With the greatest of respect to Major Peliza, I think if anybody has wrongly focussed the situation it is in fact himself and his party, the DPBG, because from what I have heard from Members opposite, apart from the intervention of the Hon Mr Bossano, what the DPBG is saying in this debate is that the Government is introducing this particular amendment to the Control of Employment Ordinance as a way of passing judgement on the Hon the Leader of the Opposition or in a way, that the Government is censuring the Hon the Leader of the Opposition and I think, Mr Speaker, that is totally wrong and I would describe that as absolute rubbish. I can understand the worries of the Hon Leader of the Opposition and I, personally, do not put any blame on his Chambers for having given that particular advice because, for example, a client may come to him, to his Chambers, and say: "I want a particular individual appointed as a director of this company, you are the registered office, you are the secretary for this company", and he as secretary would have to appoint a particular individual as their director so I do not ascribe any blame to him on that particular aspect and I do not think any Member of the Government who has spoken on this particular debate has sought to censure the Leader of the Opposition for his connection with this particular company which was made public that they had appointed a certain Spaniard as a director of the company. If anybody has wrongly focussed this particular amendment I think it must be the DPBG, Mr Speaker, and nobody else. The other point that I would like to make is that the Opposition are saying that this particular amendment does not go far enough. All I can say is that the Government has appreciated one particular loophole in the Control of Employment Ordinance and it is doing its utmost in this particular amendment to block that loophole. It is no good doing as it has been suggested by Major Peliza to in fact leave things as they stand, withdraw this particular Bill before the House, have another rethink and come again to the House. I do not see any point in doing that. We know there is a loophole, we are quite confident that we can block the loophole and therefore the amendment is brought before the House and I think this is the right and proper way to proceed. If we find there are other loopholes which are being considered even today

HON MAJOR R J PELIZA:

There are, the Minister has said that there are many loopholes.

MR SPEAKER:

There will be no more interruptions in this debate.

HON J B PEREZ:

Mr Speaker, it is not just a question of saying yes, there are one or two or three or four other loopholes unless you can come up with the right solution to plug the loopholes. The Government feels and the Government is confident that with this piece of legislation, this amendment to the Control of Employment Ordinance, we can in fact block the loophole which is apparent and clear in Gibraltar today and this is what we are in fact doing. The other point I have to comment on is that in fact I would have expected the DPBG to have welcomed this particular piece of legislation rather than criticise us for bringing it to the House and I must say that, again I would reiterate, they are the ones who are attributing the wrong motives to the Government because they all think that by introducing this the Government is launching a personal attack on Mr Isola which is clearly not the case. The last point I wish to make is that if the Government had proposed further amendments to the Ordinance I think then the Opposition in that particular case would then have got up in the usual manner and accused us of being totally undemocratic as they have done in the other piece of legislation which was debated this morning and they would have said that we have allowed no time for public debate. It is quite clear, Mr Speaker, in my opinion, that nothing that this Government does or tries to do will ever meet with the approval of the DPBG. It is in fact unfortunate that this is the case today and I would urge the Gallant Member opposite to try and convince his colleagues that this really is not a motion of censure on his Leader, don't ascribe any wrong motives to this particular amendment and I sincerely hope that the DPBG will be able to vote in favour taking into account that it is an honest attempt by the Government to try and block a loophole which is there and we have to do something about it and we are doing so.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, at the outset I would like to make one point to the Hon and Learned Leader of the Opposition who is not here either, but I would like to make one point and that is that I do not subscribe to the view that there is any conflict of interest at all between a lawyer who offers professional advice to his client on the interpretation of statutes on the one hand and also has public duties on the other, I think it is quite different functions, I see no conflict of interests whatsoever and I had no intention in moving this Bill to suggest in any way at all that there would be such a conflict because there is clearly not. Nor do I take the view, just to make it quite clear where I stand on this, nor do I take the view that if a statute does not perfectly give effect to the will of Parliament or the will of the Legislature, it is sufficient for the law enforcement officers to say: "Well, even though

it does not say this, this is what it means and we are going to enforce it this way". Of course that is not good enough because it does not give effect to what Parliament really intended and a Court so rules, well, then good luck to them. But having said that I would like to reiterate my own personal view and I realise that not all lawyers may agree with me but it is my view that at the moment if a person is employed as a worker in Gibraltar and there is no work permit for him the fact that he is also designated as director, if he is not a real director, I think is a contravention of the Ordinance and I propose to test it. That may be a matter of argument but I am going to test it, I will test it in any case without discrimination. The Government has already made it clear that in any event it does not want any contention about this legislation and I do not think this particular piece of legislation insofar as it goes, Mr Speaker, is inadequate because it only has one purpose at this stage. This particular Bill only has one purpose and that is to give effect to what I think everybody would agree was the will of the House even if at the end of the day in a prosecution it might not be upheld by a Court to be made out in the legislation, I think it was quite clearly the will of the House that people who everybody would understand as being workers should have to have work permits issued for them and that is the sole object of this Bill, that is as far as it goes. It is not introducing any new matter of policy, it is perfecting or putting beyond argument what I take to have been the original intention of this House. I realise that there are other matters which have to be addressed and I think they have been referred to in the House in the debate. One of them is, of course, the question of an employer who is outside the jurisdiction, and we do have in Gibraltar the concept of territorial limitations as you do anywhere else in a British country. We do have that problem of an employer who is outside the jurisdiction who may send a worker into Gibraltar to perform work. I think that that is really not so much a flaw in the present Ordinance but something that needs to be covered and it needs a widening of the scheme of the Ordinance for the future. It is not ready yet and it is not that long ago, as far as I am aware, that the issue came up, it is not ready yet but it is being worked upon. There are complications, one possibility is, I think, and we have actually turned it over in our minds, one possibility might be to say that if a person in Gibraltar receives the benefit of the services of a worker from outside Gibraltar who works for some other person, then that person in Gibraltar who is the householder or whoever it may be, receiving the benefit of those services will be deemed for the purposes of the Ordinance to be an employer but I do not think it is quite as simple as that and we are not ready yet to make proposals on this because I think it is a little bit more subtle than that. The other point I would like to make which I think one of the Members on this side may already have made, is that we could say: "If you are a worker and a work permit does not exist for you, then you will be liable for an offence". Without saying categorically that the ILO Convention prohibits that, I think I am on fairly strong ground, I feel fairly sure in saying that the philosophy of ILO Conventions is that you do not

penalise the worker. I think that is right, I feel quite confident in saying that. ILO legislation typically and I think Gibraltar is bound by ILO legislation, does not tend to penalise the worker, it penalises the people who put him in the position of being a worker so we have to think a way around that as well. There may also be implications under the Trade Licensing legislation but that is a matter that we are going to have to look at in due course. Mr Speaker, I do not think this Bill is, so far as it goes, I do not think it is inadequate, I think it is a necessary measure, everybody knows the area there which has got to be curbed or put beyond argument and I see no reason at all why it should not proceed now and be enacted as soon as possible and I move accordingly.

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

HON ATTORNEY-GENERAL:

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

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

- (1) The Income Tax (Amendment) Bill, 1983;
- (2) The Stamp Duties (Amendment) Bill, 1983;
- (3) The Estate Duties (Amendment) Bill, 1983;
- (4) The Elections (Amendment) Bill, 1983;
- (5) The Specified Offices (Salaries and Allowances) (Amendment) Bill, 1983;
- (6) The Trade Licensing (Amendment) (No 2) Bill, 1983;
- (7) The Public Health (Amendment) (No 2) Bill, 1983;
- (8) The Non-Contributory Social Insurance Benefit and Unemployment (Amendment) Bill, 1983;
- (9) The Supplementary Appropriation (1983/84) Bill, 1983, and
- (10) The Traffic (Amendment) (No 2) Bill, 1983.

MR SPEAKER:

With respect to the Hon and Learned Leader of the Opposition, we are moving into Committee to consider those Bills. We cannot do the Traffic (Amendment) (No 2) Bill until tomorrow but there is no reason why it should not be announced now.

HON P J ISOLA:

We do not agree to that therefore we cannot resolve to deal with that.

MR SPEAKER:

We are resolving to move into Committee for the purpose of considering a number of Bills. We are not entitled to consider the Traffic (Amendment) (No 2) Bill, 1983, until tomorrow and we will not do that Bill today.

HON P J ISOLA:

Mr Speaker, we cannot resolve now to consider a Bill that we have not agreed to. Of course, I defer to your ruling.

MR SPEAKER:

The Second Reading has been taken and the House has failed to agree that the Committee Stage should be taken today. The relevant Standing Order is very clear, I will read it to you, Standing Order No 32(2): "The only amendment to the question permissible shall be one postponing the Second Reading to some subsequent date. If the motion be carried the Clerk shall read the title of the Bill, and thereupon a day shall be fixed for the consideration of the Bill in Committee, which may be the same if all Members agree, or a subsequent day if otherwise". What we cannot do now because we have not agreed is to consider the Committee Stage of that particular Bill today but we can most certainly resolve to go into Committee.

HON P J ISOLA:

But does not the resolution say in the case of the Traffic Bill tomorrow, not earlier than tomorrow? That is what the Standing Orders say.

MR SPEAKER:

No, with respect, because I have no doubt whatsoever that it will not just be this Bill that will not be taken today, there will be others that will not be taken today because we have not got the time to do so. We are just resolving to go into Committee to consider Bills and should we be able to deal, which I very much doubt, with all Bills and come to the Traffic Bill then we would have to recess the House until the

morning because we cannot consider that Bill but there is no reason why we should not resolve to go into Committee for the purposes of the Third Reading of the Bills before the House, that is all that is happening.

THE INCOME TAX (AMENDMENT) BILL, 1983

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

Clause 3.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I have given notice for an amendment to Clause 3 to insert a new paragraph (ua)(i) after the words "the trust is created by" the words "or on behalf of". Hon Members may recall that during the Second Reading debate on this Bill it was agreed that the words "or on behalf of" should be inserted and I think this amendment was agreed by the Members opposite.

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

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that in new subsection (6) the word "compiled" be deleted and the word "computed" substituted.

Mr Speaker put the question which was resolved in the affirmative and Clause 4, as amended, was agreed to and stood part of the Bill.

Clause 5

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I gave notice yesterday to omit the proposed new subsection (1A) and substitute the following new subsection: "(1A) Every rule made under subsection (1) for the purposes of section 27A shall be laid before the House of Assembly". Mr Speaker, the reason for the tabling of this amendment is that there is a problem about the early introduction of the rules to be made under this section of the Bill. We are very anxious to bring in qualifying companies as early as practicable but because of timing if the Bill is enacted at this meeting we would have to wait for a subsequent meeting which would not be until probably October at the earliest, in which to table the rules and to have a positive resolution and we would be losing three months during which competing Finance

Centres who have also recently passed legislation for qualifying companies could be mopping up companies which could otherwise come to Gibraltar and so what is proposed is that instead of a positive resolution it would be the negative resolution procedure which means that the rules would be laid before the House and it would be possible for a Member at two subsequent meetings of the House to raise a question on them for their annulment should they so wish. I am conscious that in moving this amendment the House should have some indications of what sort of rules we have in mind to make and which will be made and then tabled for the next meeting of the House. They are, first of all, that there should be a licence fee of £250, an annual fee of £250 for the issue of a certificate. Secondly, that a company which wishes to be licensed as a qualifying company would make a desposit of £1,000 on account of future tax liability. Thirdly, the rules would set out the criteria for issue of a licence and these are the company is not resident owned, does not carry on business within Gibraltar itself, a certified true copy of all share registered outside Gibraltar will be kept in Gibraltar when the company is not a public company and shares are quoted in a manner approved by the Financial and Development Secretary, no Gibraltarian or resident of Gibraltar could be interested in any of the shares other than as a shareholder in a public company whose shares are quoted in a manner approved by the Financial and Development Secretary. Transfer of shares, the same restrictions would apply to transactions as to the shares of an exempt company and bearer shares would be allowed in certain circumstances, the bearer certificates and coupons remain deposited with a bank wherever for the persons approved by the Financial and Development Secretary as shareholders and no other person has an interest in the shares except as might be approved in writing by the Financial and Development Secretary, the depository bank would not part with the bearer certificate without prior permission in writing which might be either general or special in a particular case and the bank would not do any act without the permission of the Financial and Development Secretary whereby it recognises or gives effect to the substitution of one person for another as the person from whom it receives instructions in relation to certificate title or coupons. There will be a provision as in the Companies (Taxation and Concessions) Ordinance for auditors and any breach of any requirement would render a qualifying company liable to have its certificate cancelled and to be charged tax at the standard rate. In the event of it proving the breach is excusable the Financial and Development Secretary would be able to reinstate the company but there would be a penalty of £25 as under the Companies (Taxation and Concessions) Ordinance for reinstatement. These are basically what would be covered in the rules and they have been discussed in extenso with the Finance Centre Group. Mr Speaker, I beg to move the amendment.

Mr Speaker put the question which was resolved in the affirmative and Clause 5, as amended, was agreed to and stood part of the Bill.

Clause 6 was agreed to and stood part of the Bill.

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

THE STAMP DUTIES (AMENDMENT) BILL, 1983

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

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

THE ESTATE DUTIES (AMENDMENT) BILL, 1983

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

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

THE ELECTIONS (AMENDMENT) BILL, 1983

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

Clause 2

HON P J ISOLA:

Mr Speaker, as you know I queried the advisability of repealing section 2(ii) of the principal Ordinance by virtue of the fact that I queried the position that could arise as a result of Gibraltarians genuinely having to seek accommodation in Spain because of lack of accommodation in Gibraltar and coming to work to Gibraltar and it seemed to me that we ought to reflect on the possibility of keeping that in because of that sort of case. I must say, Mr Speaker, that I have heard the argument especially from my Hon Friend, Mr Bossano, on the question of the dangers of in fact not repealing that section because of the number of people who could be caught by it and I have looked at the matter and possibly it would be impossible, I suppose, to just allow Gibraltarians resident in the Campo Area to vote and not allow at the same time other British Subjects because the right to vote derives from being a British Subject and not from being a Gibraltarian. In those circumstances, Mr Speaker, I thought I would get up and say that certainly I, I know my colleagues do, but certainly I agree now to the repeal of that section 2(ii). I think that in the circumstances I am convinced. We agree with that clause as well.

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

Clauses 3 to 6 were agreed to and stood part of the Bill.

HON P J ISOLA:

Mr Speaker, before the Long Title, the Hon and Learned Chief Minister did say he was going to let us have the regulations well in advance of being put into force. All I am asking on this side of the House is that we should see them six weeks at least before an election. All I am asking is that, we do not want to find that we get the regulations and there is a dissolution of the House a week later.

HON CHIEF MINISTER:

No, of course not.

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

THE SPECIFIED OFFICES (SALARIES AND ALLOWANCES) (AMENDMENT) BILL, 1983

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

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

THE TRADE LICENSING (AMENDMENT) (NO 2) BILL, 1983

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

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

THE PUBLIC HEALTH (AMENDMENT) (NO 2) BILL, 1983

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

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

THE NON-CONTRIBUTORY SOCIAL INSURANCE BENEFIT AND UNEMPLOYMENT INSURANCE (AMENDMENT) BILL, 1983

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

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

THE SUPPLEMENTARY APPROPRIATION (1983/84) BILL, 1983

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

The Schedule

Supplementary Estimates Consolidated Fund No. 1 of 1983/84

Item 1. Head 4 - Electricity Undertaking

HON G T RESTANO:

Mr Chairman, can I have clarification of this £686,442, how much of that figure was included in the figure that I was given in the earlier part of the meeting in answer to Question No. 265 where the cost of the Power Station had been up to then £765,500? How much of this £686,442 is included in the £765,500?

HON DR R G VALARINO:

The figure is about £400,000.

HON G T RESTANO:

£400,000 is what is included from here in the £765,000 so by the end of September the figure ought to be the figure I was given at the earlier part of the meeting plus £286,000, is that correct? Could we also have a breakdown of these figures, Mr Chairman?

HON DR R G VALARINO:

I will give you the total cost, if I may. The operational costs - £570,704; service of engines - £17,860; mobilisation - £62,197; insurance - £1,000; and local labour costs - £34,671, giving a total of £686,442.

HON G T RESTANO:

What is the first one?

HON DR R G VALARINO:

The first one was the operational costs.

HON G T RESTANO:

What was the amount

HON DR R G VALARINO:

£570,704.

HON G T RESTANO:

Does the Government have any control over these figures or are they merely figures that are presented by Hawker Siddeley? Does Government control these in any way, for example, the operational costs of over £½m?

HON DR R G VALARINO:

Yes, Mr Chairman, we control them by knowing how many people are coming to run the Station and how much it is going to cost us. Let me say at this point that the agreement with Hawker Siddeley has now been personalised so that the department is able to replace people once selected and employed by Government so it will be a gradual process and it will be costing us less every time.

HON G T RESTANO:

If it is personalised to this degree, how many men are working the Station?

HON DR R G VALARINO:

Eighteen at the present moment. I am talking about the future, about once that we know we have got the posts selected and have been filled.

On a vote being taken on Item 1, Head 4 - Electricity Undertaking the following Hon Members voted in favour:

The Hon A J Canepa
The Hon M K Featherstone
The Hon Sir Joshua Hassan
The Hon Dr R G Valarino
The Hon H J Zammit
The Hon R J Wallace

The following Hon Members voted against:

The Hon P J Isola
The Hon A T Loddo
The Hon Major R J Peliza
The Hon G T Restano
The Hon W T Scott

The following Hon Member were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon Major F J Dellipiani
The Hon A J Haynes
The Hon D Hull
The Hon J B Perez

Item 1, Head 4 - Electricity Undertaking was accordingly passed.

Item 2, Head 9 - Income Tax

HON W T SCOTT:

Mr Chairman, I notice here there is a sum of £26,673 to meet increase in rent for the Income Tax Office. Can I ask the Government, isn't this subject to the moratorium?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, the Government had to negotiate an extension. The lease expired on the 31st July, 1982, and we negotiated the new rent over a long period, over a year in fact, and this is why the cost is so high because in this year we have to meet half the cost of last year. This was negotiated by the Surveyor and Planning Secretary and as far as I am aware it was not caught by the moratorium.

HON CHIEF MINISTER:

I don't know about the period but I know the spirit behind it was that we are leaving the place and we have to settle in order to go away and go somewhere else where offices are being prepared and this is the tail end of the lease that came into operation.

HON P J ISOLA:

Lots of leases finished on the 31st July all over Gibraltar and they do not get any more rent, the law prohibits this.

HON CHIEF MINISTER:

The interest was because we have not paid pending a negotiation of the new rent which they wanted, a very high rent, and until we were able to make arrangements to go elsewhere we were not in a position and we did not pay rent in order to be able to bring some pressure to bear. In the final settlement, if I remember rightly, I had nothing to do with this, but I remember from Council of Ministers, in order to bring up a final settlement an omnibus agreement was reached whereby the old rent plus interest on it was paid, a reduced rent to what was wanted obtained for the rest of the period in order to finish and in fact we will be moving away from those premises because they are too expensive..

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the proposed amount of interest paid in the amount sought was £2,680.

HON P J ISOLA:

I am grateful but the point I think we are making on this side of the House is if there is a moratorium was there a legal liability on the Government to pay the extra rent? Why is the Government as a tenant in a different position to other tenants who do not have to pay increase in rent? Why should the Government pay?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

My understanding, Mr Chairman, was that this was negotiated by the SPS. Our understanding was that there was a legal requirement to pay this and if we had not paid there would have been a Court action to evict the Government. We were under a threat of legal proceedings to move out of the building.

HON P J ISOLA:

But according to the moratorium legislation any notice or any termination everything just stayed on, how could that have been?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I am not sure, Mr Chairman, what I will do is find out from the Surveyor and Planning Secretary what the position was and inform the Hon Member with a copy to the rest of the House but certainly we were under threat of legal eviction.

HON CHIEF MINISTER:

At the time where we had nowhere else to go.

Item 2, Head 9 - Income Tax was agreed to.

Item 3, Head 14 - Medical and Health Services

HON G T RESTANO:

Can we have an explanation as to why these arrears cropped up and have not been settled earlier?

HON J B PEREZ:

Basically, Mr Chairman, this was a staggered settlement, it was not agreed straight away, it was over a certain period of time. Until the final result was known we did not decide to settle the particular year, we preferred to wait until the end. When we knew the outcome then we settled.

HON W T SCOTT:

Mr Chairman, shouldn't this be a reallocation, a virement from the appropriate Head of the Pay Settlement rather than supplementary estimates?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

No, Mr Chairman, because the Head for the Pay Settlement is only for the 1983 Pay Settlement. When we are meeting arrears from a previous year we have to vote for provision.

Item 3, Head 14 - Medical and Health Services was agreed to.

Item 4, Head 20 - Public Works Annually Recurrent was agreed to.

Item 5, Head 26 - Treasury

HON MAJOR R J PELIZA:

Mr Chairman, I am surprised to see here a vote for Dockyard consultancy when in reply to my question the Chief Minister did not mention this. In Question 301 of 1983, earlier in the meeting, Mr Chairman, I asked the Government: "Can Government specify the cost of the PEIDA Reports, and of A R Belch Associates, and Coopers and Lybrand Associates, and of any other Reports not known to this House in connection with the closure of the Dockyard?" The answer by the Chief Minister said: "No, Sir. The cost of the Reports is met by the Overseas Development Administration and it is not their practice to inform overseas Governments of the costs of Reports carried out on their behalf". I was asking if there were any other Reports of which I certainly did not know anything about and he did not mention this. I just wonder whether it was an oversight or what was the reason for it and also could he give us an explanation of what this report is about, who had undertaken it, whether it was strictly a Government consultancy and nothing to do with the ODA and has it been made available to any Member of this House, it has not reached me and is it the intention of the Chief Minister to make this available readily so that if we do have a debate we know what the independent adviser to the Government has said?

HON CHIEF MINISTER:

Well, in the first place the answer to the question was bona fide given as referring to the consultancies that have been made public and which were the Appledore consultancy, the PEIDA Report and the independent consultants of which there has been a presentation to Hon Members here and it was to that, obviously, if I said I did not know, I did not know, this was referring to that. This is a new item and I ought to explain that having regard to the fact that we had these Reports, the first PEIDA Report, the second PEIDA Report, the Appledore

Report, the Consultants Report, all bona fide but appointed by the ODA. The Government felt compelled to seek independent advise on all the Reports that have been presented. This is an on-going thing, this is an estimate and I hope it will not be exceeded, this is on-going now and we have had the Report, we have had a Report, we have had consultancies when we were in London, we were in touch with the people concerned and of course we have not made any assessment yet on those Reports because we are studying the matter but of course as soon as we come to a view and the matter is put down for discussion, Members will have the one Report that has been produced so far and any other papers that may be produced as a result of this consultancy. The Government has thought fit to take independent advice in a matter of this importance in order to be able to know which way it was going and which way it would tell the House we ought to go or we ought not to go.

HON MAJOR R J PELIZA:

I support the idea, it is just that it struck me as very strange that it was not mentioned in the reply to my question. I welcome it and I am very glad that the Chief Minister is going to make this available as soon as possible but I do not know when it is. When I first heard that we were going to have a debate on the Dockyard this coming Monday it looked to me as if that was not going to be so so I do hope the Chief Minister will make this available to this side of the House as soon as it is available because the more informed the House is the better, I think, we can contribute to an intelligent debate.

HON CHIEF MINISTER:

In the case of the previous report we did say that we would circulate it to Members as soon as the Government had taken a view and this will be the same now. We are on-going in our discussion and as soon as we take a view we will hold the view until we explain it, we will then make all the documents available and certainly available in good time before the debate takes place so that the Members of the Opposition are able to gauge the situation together with such advice that we have got.

Item 5, Head 26 - Treasury was agreed to.

Supplementary Estimates Consolidated Fund No. 1 of 1983/84 was agreed to.

Supplementary Estimates Improvement and Development Fund No. 1 of 1983/84

Head 110 - Electricity Service

HON G T RESTANO:

Can we have a fuller explanation of this amount, the £192,335?

HON DR R G VALARINO:

Mr Chairman, further items which were not provided for originally were the high costs of site reclamation to meet the contract commencement date and the increase in consultants fees. The increases as you can see are to be covered by supplementary provision amounting to £192,335.

HON G T RESTANO:

Why was there an increase in consultancy fees?

HON DR R G VALARINO:

The increase in consultancy fees due to PCR was due to an extended period. The original estimate covered an eighteen months period but the PCR presence was needed in Gibraltar for twenty-four months giving the excess of the six-months period over the eighteen months.

HON G T RESTANO:

What extra period are we talking about?

HON DR R G VALARINO:

Basically the last six months before the Gibraltar Government accepted the engines.

HON G T RESTANO:

But why was it necessary for them to remain for an extra six months? What is the reason for this, was it that the engines had not been running consecutively for the required period of time or was there any other reason?

HON DR R G VALARINO:

No, Sir, mainly because we wanted to make sure that once the certificates were signed and the operation continued, Hawker Siddeley which was manning the Station at the time so that PCR could keep an eye on the extended testing and that if anything went wrong we had somebody on the spot who would be responsible to the Government.

Head 110 - Electricity Service was agreed to.

Supplementary Estimates Improvement and Development Fund No. 1 of 1983/84 was agreed to.

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

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

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

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1983

HON P J ISOLA:

Mr Chairman, I would like to ask the Government whether they would consider taking this Bill at a subsequent meeting. This is one of the Bills that was sent to us, it was in the Agenda for First and Second Reading and Committee Stage and I do not think there has been any public pronouncement about it except in this House and I think in fairness to the trade of Main Street I think the Government ought to allow this to be known, people to know about it in case there are representations made by people in this line of trade who do not have the privilege of the airport terminal thing and I think an opportunity should be given because we believe, as we said in the Second Reading, we would prefer 5% for everything but we do believe that by giving these articles 5% duty only in the air terminal building it is possible that the general trade, a lot of shops who deal with this, could be affected and we feel that the Government should allow this Bill to follow its normal course of coming to Committee Stage and Third Reading in a subsequent meeting.

HON CHIEF MINISTER:

Mr Chairman, when we first introduced duty free goods at the airport a former Member of the Opposition, Mr Caruana, said we were bringing death to the whole of Main Street. Well, it has been proved that we did not, certainly up to now, and that has not been in effect. As it happens the construction of the place is still going on and there is no immediate hurry and therefore I have no difficulty in leaving it to a subsequent meeting.

MR SPEAKER:

We will then defer the Committee Stage and Third Reading of the Imports and Exports (Amendment) Bill, 1983, to a subsequent meeting. We have come to the stage now when the only other Bill to be considered is the Traffic (Amendment) (No 2) Bill, 1983, and therefore we will recess now until tomorrow morning at 9.15 when we will take the Committee Stage of that Bill and then we will go on to Private Members' Motions.

The House recessed at 4.50 pm.

FRIDAY THE 8TH JULY, 1983

The House resumed at 9.25 am.

MR SPEAKER:

I will remind the House that we are at the Committee Stage of Bills and that the next Bill is the Traffic Ordinance.

THE TRAFFIC (AMENDMENT) (NO 2) BILL, 1983

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

Clause 3

HON P J ISOLA:

Clause 3, Mr Chairman, I did not get quite clear under that Clause the Government will have a right to limit the number of licences as they agreed in the agreement. I think I heard the Minister say that the need for the legislation to be amended for a second assistant driver was not urgent, a remark I cannot understand because if the whole basis of the agreement is to give an improved taxi service, can the Minister state how by limiting the licences now and still having only one driver, one car, the service which at the moment is not coping with the increased traffic as a result of the opening of the frontier is going to cope, how does he propose that to happen?

HON M K FEATHERSTONE:

Sir, the agreement has envisaged first the use of radio taxis, secondly, a rationalisation of the present services and not written into the agreement but it is understood with the Taxi Association that they have made internal arrangements to see that taxi stands are manned and that a certain number of people who under normal circumstances might have been away from taxi stands servicing liners, will not do so but will be available at taxi stands at all times and they have suggested and Government has agreed that the question of the second driver is not of immediate urgency and therefore we feel that we can leave this for a later meeting.

HON P J ISOLA:

Mr Chairman, could I then ask on the question of taxis at taxi stands, what monitoring is being done to ensure that they are and that the agreement is being fulfilled? Is the Minister aware that in fact two or three taxi stands yesterday were entirely empty in the afternoon? Is any monitoring to be done?

HON M K FEATHERSTONE:

It will be monitored but of course it is not correct to create too much trouble, if a taxi stand is empty for a short period of time this can happen anywhere. I have been in taxi stands in Paris, in Germany, in London and at times you have to wait five or ten minutes for a taxi because the taxi stand is completely empty. The situation is that if you can get to a telephone, and most people can, you can ring up the taxi service and a taxi will come very quickly and the stands will be replenished as rapidly as they possibly can.

HON P J ISOLA:

Mr Chairman, so that in fact this question of a roster system under paragraph (d) of the agreement is just so much eyewash, it is going to be replaced by radio taxis so that part of the agreement has already gone for a burton.

HON M K FEATHERSTONE:

No, Sir. If you have a taxi stand and by coincidence four people turn up and there are four taxis then for two or three minutes it is going to be empty. You cannot have twenty taxis just for the possibility that at any given moment twenty people may turn up.

HON P J ISOLA:

Of course, Mr Chairman, but you cannot have it on the other hand regularly empty which is what is going to happen as a result of this agreement.

HON M K FEATHERSTONE:

I do not think so, Sir.

MR SPEAKER:

Any further matters to be raised in this Clause?

HON P J ISOLA:

No, I would only like to observe that the agreement will continue to be void and illegal as a result of the Government not putting in legislation to give legal effect to the present illegal situation of second assistant drivers which are not permitted by law.

On a vote being taken on Clause 3 the following Hon Members voted in favour:

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

The following Hon Members voted against:

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 Hon Members were absent from the Chamber:

The Hon I Abecasis
The Hon J Bossano
The Hon Sir Joshua Hassan
The Hon A J Haynes

Clause 3 stood part of the Bill.

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 Income Tax (Amendment) Bill, 1983; the Stamp Duties (Amendment) Bill, 1983; the Estate Duties (Amendment) Bill, 1983; the Elections (Amendment) Bill, 1983; the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1983; the Trade Licensing (Amendment) (No 2) Bill, 1983; the Public Health (Amendment) (No 2) Bill, 1983; the Non-Contributory Social Insurance Benefit and Unemployment (Amendment) Bill, 1983; the Supplementary Appropriation (1983/84) Bill, 1983, and the Traffic (Amendment) (No 2) Bill, 1983, have been considered in Committee and agreed to, in the case of the Income Tax (Amendment) Bill, 1983, with amendments, and in the other cases without amendments, and I now move that they be read a third time and passed.

Mr Speaker put the question and on a vote being taken on the Income Tax (Amendment) Bill, 1983; the Stamp Duties (Amendment) Bill, 1983; the Estate Duties (Amendment) Bill, 1983; the Elections (Amendment) Bill, 1983; the Specified Offices (Salaries and Allowances) (Amendment) Bill, 1983; the Trade Licensing (Amendment) (No 2) Bill, 1983; the Public Health (Amendment) (No 2) Bill, 1983; the Non-Contributory Social Insurance Benefit and Unemployment (Amendment) Bill, 1983, and the Supplementary Appropriation (1983/84) Bill, 1983, the question was resolved in the affirmative.

On a vote being taken on the Traffic (Amendment) (No 2) Bill, 1983, the following Hon Members voted in favour:

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

The following Hon Members voted against:

- The Hon A J Haynes
- The Hon P J Isola
- The Hon A T Lodd
- The Hon Major R J Peliza
- The Hon G T Restano
- The Hon W T Scott

The following Hon Member was absent from the Chamber:

- The Hon J Bossano

The Bills were read a third time and passed.

MINISTERIAL STATEMENTS

MR SPEAKER:

I should say that I have received two notices and they are both dated the 6th July, one from the Hon and Gallant Major Peliza who wishes to raise on the adjournment the enfranchisement of the people of Gibraltar in connection with the election of the European Parliament and a notice by the Chief Minister who wishes to make a statement and it reads: "I have the honour to give notice that at the current meeting of the House of Assembly I propose to make a statement on the Dockyard".

HON A J CANEPA:

Mr Speaker, what was the date of the notice of the Chief Minister?

MR SPEAKER:

Both were the 6th July. The Chief Minister's notice reads: "I have the honour to give notice that at the current meeting of the House of Assembly I propose to make a statement on the Dockyard". I think that the Chief Minister mentioned the fact in the House during the proceedings, as a matter of fact. I will now call on the Chief Minister to make his statement.

HON P J ISOLA:

Does this require suspension of Standing Orders?

HON CHIEF MINISTER:

We do not need that. A Minister can make a statement at any time.

MR SPEAKER:

No, a Ministerial statement can be made at any time, as a matter of fact, even without notice.

HON CHIEF MINISTER:

There was no necessity for having given notice for which the suspension of Standing Orders would have been required. I have given notice before and I have said so here. Anyhow, the statement will not be one that will bring the House down. We had originally planned to discuss the question of the Dockyard at this meeting to deal with the normal business of the House on 11 July. It subsequently became necessary to reverse this order but at that time I made the reservation that a further postponement of the Dockyard discussion might be necessary. I now confirm that this is in fact necessary. The importance and complexity of the matter require further study by officials and further and, hopefully, final talks with British Government Ministers. I will give as much time as possible to Hon Members as to when we will be ready to discuss the Dockyard issue in this House. I know that the House, and indeed the public at large, are anxious to learn the outcome of the discussions with the British Government but the matter is of the utmost importance and we are having meaningful discussions. It is my intention to bring the matter to the House at the very earliest opportunity once these discussions have been finalised. In addition to that statement, Mr Speaker, the earliest date that I can find to recess this House for that purpose without saying that we will necessarily be ready but there is a hope that we will be ready, will be the 25th of July.

HON P J ISOLA:

Mr Speaker, do I understand that the Chief Minister is not therefore going to make a statement on his visit to the United Kingdom and the proposals he made to the British Government in this meeting?

HON CHIEF MINISTER:

That is right, yes.

HON P J ISOLA:

Could I then ask, can I assume from the fact that the matter now seems to be going once more at a leisurely pace that the Dockyard will not now close on the 31st December, 1983, and that he has assurances in this respect?

HON CHIEF MINISTER:

No, I cannot say that but I certainly can say that if that were to be the case the redundancy notices must obviously go at the end of the year because there must, first of all, be a declaration of a state of redundancy one month before the six months given of notice of redundancies, that is, the people on payment employed in the Dockyard now are assured whatever happens - and this is purely mechanical - whatever happens the people in the Dockyard are assured seven months employment from the date of a declaration of a state of redundancy which has not yet been made pending the finality of the discussions which are on-going at the moment.

HON P J ISOLA:

So that then at least we can be assured that the Dockyard will not close on the 31st December, 1983?

HON CHIEF MINISTER:

No, I do not think the Hon Member has taken the point. The Dockyard could close, I am not saying it can close, could close and people be placed on notice until the end of the period of the redundancy beyond the 31st December.

HON P J ISOLA:

You mean paid instead of employment.

HON CHIEF MINISTER:

Well, if the Dockyard is closed, paid instead of employment, well, not in lieu of notice, notice in lieu of employment.

HON P J ISOLA:

Yes, but surely, Mr Speaker, the Chief Minister must know that if the commercialisation proposals were to be put into effect and be able to start on day one, January 1st, 1984, certain things would have to be done immediately and cannot he at least indicate to the House that he has reasonable optimism that the Dockyard will not now close on the 31st December, 1983?

HON CHIEF MINISTER:

I cannot do that, I wish I could. I cannot do that but that does not mean a negative or a positive reply, purely a no reply. If Members have seen today's Chronicle they will have seen that in the House of Lords the Minister for Defence was pressed in a similar question by Lord Merrivale and the statement he made was exactly what I am saying now that at the time when the question was made Mr Stewart, the Under Secretary was in Gibraltar and he said that he would not like to say anything that would prejudice the discussions that were on-going. The position is exactly the same here because the visit of Mr Stewart took forward certain discussions but did not reach finality and there may well be need for Ministers from Gibraltar to visit London before the 25th July.

HON P J ISOLA:

Cannot the Chief Minister state at least what is it that the Government is thinking to achieve at this present moment of time? Is it deferment? Is it a change of mind in the statement by the Prime Minister on the 28th June in the House or what?

HON CHIEF MINISTER:

I am afraid that whatever questioning may cleverly be put forward by the Hon Leader of the Opposition will not move me from the statement that I cannot say any more.

MR SPEAKER:

Then we will go on to Private Members' Motions.

HON P J ISOLA:

Mr Speaker, before we do that as this House is going to be adjourned if I said I want to raise it in the adjournment I would have to wait so then I won't say anything because it will be a waste of time. Before we go on to motions, Mr Speaker, could I ask something about yesterday's Matrimonial Causes debate. I heard on television last night, when talking of the debate, it stated that the Chief Minister had instructed the Financial Secretary and the Hon and Learned

Attorney-General to abstain. I do not recall him having said that, I would not imagine he would have said that but it sounded terrible that the Chief Minister was depriving the Attorney-General and the Financial Secretary of their right to vote. So perhaps could I ask, I do not think he said it.

MR SPEAKER:

I also heard the report from the Gibraltar Broadcasting Corporation. We are not responsible for the accuracy of their reporting. I think Hansard will show that nothing of the sort happened in the House but most certainly I did hear the Chief Minister say that he understood that both the Attorney-General and the Financial and Development Secretary would abstain.

HON CHIEF MINISTER:

But it simply arose for one reason and that is because there were allegations from the other side that the vote had only been carried by a majority of one including officials and then in that context I said official Members will not be voting on this motion, one way or another. I certainly did not say instructed, it is a matter for their conscience, but having regard to the fact that there appeared to be an allegation that there was very little support and that only by a majority of one, that was in respect of the referendum, I think, I said in this case: "It is our business mainly and they will not be voting", that is what I said.

HON P J ISOLA:

This morning in the Chronicle it was also reported as being "on the direction of the Chief Minister". I think in the interest of the House this is a rather bad thing to have said because it is unconstitutional. I do not know whether the Chair could invite both the Chronicle and GBC to put a corrective statement in. I thought it had not been said but in television it sounded and in the Chronicle today it does not look too good "on the direction of" and perhaps the Chair could ask the Clerk to communicate the feelings of the House and ask for a corrective statement.

MR SPEAKER:

I think in fairness to the media I think from what the Hon and Learned Chief Minister has said this morning I think there are grounds on which perhaps there may have been a misunderstanding. If as a result of what has been said this morning there is need for a correction I feel sure that the media will take note of what has happened in the House this morning but until such time as I listen to the Hansard I will not in any manner or form be entitled to ask the media to make a correction but I am sure that there are most certainly grounds for a misunderstanding and I am sure the media will deal with the matter accordingly.

HON CHIEF MINISTER:

I think it arose out of the fact that they said that there was only a majority of one and that the official Members had voted and in fact it could hardly be otherwise because the person who presented the Report was the Attorney-General, he was putting forward his Report and he could hardly have abstained from voting. I would like to take this opportunity of saying, Mr Speaker, that in matters which are essentially local and of a possible controversial nature I do not give instructions but there are no instructions the opposite way, that is to say, I do not count on the votes of the official Members to carry through any measure other than purely defined domestic matters, financial and things like that at any one time because they are party to it. I normally encourage them to abstain because I want the majority of the House to be run on the basis of the majority of elected Members.

MR SPEAKER:

I think we have clarified the matter and we will go on to Private Members' Motions.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO:

Mr Speaker, I beg to move: "This House is concerned at the decision of the Government to appoint an additional Trade Licensing Authority to hear one specific set of applications for a particular trading licence and considers that the matter should not be proceeded with in this manner". Mr Speaker, I had this motion down previously and in fact I asked leave of the House to withdraw it when having put the arguments in the House I was told by the Government that the matter would be investigated before it proceeded any further. I subsequently had a letter from the Chief Minister telling me that having investigated the matter the advice he had from the Attorney-General was that it was perfectly correct to proceed in the manner in which it has been intended to proceed and to which I had objected and obviously I am bringing the matter again to the House because as far as I am concerned that letter in no way satisfies the points that I raised in the House since he tells me simply something that I knew before I withdrew the motion, that is, I knew what the view of the Attorney-General was and I brought the motion to the House and I asked for the matter to be debated here precisely because I do not accept his view so to be told that that is his view is to be told the obvious. The opposition that there was to the granting of this licence and the accusations that were made that in fact some people in the Committee had been got at by the objectors is now of academic interest since in fact the objections have disappeared because as quite often happens in these situations from past experience, the objectors can have their objections attenuated, shall we say,

by the person that is interested in the licence buying into a firm that already has a licence. That is in fact of academic interest and really it is not the point at issue as far as I am concerned. I said I think when I moved the motion on the last occasion that it was not up to us in the House of Assembly to decide whether the licence that was being requested was legitimately justified or not, in fact, as regards that particular issue I think it is far from obvious what the objectors could be objecting about or even how the licence could have been refused when the objectors themselves have all been trading without a licence and they are all asking for a licence at the same time as they are objecting to the other one. The thing was far from clearcut as to whether the objections would have held water or not but that is not the issue, the issue that I am raising is in fact that having decided, I think, to get out of the impasse created by these counter-objections and counter-accusations by nominating a new Committee, I think the decision is being upheld quite frankly because the administration or the Government or whatever it is that is responsible for this decision, does not want to admit that they have made a mistake and I think it is obvious that they have made a mistake and therefore although I understand my motion has been overtaken by events since in fact the Committee has met and has granted the licence, that is, the special Committee, the House will recall that at the last meeting of the House, I am afraid we have not got the Hansard and I recognise that it is no fault of the House because in fact of the shortage of time that has elapsed and the fact that it was a continuing meeting and we have not got the Hansard of the previous debate but if Members will try and remember what went on then, there appeared to be some confusion in the Hon and Learned Attorney-General's mind at one stage in the proceedings as to how many Trade Licensing Committees there actually were because in fact there had been one appointed, the second one was still in existence and then the first one had more people appointed to it. As I understand it, Mr Speaker, the Trade Licensing Authority is one Authority. The Ordinance says: "There shall be a Trade Licensing Authority" and therefore there cannot be two Trade Licensing Authorities concurrently. Given that, I think the explanation I was given by the Hon and Learned Chief Minister in his letter was that the Attorney-General's view was that the appointment of one body constituted as a Trade Licensing Authority de facto terminated the appointment of the preceding Committee presumably even if they have not received a letter telling them that their appointment is terminated. But if that is the case, if the fact that a new Committee was set up de facto terminated the previous Committee, then I assume I am correct in deducing from that that all the meetings that have been held by the previous Committee after the appointment of the second Committee are ultra vires and all the licences they have issued are invalid because they do not exist. If that is not the case then I imagine that the licence granted by the second Committee whilst the first Committee was still meeting is invalid otherwise it has to be recognised that the meaning of the article 'a' in the Trade Licensing Ordinance has been given a new meaning in the English language and 'a' does not mean one anymore, it means two. I think that the

situation is, quite frankly, Mr Speaker, that the decision has been upheld primarily because in fact it ceased to be a controversial issue as far as the contending parties are concerned and I think that is the wrong way in which to handle the issue, I think a dangerous precedent which is going to make the operation of the Trade Licensing Ordinance even less satisfactory than it already is has been created because I would imagine that any businessman and I certainly would recommend that to anybody if this decision is legitimised, I would certainly recommend to anybody who thinks that his chances of getting a licence are diminished by the individuals who happen to be in the Committee, to object to those individuals on the grounds that he has reason to believe that they are biased and to ask for a new Committee to be set up. Let me say that in fact the Trades Council nominees which were put forward for the second Committee were, in fact, withdrawn before the decision was taken. When the Committee met for the first time the Trades Council nominee made a statement saying that having given further thought to the matter the Trades Council had come to the decision that it would be incompatible with its obligations and indeed incompatible with its role in nominating people to Government bodies, if it accepted that somebody nominated by the Trades Council can actually differ from somebody else as if he were a free agent because as far as the Trades Council is concerned the people it nominates are not put on Government bodies to look after their personal interest, they are put on Government bodies to look after the interests of working people and trade unionists as a whole and therefore they are supposed to look at a case, for example, in an issue like the trade licensing if they are looking at whether the needs of the community are adequately met they will be looking at two things; at the interest of working people as consumers and at the interest of people working in that trade or business whose jobs might be put at risk by the issue of an extra licence. That is how they are supposed to interpret and the Trades Council having given further thought cannot accept that one individual can interpret that by voting no and another individual can interpret that by voting yes and in fact since there are substitutes, if there is a clash of interests because one individual there might have it in for somebody or might have family connections where they have got an interest in that area, then there are two substitutes that can replace the two people there. In fact, the four members were removed, that is, the two members who had indicated that they had been got at and the two members who had indicated no such thing were removed. Two people were substituted who subsequently said they would not be attending and in fact resigned before the licence was issued, before the decision to grant a licence was taken. On the other side, on the side of the representatives nominated by the Chamber of Commerce, the two people who were originally substituted for the special Committee have in fact remained for the normal Committee. So, in fact, we have a situation where in practice on the Chamber of Commerce side the people who form the normal Committee and the people who form the special Committee are the same people whereas on the Trade Union side they are not because they were precluded originally from being and because the two substitutes that were put on the special Committee were

subsequently removed and in fact the Trade Union side were not represented when the decision to grant the licence was taken. I am just giving that information to indicate to Hon Members that it has been anything but a straightforward operation of this special Committee or a straightforward decision but my main bone of contention is that I believe that if the argument is used that once the Committee was nominated initially and appointed and gazetted, the first Committee de facto ceased and I would have thought that in that case a letter should have been written to those members informing them that they were no longer the Trade Licensing Authority because a new one had been appointed and that their appointment would continue after the previous one had been terminated and it has not happened, then I would have thought that if that is the case and if my reading of the law is correct, then all the licences issued during the period when the two Committees were in existence are invalid and in fact I can tell the House that I shall certainly be taking the matter further in challenging that, if necessary, to prove the point in Court.

HON ATTORNEY-GENERAL:

Before the Hon Member does give way, could he explain why he sees that as legally invalid?

HON J BOSSANO:

Well, because, Mr Speaker, as far as I am concerned if the law says "there shall be a Trade Licensing Authority and the Trade Licensing Authority shall be composed of so many members" and you set up such an Authority, you then set up a second Authority either there are two separate Trade Licensing Authorities in existence simultaneously or else there is a Trade Licensing Authority with twice as many members as there should be which the law does not allow either. If you have a meeting of the first Trade Licensing Authority to take a decision on a licence then clearly the Authority is constituted because as far as I am concerned my reading of the law is that the Authority exists all the time. You do not just say the Authority exists between 9 and 10 o'clock because that is the time it was meeting, it exists all the time. Therefore from the moment it was gazetted, that was the Trade Licensing Authority. If the correct interpretation of the law is that from the moment the names of the new Authority came out in the Gazette de facto the previous Authority had its appointment terminated irrespective of the fact that they were not informed of this, then the meetings that the previous Authority continued to have after the second one was gazetted and the licences it issued are in fact all invalid because it was no longer the Trade Licensing Authority and it no longer had the power to grant licences. That is the point that I am trying to make. If that is not the case then I am saying the second Authority when it met and it granted the licence could not be the Authority because it meant that the first one's appointment had not been terminated since they continued to meet and they continued to grant licences.

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

HON CHIEF MINISTER:

Mr Speaker, before the Hon and Learned Attorney-General gives his view of the law and why the Hon Member's proposition may or may not be acceptable which is a matter for him. I think I owe it to the Member, having asked him to withdraw for the time being, to give my side of the version as a Member of the House and having to carry the undertaking I gave that I would look into the matter even though when I looked into the matter and I replied to the Member he was not satisfied, that is his privilege and I am not going to quarrel with that. I also had a very interesting discussion with the Hon Member who gave me a very vivid account of certain aspects of this matter which I need not go into but when I state the facts I will state matters of principle which I think ought to be considered, whether in this case or in the future, about this question of people approaching or people saying that they have been approached which is a different thing if they do not want to be concerned with a particular application. I want to satisfy the Hon Member, whether he agrees with me or not, that I carried out in my undertaking to look into the matter and I have a note here, it is a departmental file, and in order not to introduce names I will call one company (a) and another company (b). There are two companies involved in this matter and therefore I will call them (a) and (b) rather than mention the names of the firms because I think we are concerned with the principle and not with the companies. Company (a) applied to the Trade Licensing Authority for the issue of licences under the Trade Licensing Ordinance to import, export and trade by retail in amusement machines. The application met with opposition from local operators. At a meeting of the Licensing Authority held on the 25th February, 1983, objections were raised and Senior Counsel advised that the Authority should not hear the application - perhaps I should pause there a moment and say what I understand to be the case - objections were raised on the one hand by the representatives of the opposers that some of the members of the Committee had been approached by the applicant or the other way about and in fact somebody volunteered, who has not been challenged to say: "I have been approached", perhaps in order not to sit for the application for whatever reason that may be, that remains a mystery. So that on that advice the Senior Crown Counsel who sits in the Committee as legal adviser to the Licensing Authority, advised that the Authority should not hear the application very much the same as the Hon and Gallant Member will remember in a court martial: "Do you object to any of the members here or have you got any objection?" If you say yes and it is valid, you substitute one because they say: "This fellow has it against me", or what have you. The Crown Counsel advised that that Authority should not, having regard to what had happened there, hear that application because it could have been later challenged because some people had been got at or some people had said that they had been got at or had been approached, I think got at is the wrong word. He

further advised that the Authority be reconstituted with a different membership to deal both with this particular application and those of the objectors. Action was taken to reconstitute the Authority as advised but an oversight occurred whereby six members only were appointed, they missed one.

HON J BOSSANO:

Will the Hon Member just give way on one point because it seems to me that in the brief that they have prepared they have omitted one stage in that. I think in that brief that the Hon Member has one important element has been omitted and that is when the decision was taken or the advice was given to appoint a new Authority, I can tell the Hon Member that I spoke with the Crown Counsel and I asked the Crown Counsel if in fact the objection had been made that the people who had been approached or the information had been volunteered that someone had been approached by those sitting in that Committee, why wasn't the Committee then reconvened using the substitutes who I could tell the Member had not been approached and were prepared to say they had not been approached and I asked that if they are saying they have not been approached what is the objection to the substitute being used and I was told quite clearly over the phone by the Crown Counsel: "There is no objection to the substitute being used". And then I said: "Well, then why do you want to set up a new Authority?" I was then told: "Well, we will look into the matter", and the next thing I knew the new Authority had been gazetted.

HON CHIEF MINISTER:

I do not dispute that because it has been seen by the Hon Member that I am reading from a prepared note. Anyhow, action was taken to reconstitute the Authority as advised but an oversight occurred whereby six members only were appointed so therefore there wasn't a fully substitute constituted Trade Licensing Authority, whether it was the right one or the wrong one it was one short. In the meantime Mr Bossano raised the matter in a motion here and after discussion agreed to withdraw it on my undertaking that I would look into the matter. The application of company (a) was withdrawn and no application had been put in by (b) who were the objectors so that really the point ceased to have any relevance anymore. It was then decided that all that was required was to appoint the seventh member to the alternate Authority, for that alternate Authority to hear the applications pending over which there were no difficulties any more because there was no objection and abolish the alternate Authority and enable the original Authority to deal with the other applications and there still remains my duty to fulfil my undertaking to the Hon Member to look into the matter and then the position therefore was that the legal advice continues to be that the matter should be dealt with by an alternate Authority and that Mr Bossano should be so informed so that that action can proceed. I so informed the Hon Member and he wrote back saying he was not satisfied and he has raised it here. Having said that and

whether that is right or wrong, legal or not, whether the Hon Member is going to involve himself in legal proceedings that is his privilege, that is a matter for him, but there are one or two aspects of this matter that ought to be aired in this debate. First of all, it is not unknown not only for people to be approached but for letters to be sent every time there is any application to everybody saying: "We are opposing the application of so and so", the Chief Minister, the Leader of the Opposition, GLWA, Transport and General Workers Union, Taxi Association, whatever it is, there is no difficulty about putting a huge list of distributions, the papers, television, everybody. You could say that that is an approach and therefore that members are thereby tainted from dealing with that matter. Well, that, I think, should not be the case otherwise there would never be a set of people independent enough to sit. The integrity lies in the members themselves. On the other hand, if a member hypothetically wants to get himself out of a difficult situation because he does not want to upset one side and does not want to upset the other he says: "I have been approached, I cannot sit", then the Authority finds itself in a very difficult situation which was what happened. I am advised by the Attorney-General that there is no limit to the alternate members who can be appointed, so to speak, that is to say, the Trades Council can appoint two effective members and two substitutes so that they can go down the line. If (a) has been approached you can go to (b) and if (b) has been approached you can go to (c). There is a limit to how much people can do in that respect and in any case being approached is one thing and finding yourself in the situation of being embarrassed to sit is another. One is approached about everything and you say: "Well, that is not a matter for me, it is a matter for this department or the other department". I think that may be the ultimate lesson that we must learn out of this because, and I am not making any specific allegation, things can be manipulated from the top rather than from the bottom, that is to say, people can exempt themselves from that by saying that they have been approached and it would be very awkward, as has happened in this case and I am not saying whether it was right or wrong, it would be very awkward because one or two members, I understand that in that case one of the members said: "I have not been approached, nobody has spoken to me about this matter and I am free to discuss this matter", yet for whatever good reason the legal advice given is: "All these people are out, let us have another lot". I do not think that will happen again but I think whatever happens as a result of this motion we ought to have a longer list of waiting members and if somebody goes along and says: "I do not like this fellow, he is the first cousin of the objector or the brother-in-law or what have you and I do not think I am going to get a fair hearing", then it is purely simply saying: "Alright, you cannot have all brother-in-laws waiting there or cousins, you can bring somebody in". I think that is the lesson that we have to learn whatever may have happened in this case out of this matter and I think apart from whatever the Hon Member may wish to say, I think he has rendered a service to the community by drawing this matter into the open in order that

this should be aired. I have therefore, insofar as my undertaking given to the Hon Member, discharged my responsibility, got advise to say that the thing had been rightly done and told him and if he is not satisfied it is his privilege to bring it here.

HON G T RESTANO:

Mr Speaker, there are two aspects in this little episode which puzzle me. The first of the two has been brought up just now by the Hon and Learned the Chief Minister and that is this question of the approach. On the Trade Union side the Hon Mr Bossano said that the representatives on the Committee were there to protect the right of consumers generally and the workers in that trade when they looked into any application but I would imagine, therefore, that say a worker in a particular trade went to his Trade Union representative and said: "We know that this company is applying for a licence, it may affect the business that I am working in, I think you should oppose". This happens all the time so is that not an approach? What I cannot understand is why in this particular case that has been brought forward why an approach has been considered to have been something wrong?

HON CHIEF MINISTER:

If the Hon Member would give way. I think I mentioned it in passing, I do not want to lay too much stress, because it came from one member of the Committee saying: "I do not want to sit in this because I have been approached". Whether he had been approached by one side or by the other or by neither is forever to be unknown.

HON G T RESTANO:

That is why I say I cannot understand why the particular individual who said that he had been approached should feel that there was something wrong in this approach, it happens all the time, it happens all the time from the representatives of the Chamber of Commerce who after all represent not only their own memberships and when an application is heard sometimes members of that trade object and they go to their representatives to defend them. They are there to protect the interests of their members as well as the community as a whole, they balance these things up and there is certainly nothing wrong, I feel, in anybody on that Committee being approached particularly in a small place like Gibraltar where everybody knows each other. That is one aspect which puzzles me. The second aspect which puzzles me is why, and I do not think that the Chief Minister has given an explanation for this, a real explanation, why was that second Committee formed? There has been as yet to my mind no logical explanation given to this House as to why that second Committee was formed without using the substitutes. I cannot recall any other Committee in the statute book being replaced by another one when there was machinery to replace anybody who felt in conscience that he should not sit for that particular application. I know that

the first question of the approach cannot be answered by anybody in this House but certainly the second aspect should be answered by this House. Why was that decision taken rather than use substitutes and I would like to hear from the Hon and Learned Attorney-General why that decision was taken.

HON P J ISOLA:

Could I ask the Hon and Learned Attorney-General could he also explain, everybody is talking about substitutes, but I cannot see any provision in the law for substitutes either.

HON ATTORNEY-GENERAL:

Mr Speaker, having had my attention drawn yesterday by the Hon and Learned Leader of the Opposition to Section 64(a) of the Traffic Ordinance, I would be delighted to show him where the substitute provision is. It is in fact in the Interpretation and General clauses. This matter relates to the legalities or what I am going to speak about relates to the legalities. Of course, normally, they would not be a matter of debate they would be a matter that if one party disagreed with the other they would test it in a Court of law which the Hon Member has already indicated he may yet do. My view is that certainly there was only one Trade Licensing Authority, there can only be one Trade Licensing Authority under the 1978 Ordinance and I am also of the opinion that the cases that have now been heard using, if you like, in the mainstream the standard members of the Authority and also using a different panel for the six, I think it was, cases that have given rise to all this, my opinion is that those cases have been quite validly determined and that they are not invalid but I do think that there were two possible ways of dealing with the situation which arose and I think the way in which it was dealt with while legally perfectly efficacious has been less easy to understand from the presentation point of view and I personally think that is the reason why there have been difficulties, if you like, of appearance in the whole matter. As Members know and it has already been said, what happened in this case was that certain members disclosed that they had been approached and the view was taken that therefore it would be proper, I think is the right word, to replace all the members of the Authority and that view was taken and acted upon and they were replaced for the purposes of six particular cases and if Hon Members look at the interpretation in the General Clauses Ordinance it does say that where you have the power to make an appointment you have certain ancillary powers including a power to suspend and I think that correctly viewed what happened here was that the Authority were replaced for the purposes of particular cases. It does not mean the Trade Licensing Authority ceased to exist but it means the composition of it was changed for six particular cases and I think the proper interpretation of that is that there was an implication an implied suspension of the status of the other members while those particular cases were heard and that is the view I have formed after the event and advised on. I also, because I foresaw the question of presentational

difficulties, I also said I thought it would be desirable so that the public would not be confused by the whole thing, to deal with those six cases in a row, in other words, go through the ordinary work of the Tribunal, reach the stage of those six cases to come up, then bring in your temporary members to deal with those cases and get them out of the way and come back on to the mainstream of the tribunal work. That is the way this was handled. Can I just clear up one other point? The reason why a seventh member was appointed was because if there is to be an implied suspension of the membership you have to know who you are suspending and if you have an Authority of seven people but you only suspend six then there is uncertainty as to who remains on the Board and who does not, that is why the seventh member was appointed although there is another view, which I personally do not share, that you have to replace seven by seven anyway, I do not agree with that view myself but there is a view that has been expressed that the Authority is not competent unless a full seven members are appointed from time to time. Having said all that I think there was a presentational problem in doing it this way although I do not think it was legally valid and what is more since I can only say that by way of an opinion I am quite happy to have that put to the test in the Court. I think the alternative way to have settled it would have been to invoke the substitute procedure and in fact I may say myself I think it would have been necessary to engage or appoint some substitutes. I was not there but I have my reservations as to whether it was necessary to replace everybody. My feeling is that it could have been done by substituting two or three members. The source of authority for substitution is not in the Trade Licensing Authority, 1978, itself, it is in the ancillary powers in the Interpretation and General Clauses Ordinance. There is a part in that Ordinance which says that where you have a power to appoint you have a power to suspend and a power to revoke an appointment. There is also a section in that Ordinance which says where you have the power to make appointments to a Board or a Tribunal then you have the power to appoint, I think they call them alternates but it is the same thing and that power, I think the Hon and Learned Member will be able to confirm that that power is not limited to the number of alternates that can be appointed. It is easy for me to say now because it is after the event but in retrospect my own feeling would be that a course of action which would have been easier to understand would have been to appoint substitutes for the particular people who expressed an interest. But in the event that was not done and I think there is also good reason once one has taken a course if it is not a course which is invalid and I do not believe the course that was taken is invalid, I think there is very good reason for keeping to that course so that is what we have done in this case. I had hoped that the Trade Licensing Authority would be able to take those six cases in a sequence so that it would appear to the public that the ordinary course of work was being dealt with, then one reached the point where because of what had happened in a particular case, six other cases were heard by a recomposed Authority and then the ordinary work of the Authority went on again.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. He still thinks that having started on that course it was right to continue with it notwithstanding the fact that the Trade Union nominees had indicated they would not be attending and in fact resigned before the cases were heard and notwithstanding the fact that the Chamber nominees were subsequently appointed to the permanent Board as well and therefore were not substitutes and were not in fact specifically for this Authority only since they sit on the normal one as well. Notwithstanding those alterations in the course of events, he still thinks that having started on it it should continue?

HON ATTORNEY-GENERAL:

Well, one of the easier parts of my position is that I advise on the law and I think it was not legally incorrect to go the way it went and I think there is a good argument for saying once you start a course of action administratively there is a case for sticking to it. Mr Speaker, that is really all I would like to say.

HON MAJOR R J PELIZA:

Mr Speaker, I am very, very perplexed by the whole case being put by the Government. It looks to me that a straightforward action that should have been taken which is if a person who has been approached and by approached I mean intimidated or offered a bribe, that to me is approach, in Gibraltar to call approach to talk about any particular issue is not approach, you cannot help talking about any particular issue. I am sure that every member of that Authority hears all the time what is going on. They are approached by people who are going to put applications who want information and facts on how to do it. I know a number of people who go and see people like that, who are on the Board. Who are they going to go to if not to persons who are on the Board? It does not mean to say that the individual perhaps explaining how the thing works is in any way biased in favour or against that individual because he has been approached in that manner. I cannot, first of all, accept the undefined way in which the Chief Minister has talked about approach because I do not suppose he even knows what this man meant by approach and I would have thought that the first thing to find out is what happened in this approach that the individual concerned felt he could not sit on that Board? That is the first thing that has to be asked, in my view.

HON ATTORNEY-GENERAL:

If the Hon and Gallant Member would give way I would be grateful. A point I should have covered, Mr Speaker, I think what happened was that the Authority sat and one of the members or more than one of the members disclosed that they had been approached or solicited. I think there is a very important

consideration that arises then and I am sure it arose in the minds of the people who gave the advice on this matter. It is not just a question of how he was approached or to what extent he was approached, it is a question of appearance. If he is sitting in an Authority in public or partly in public and he announces this, then one has the problem of appearance to contend with as much as a substantive problem.

HON MAJOR R J PELIZA:

If we go by appearance, in fact, we have gone all the way round to affect appearance in that it is now thought that you are obviously constituting a Board to fit that particular situation and if appearance is the criteria you have made it 100 times worse than before if one has to go by appearance. I accept one has to go by appearance but to go by appearance is if you have a body which is supposed to look into this matter, that body must be sacred, must be kept, must be defended, must be upheld and any changes that are undertaken which will change the composition of that body would only give the appearance, which is I think very important, not only must you do justice but you must appear to be doing justice, that is completely destroyed particularly when two members of that particular Board resigned because of what is happening. So the big question mark comes along, what the hell is going on? Quite justified. I am sorry, I will leave hell out. I think, Mr Speaker, that the Hon Member is more than justified in bringing the matter forward. I think it is very important, particularly in this House, with all these quasi judicial bodies, that we should keep a very careful eye on what happens because I think it is an extension of the power of Government and because it is an extension of power which could be manipulated, it is vital that this House should bring matters of this nature so that justifiably or unjustifiably the matter is brought to the notice of the public at large and is put right. What is interesting, and this is the second time at this particular meeting where individuals or bodies are going to take matters to Court in connection with this quasi judicial body. Yes, it is. We had a very long debate here yesterday on this very matter and now we are having another debate on this very matter and my advice to the Hon Member is that if he is going to take the matter to Court to do it as quickly as possible before we have retrospective legislation to have two Boards. This is what we were defending here in the House yesterday and this is why I stood up again here today to defend. I totally support the motion and I hope the Hon Member takes my advice, if this is defeated as I am sure it is going to be, that he takes quick Court action on the matter.

HON P J ISOLA:

Mr Speaker, I agree with a lot of what my Hon and Gallant Friend has said on this motion and certainly in the advice he has given my Hon Friend, Mr Bossano, because it seems to me there will be need for legislation because, Mr Speaker, frankly, to me there is only one Trade Licensing Authority and that is the only Authority there is under the Ordinance and if

another one has been appointed, in my view it is ultra vires, it is as simple as that, it is outside the law and therefore the one appointed is an invalid Authority and therefore the decision it made is also invalid. But then, Mr Speaker, as my Hon and Gallant Friend has already stated, this is not the first time these things have occurred and obviously I think the House has to be concerned that the Government, the administration, has acted in a way that it has no authority to act under the Ordinance. I think I heard the Hon and Learned Attorney-General say that if he starts off on a particular administrative line it is better to go on with it. I would respectfully say it is not better to go on with it.

HON ATTORNEY-GENERAL:

If the Hon and Learned Leader of the Opposition would give way. I am of course assuming that it is founded on a sound legal ground.

HON P J ISOLA:

I can only refer, Mr Speaker, to my objection to repealing 2(ii)(a) of the Elections Bill and then being convinced by my Hon Friend that there was a lot of merit in: repealing it and then in Committee Stage saying so and withdrawing it. If one is wrong I think it is better to withdraw in time than to go on like bulldozing ahead and finally run into trouble. I do not know whether the Hon and Learned Attorney-General was under pressure from legal advisers on both sides and said: "Let us get on with it and see what happens". Certainly, with the greatest respect, I just do not see where the Authority lies in law for the appointment of a second Trade Licensing Authority one being in existence. Mr Speaker, having said that, I think that this motion does give us an opportunity to look at the Trade Licensing Authority and to look at the misconceptions that are obviously held about it. I have heard the Hon Mr Bossano say in an aside when my Hon Colleague, Mr Restano, said that it is quite a normal thing for members of the Committee to be approached by members and the Hon Mr Bossano said: "This is happening every day". Well, to my view, if it is a quasi judicial body that is totally wrong, too. It is a quasi judicial body and it should make its decisions on the evidence that is presented to it. I expressed these doubts originally in 1978 Ordinance when it was brought to this House. I said: "What sort of thing is this going to be? Is it going to be a thing where licences are given by a chat-up between the trader and the union officials getting together and saying:- 'We will give it to this guy, we will not give it to the other'" That is, surely, not the intention. They are sitting in a quasi judicial capacity. They are picked from trade and they are picked from trade unions so that they can assess themselves the situation in a more realistic manner than, for example, the Surveyor and Planning Secretary or the Administrative Secretary in the Government or the Establishment Officer. But that does not make them any less a quasi judicial body and if Senior Crown Counsel stopped the hearing because one member had been

approached and if this is happening every day, then in my view, there is need for statutory enactment making an obligation on the part of every member of that Committee every time he sits to state to the Committee whether he has been approached or not, a legal obligation to do so.

HON ATTORNEY-GENERAL:

I am sorry, I do not want to abuse, Mr Speaker, but if the Hon and Learned Leader of the Opposition will give way. I do not really think it is fair to say that Senior Crown Counsel or Crown Counsel or myself is in the practice of stopping hearings of statutory bodies in this way, I think this was a single incident.

HON J BOSSANO:

It has never happened before.

HON ATTORNEY-GENERAL:

I think it happened once. It has happened, there have been certain consequences, no more than that.

HON P J ISOLA:

Yes, but we are told this is happening every day and Senior Crown Counsel stopped it because there was probably a lawyer there who told him: "How can this man sit if he has been approached?" What I am saying is this, I know myself members of the Committee are approached, everybody knows it. If that is going to stop the Committee sitting then (a) it should be an offence to approach any member of the Committee on a pending application - well, I am sorry but you either do it one way or the other or we have a free for all you do not stop any approaches, we have lobbying like we do with the House and everything else before a meeting of the Committee. You cannot have it both ways. You cannot have a Committee and turn a blind eye to the reality that everybody is being approached and continue with that Committee if you think it is wrong that people of the Committee should be approached.

HON CHIEF MINISTER:

If the Hon Member would give way. We are dealing with a very interesting and important matter and let me tell the Hon Member there is no Government policy in this matter at all. What I mean is we are not enunciating any policy as to how it should be done. We have been acting on legal advice and we have to act on legal advice. But there are two ways of approaching the matter. After all, the Tribunal itself can hear people opposing it so people who oppose it make their views known to the members before they go there and in the Committee and therefore I think that there is differences in the kind of approach. One thing is receiving a letter and saying: "We will be opposing this" and sending members of

the Committee copies of letters sent to the Chief Minister or to the Secretariat saying: "We think no more licences should be given, there are enough", and all that. That in itself is just representation. An approach is getting the people more involved. I would have thought that attempting to corrupt or attempting to influence the view of any member is itself already an offence. But the point is to what extent are members going to be denouncing this sort of thing if it happens? After all, they are doing a voluntary job in sitting there and listening. It is important, I agree, and we ought to find ways in which this matter can be eradicated but I think there are differences. In this case it was not just simply an approach, it was more than that. It was that a member said: "I cannot sit because I am involved".

HON J BOSSANO:

Will the Hon Member give way? What actually happened, Mr Speaker, was that the lawyer of company (a) which is the company that people were objecting to because it was coming in from outside which subsequently has bought into a local company and consequently withdrawn its application and therefore the alternate Authority set up to hear company (a) has not heard company (a), apart from anything else, the lawyer challenged the eligibility of members of that Committee because he said that they had been approached and then one member of the Committee volunteered, perhaps because he happens to be on the same wavelength as the lawyer, one does not know, volunteered the information that his mind was already made up and that he would be voting against the licence being granted because in fact he had been persuaded by the people objecting before the sitting of the Committee. Another member who also represented the Trades Council said that certainly he had not been approached and he had not made up his mind and therefore he was free to vote one way or the other once he heard the evidence. Nevertheless the decision taken by the Crown Counsel was because this one member had volunteered that to scrap the whole Authority and set up an alternate one. Those are the facts and I am saying that that way of proceeding is incorrect and I said so in the motion and I withdrew the motion because I did not want to create a lot of hustle, I just wanted things to be done, in my judgement, in a way that would not create precedents for the future which I consider to be very dangerous but nevertheless having withdrawn the motion, having had the matter investigated it was decided to proceed on the original lines and therefore I felt that I had to reintroduce the motion and therefore bring the whole thing out into the open.

HON P J ISOLA:

I agree with the Hon Member that in my view a different Trade Authority there just isn't authority under the Ordinance to appoint, I agree with that. But I am going a bit further because is it policy, there is a Committee that sits, people who object, there is a procedure laid down in the law, they object to the Secretary and they send a copy of the objection to the applicant's lawyer or the applicant himself, then a

hearing is set and you expect to have in front of you four people who represent trade, some are meant to be independent and some represent the unions and you expect them to hear and decide the case not on what they have heard outside or on the lobbying they have had outside but on the merits and with their own knowledge of affairs.

HON CHIEF MINISTER:

In fairness, they are doing that all the time until this happened.

HON P J ISOLA:

Well, I do not know because if I am told that it is a regular thing to lobby before the meeting and all this, it is a matter the House should be concerned about that, too, and I think there should be amendments proposed to the legislation. The other point I would like to make is, what I would like to ask the Hon and Learned Attorney-General is that the appointment of alternate members, I do not know who does it, I do not know whether

HON CHIEF MINISTER:

If the Hon Member will give way. The bodies represented are asked to nominate alternate members and that is why I thought that a bigger reserve of alternate members suggested by the particular bodies would be a better way of doing it.

HON G T RESTANO:

Could I ask, do the independent members have alternates?

HON CHIEF MINISTER:

No, they opt out when they feel that they are concerned, as far as I know. Anyhow, the bodies are the ones that I am talking about in this case.

HON P J ISOLA:

Because I hope that under the Interpretation and General Clauses Ordinance the only person who can appoint the alternate members is the Governor. I presume that there is in existence writings signed by the Governor or whoever it is that discharges

HON CHIEF MINISTER:

No, no.

HON P J ISOLA:

Well, the Interpretation and General Clauses Ordinance says that when somebody has the right to appoint members to a Committee that person has also the right to appoint alternate members so I hope that at least the alternate members who have been appointed have been appointed by authority of the Governor under the Ordinance, it has not been just somebody in the Secretariat or the Chamber of Commerce telling somebody else: "You go today instead of me". I hope that is not the position either. Mr Speaker, I agree with the motion because I think it is a matter for concern that the provisions of the Trade Licensing Ordinance should not have been complied with but I also think that the motion having been raised the Hon and Learned Attorney-General should go into the Trade Licensing Ordinance and decide whether there should be penalties imposed under that Ordinance for people who approach members of the Committee in respect of a pending application and, secondly, an amendment to the Ordinance to make it obligatory on the part of members of the Committee when they sit to hear an application to make a declaration that they have not been approached and if they have been approached to state who by because I think that is important if we are going to have a quasi judicial body doing its function as was intended by this Legislature. Thank you.

HON A J CANEPA:

Mr Speaker, listening to a debate on this motion I think it is clear that there is generally in the House a lack of confidence in the independence of the Trade Licensing Authority. Let me say that I was not aware until very recently that this was in fact the case but very, very strong views on the matter appear to have been uttered this morning and I think the matter warrants further investigation. I had not intended to say very much on the motion because the whole matter is more of a legal, in my view, than of a policy nature but the Trade Licensing Ordinance is in my Ministerial portfolio, it is one of the pieces of legislation of which I, as Minister, am responsible. My involvement with the Trade Licensing Authority is limited entirely to receiving the minutes of their deliberations and to discussing with the Chairman not the individual applications which are received, this I have never done, but matters which arise from the deliberations of the Authority which may entail legislation, as was the case earlier in these proceedings where as a result of discussions on matters which the Chairman brought to my notice, I took proposals to Council of Ministers that we should amend the Schedule by adding the items that were added earlier in the proceedings. But I think that arising from this lack of confidence in the independence of the Authority, I think it is incumbent upon me to give the matter

HON P J ISOLA:

Would the Hon Member give way? Please let me assure him that I am not saying that I have no confidence, if he is insinuating that, all I am saying is that it is wrong for a quasi judicial body for it to be accepted that they can be approached.

HON A J CANEPA:

No, I have not heard any statement made here this morning other than the Hon and Gallant Member who seems to have come to this meeting of the House with certain words that I will not repeat very much in his mind because it has now cropped up on two occasions. No, I have not heard any statement to that effect but the implications of what is being said are rather serious because there are clear indications that the members of the Trade Licensing Authority are not, when they sit down and deliberate and they receive evidence from the two parties, either from the applicant or objectors, they make their indications that they may have been, shall I say, got at before, that they may have been lobbied and that therefore in some cases their minds could well have been made up before they sit and hear the applications and therefore there could be indications that matters are not being dealt with entirely on their merits. I don't know therefore whether rather than making it an offence for people to be lobbied or make it a requirement for members to declare whether they have been approached, I don't know whether the answer is not to change the composition of the Authority, have a small Authority consisting entirely of officials, of civil servants. I hope that the lack of confidence or the possible lack of confidence which the Hon and Gallant Major evinced in certain civil servants in respect of the administration of the MOT test would not apply here.

HON MAJOR R J PELIZA:

I did not say anything about any civil servant. I really condemn that statement of the Minister. I have a very high opinion of our civil service and always have had it. What I referred to was to circumstances which lead to that, in other words, do not put the temptation in their hands. That is what I was saying and I take great offence at what the Minister has said and I hope he will withdraw it. I have a very high opinion of our civil service, I have always had it, and as previous Chief Minister I can evaluate the good work that they do.

HON A J CANEPA:

I do withdraw that but if we are not going to put temptation in the hands of civil servants then civil servants cannot fulfil, cannot carry out their functions because they have a job to do and if in exercising that job for which some of them are well remunerated, temptation is put in their hands then what are we on about? I think what is required, as I say, some thought to be given to setting up an Authority, perhaps, three officials, the present Chairman, the Consumer Protection Officer and one other senior official and I think the danger of members of the Authority in that case being lobbied would be considerably minimised.

HON J BOSSANO:

Mr Speaker, if the Hon Member will give way. I think that this is, quite frankly, a totally separate issue from the motion because in fact the motion is not expressing concern at the behaviour of the original Authority, it is expressing concern at the behaviour of the administration in eliminating the original Authority. I certainly cannot have any confidence in replacing members of the Authority nominated by trades and by unions by senior civil servants since I am expressing total lack of confidence in the decision of the senior civil servants who have decided to introduce a second Licensing Authority outside the parameters of the law.

HON A J CANEPA:

I quite accept that I am not speaking on the motion. What I am saying is that as Minister for Trade charged with the responsibility which I have in respect of this Ordinance, I think it is my duty to carry out certain investigations and discussions and as a result of that to give serious consideration to having a new Authority altogether and that I propose to do.

MR SPEAKER:

Are there any other contributors to the debate? I will then call on the Hon Mr Bossano to reply if he so wishes.

HON J BOSSANO:

Mr Speaker, I would just like to say that the contribution by the Minister for Economic Development and Trade which has just been made is in fact irrelevant as far as the motion is concerned but there is an indication of what he presumably thinks is needed to correct the situation which I have brought to the notice of the House, I cannot see how he comes to that conclusion. I am pointing out to this House that in fact in my judgement, and I am asking the House effectively whether they concur with my judgement, the administration has dealt in connection with a situation arising out of one member of the Trade Licensing Authority admitting quite openly that he was biased and that therefore if he had to vote in a particular way because he had made up his mind prior to seeing the evidence because one member did that the administration thought the correct thing to do was to scrap that Authority and set up a second one just to hear that application in spite of the fact that there have been objections from those who have had to take part in the operation of the second hearing throughout. I cannot see how one comes from that to the conclusion that possibly the best thing to do is to scrap the nominees by representative bodies and put in senior civil servants when in fact it is the behaviour of senior civil servants that I am criticising, not the behaviour of the people nominated by the Chamber or the people nominated by the Trades Council. I cannot for the life of me see how that conclusion is drawn. The issue as to whether in fact it is right that people should

write letters, and I can tell the House that I know that this is the case, every time that there is an application, for example, a construction industry where there is absolutely no work and where a lot of firms are on the verge of going out of business, the firms concerned write to the Authority formally putting their objections and they certainly write to the Trades Council pointing out that this hearing is going to take place and that in fact there is no work to go round and that they hope that the Trades Council will take into consideration just how bad the situation is. I do not know whether that is illegal or not and I am not sure whether we should make that illegal or not and I certainly would not agree that because that happens the matter needs to be investigated and therefore you need to replace civil servants and substitute them for Trade Union and Chamber representatives. Presumably the industry will write to the civil servants and then what do they do, get sacked for having received letters because that is what the Minister is proposing to do, sack the representatives of the unions and representatives of the Chamber because somebody writes to them or somebody approaches them. I really cannot for the life of me see what the connection is between one thing and the other and the only thing I can say, Mr Speaker, and I think I need to say it, is that in fact the idea that the Minister has put forward of investigating the matter and substituting the representatives of the trading community and the workforce by civil servants is not a good idea.

HON A J CANEPA:

If the Hon Member will give way. I can tell him that two or three days before we were about to publish a Bill that would have amended the composition of the Authority back in 1980 because of dissatisfaction on the workings of the Authority which had been represented to me shortly after I became Minister for Trade, two or three days before that Bill was about to be published, as a result of meetings which I held I withdrew it but I think I need to look into the matter once more.

HON J BOSSANO:

Well, this is what I am saying. That the Minister has tried to do it before and it has been resisted before and it will be resisted again and it has nothing to do with this motion or with the issue that I have brought to this House. If he wants to do it for other reasons let him not say that because I have brought it to the House it shows that the Authority is not working well. I am saying the Authority is working as imperfectly as any body of human beings work, that if there is a need to control the lobbying let us take a decision that there is a need to control it but let us not accuse the people who are being lobbied when we have not taken a decision to control it and let us not use, in fact, the failings of the administration as an excuse for giving them even more power.

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

The Hon J Bossano
The Hon A J 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 Hon Members voted against:

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

The motion was accordingly defeated.

HON A T LODDO:

Mr Speaker, I have the honour to move the motion standing in my name which reads: "This House is concerned that a project which took so long to come to fruition, namely, the Westside Comprehensive School, should have already encountered serious difficulties resulting possibly from faulty design or faulty construction and calls on the Government for an assurance that all problems will be speedily resolved and that rectification will not involve the Government in any additional costs as occurred so disastrously with the Varyl Begg Estate". Mr Speaker, ever since I could remember the question of the eleven plus examination and in fact reading in a local weekly last Saturday I found a reproduction of an editorial from that same weekly dated 25 years ago which dealt with the eleven plus. Everybody has been concerned with the effects of this examination. Everybody agreed that it had its drawbacks, everybody was worried with the social stigma attached for not passing it giving concern to parents and children alike. But nobody knew exactly what to do about it. In 1969, or it could have been 1970, the Minister for Education at the time, Mr Lloyd Devincenzi, took what I would call a very bold political decision and that was to abolish the eleven plus and introduce the comprehensive system of education. In 1972 the new system was introduced. At that time it consisted of merging the schools, the Grammar School, the secondary modern technical side into one entity under one headmaster and similarly with the girls but there were other implications in the decision to go comprehensive not the least of which was the need to build schools to house these particular entities. Well, the money

for these schools was apparently guaranteed and the decision was taken, first, to build the Boys' Comprehensive School. I am sure it was not from any male chauvinistic idea but we had the Boys' Comprehensive School which was completed in 1975. In 1974 the decision was taken to build the Girls' Comprehensive School and it was estimated that the costs, as costed in 1975, would be in the region of £2,850,000 and it was envisaged that this school would be completed by 1977. It was decided that the best locale for the Girls' Comprehensive School would be the old Public Works Garage in Queensway and it was decided to build a school on this site. Mr Speaker, at this point firm decisions seemed to have stopped and indecision taken over. In order to get the school built, of course, the old Public Works Garage had to be resited and the first alternative site suggested was the old Slaughter House site on the Eastern side of the Rock. This brought a storm of protest, arguments why it shouldn't be built and what have you. Among the arguments brought against the building of the Public Works Garage on this site was that it was on a prime tourist development site and today, Mr Speaker, we have a refrigeration plant and a car testing centre, hardly two tourist attractions in their own right. Mr Speaker, eventually the Girls' Comprehensive School was built but apparently not finished, it was not completed. The question here is but at what cost? It took so many years to come to fruition and from an original estimate of £2,850,000 we are now in the region of £6m, I believe it is £5,800,000. Well, towards the end of last year with much pomp and circumstance, the school was handed over and there was a promise that the official opening of the school would take place in December of that year. In December of that year, Mr Speaker, what we got was a spot of rain, because we haven't had much rain - we heard earlier during the proceedings of this House that this is the third year in succession when we have had a drought - we had a spot of rain and we had problems, Mr Speaker. The problems were that rain had penetrated the roofs and that the stormwater drains had needed more works done to it. This prompted two questions from me in the House. The one on the stormwater drain was answered by the Minister for Public Works and I was told that the drain which had been laid had suffered due to heavy plant machinery rolling over and there had been a blockage and it had been necessary to carry out further works, a very plausible answer which I accepted. The other question which was answered by the Minister for Education was had there been any damage to the school as a result of the penetration of rain and I was assured that there had been no damage, that there had been slight penetration, some faulty flashing in the roofs. Again a very plausible answer which again was accepted. Last month, Mr Speaker, the ceiling of one of the classrooms collapsed. Fortunately, there was nobody there at the time so we have no personal injuries to be lamenting at this time. And not only that, Mr Speaker, but apparently cracks are appearing elsewhere in the school. Well, this brought from me a prompt letter to the Minister for Education which I made public. The House might ask why I picked on the Minister for Education and the reason is that in December I had two questions down, one had been answered by one Minister and the other by the other Minister and when the collapse of the ceiling occurred the Minister for Public Works was away from Gibraltar and I felt

that I should direct my correspondence to the Minister for Education. I got my letter off and I got my reply shortly before this House met on this occasion. So, in the reply the Minister gave me assurances that the investigation would proceed and that I would be informed of developments. So why bring a motion to the House, you might ask? Well, the answer to that, Mr Speaker, is that in January of this year the Headmistress of the Girls' Comprehensive School felt so concerned about the fact that the school had not been completed and that teaching and certain subjects, one of them was home economics, could not be carried out satisfactorily, she felt so concerned, Mr Speaker, that she took it upon herself to write a letter to the parents of the children in that school. For a top civil servant to take that decision she must really have felt concerned. Mr Speaker, in her letter she said that representations had been made to Government but that little seemed to have happened since the representations were made and that the letter had been sent in the hope that it would bring the response from whoever was responsible for this state of affairs. So, Mr Speaker, the school opened, although not officially, it opened because there was a crying need and in January, a month later, the Headmistress is still concerned and I believe that to date nothing can have been done because the school still has not been opened officially. Mr Speaker, this brings me to the last part of the motion which I also brought up in the letter to the Minister, and that was that I was reminded of the Varyl Begg roofs fiasco. For years the tenants of Varyl Begg had to suffer from leaky roofs whilst discussions went on as to who was responsible or who was not. At the end of the day the people of Gibraltar foot the bill for £1m for a fault which was not theirs. The answer we were given was that it was an improvement to the building, an improvement, Mr Speaker, which shouldn't have been needed if the building had been properly built in the first place. Mr Speaker, there are a number of questions which should be asked. The ceiling of the Home Economics Department collapsed, there are cracks appearing in other places in the building, we had leaky roofs within three months of opening. Are these design faults? Are these building faults? God knows we have had enough consultants, architects and what have you. How close a look had been kept on the progress of the building as it has been going up? Were all the materials used for the building vetted? Were all the materials used in the building of this school up to British standard? Have Government paid the retention money or have we still got that in hand as a bargaining point? What we cannot have is a situation where Government says: "No, it is not our responsibility it is the consultants" and the consultants say: "It is the builders", and in the meantime this drags on interminably. That we cannot have. It is very much the concern of the Government, it should be very much the concern of the Government. It is a project which is a one in a lifetime project. It is a project which has cost nearly £6m. You do not build comprehensive schools every other day and it is a matter which should seriously concern not only the Government but all of us in Gibraltar because when we were going to build the school originally the money was forthcoming from ODA, I believe, before my time, but the balance has had to be met from local resources. The biggest question of all, Mr Speaker, is

whether at the end of the day the people of Gibraltar have to pay? Under ordinary circumstances, Mr Speaker, I would think that this would be wrong but under the present circumstances in Gibraltar this is unthinkable. Mr Speaker, I hope that Government will ensure that enquiries are speedily concluded, that the results of that enquiry are made public, that the long-suffering pupils and teachers of the Girls' Comprehensive are not made to suffer for much longer and, what is most important of all, that at the end of the day the people of Gibraltar are not made to foot the bill for something which is not their fault. Mr Speaker, I commend the motion to the House.

Mr Speaker proposed the question in the terms of the Hon A T Loddo's motion.

HON M K FEATHERSTONE:

Mr Speaker, I am not going to go through all the initial part of the Hon Mr Loddo's comments on how Gibraltar went Comprehensive or what have you but he was a little incorrect where he said that the school could not go on the site of the Public Works Garage, there was a much longer history than that. There was a whole investigation, the initial site proposed had been the Hargraves Parade area and then there was a whole investigation and a commission in which, I think, the Cormorant area was considered, Alameda Parade area and eventually the MOD gave us the tongue at Montagu and then it was that the idea to put the school in that area came up and then the Public Works Garage came into the picture but that is already water under the bridge and it is not worth considering it very much more. Sir, I do not want to minimise what has happened but I must in all sincerity give the impression that a serious fault has occurred in the school with the ceilings. The partial collapse was of a false ceiling, not of the intrinsic school structure ceilings which are perfectly sound. A false ceiling, as everybody will know, we have one above us here, is where you have a main ceiling above and a lower ceiling is fitted onto it usually held by some securing method and obviously that securing method is the system which if the false ceiling should collapse, is the item which needs to be looked at and this is what has happened in this instance. The false ceiling had collapsed due basically to a very simple reason, one which I am sure most people have experienced in their own house if they do a little do-it-yourself work in which you put in a rawlplug, you put the screw in, you hang whatever you want on the screw and you find the rawlplug pulls out. It pulls out basically for the reason that the screw you have put in has probably not been thick enough to expand the rawlplug, creates sufficient purchase against the size of the hole in which it has been inserted and falls out and this is what has actually happened in the Girls' Comprehensive School. The rawlplugs did not hold strongly enough against the interior surface of the holes in which they were inserted. It seems basically the reason was that the screws used were not long enough and not thick enough.

HON P J ISOIA:

Can the Hon Minister give assurances that the screws used in other parts of the building are not long enough or short enough or are long enough and short enough?

HON M K FEATHERSTONE:

Until you look at every single screw you cannot say that. What I am saying, Sir, is that they were not long enough and not thick enough.

HON W T SCOTT:

If the Hon Member will give way. Is he quoting from the results of an enquiry?

HON M K FEATHERSTONE:

Yes, I am going to tell you. The fact that the screws were not long enough and not thick enough did not allow the rawlplugs to exert sufficient purchase and apparently in the area where the ceiling has actually collapsed partially there are certain wind pressures, etc which may have exerted more power on the ceiling itself than was expected. I would not call this faulty design nor really faulty workmanship, it is perhaps a fault of detail which obviously is not the best thing but in a very big project minor faults of detail will occur from time to time. It did occur, as has already been mentioned, with the slight water penetration where the flashing was not as complete as it should have been. Sir, the position was that this partial collapse occurred on the 4th June, 1983, and on the 6th June the PWD Clerk of Works reported from the preliminary examinations that it was the fixing screws in the rawlplugs which had pulled through and was allowing the ceiling which had not completely collapsed, it had partly collapsed, but was sagging and immediately contact was made with the consulting architects and they actually came out to inspect the situation on the 16th June. In the meantime the contractors, both their partners here and themselves in London, had been informed of the whole question and the consultants wrote to the contractors stating that not only did they expect the present ceiling to be replaced properly but that the other areas where there are false ceilings should also be inspected and the inspection should be by actually removing part of the plaster ceilings and testing sufficiently so that there would be no possible future difficulties. The consultants have been out here again just recently and the situation as far as we understand it is that the contractors have indicated that this work will be done during the summer holidays at their expense and they will also inspect the other ceilings to see that there is no possibility of a similar repetition. It is, obviously, regretted that this difficulty should have arisen but it is, as I have said, not an unknown thing in any big project that minor matters such as this should come up. I can say quite categorically, it is not anything to do with the basic structure of the building, it is simply a weakness in the fixing of the false ceiling, the

ceilings themselves are perfectly alright. I have not been appraised of any difficulties about cracks appearing but I will look into this and I shall write to the Hon Mr Loddó if there is any untoward situation there but the consulting architects have inspected the whole of the building just recently, in fact, they have made the comment that they find the building in excellent condition and they have also commented that the users of the building are treating it with very great respect which is something which apparently does not appertain in similar types of schools in the United Kingdom where after one year's use the school has often got into quite a sorry state but they have stated here that the users of the building have treated it very well and the building is in excellent condition. I would just make the point that the Hon Mr Loddó mentioned about the letter of the Headmistress that the school was not completed. I am not quite sure that that was an accurate statement in saying the school was not completed. It was some of the items in the school which had not been completed and were not in a position to allow full use to be made of them and I think with regard, specifically, to Home Economics it was the cookers and washing machines which had some electrical requirement, needed to be done to them that was causing the trouble, it was not an intrinsic part of the school as such as far as my knowledge goes. I feel, finally, that to make any comparisons between the minor difficulties with the false ceilings at the Girls' Comprehensive School and the Varyl Begg Estate which, incidentally, was designed during the time of a previous Government, led by the Hon Major Peliza, are rather invidious comparisons. Thank you, Sir.

HON P J ISOLA:

Can the Chief Minister say when the school is going to open officially?

HON M K FEATHERSTONE:

I did say that the work would be done during the summer holidays.

HON P J ISOLA:

With regard to the last remark of the Hon Member, can I remind him, I think he was in the House, that it is not so untoward that a reference should be made to the Varyl Begg Estate disaster because I would remind him, I think it was around 1976, when the leaking roofs started in Varyl Begg Estate and if I remember rightly the Minister then on the Government side was the Hon and Gallant Colonel Hoare who announced to the House at the time that it was a minor thing, it was being looked into and there was no need for concern. That is how it started and hearing the Minister speak now casts my mind back to the answers that were given when the Varyl Begg disaster commenced. I hope he is right, I sincerely hope he is right not just for his sake but for the sake of the pupils and the

people of Gibraltar that everything he is saying is absolutely correct and if that is the case and if it is not going to cost anything to public funds to repair it and so forth, nobody would be more delighted than this side of the House. But I asked him that question, is the school going to be officially opened and when because, Mr Speaker, the school has been in operation since September last year. A school year is about to be completed and we have had no official opening which rather recalls the position in the Power Station which is being operated by Hawker Siddeley and no official opening and certainly it must be a matter for concern that we have a new school, it is open, the pupils are using it and it takes a whole year at least before it is officially opened. It is not complete, it is not finished and my Hon Friend in moving his motion in such measured tones I think has highlighted the concern there must be at problems arising in the Westside Comprehensive School. He referred to the letter that the Headmistress had written to parents as far back as January, 1983, and I would certainly like to hear from the Minister for Education if all these problems have now been met. A whole period of six months has gone by. We do know, Mr Speaker, that the Government always acts very cautiously and very slowly except where taxi drivers or the Taxi Association is concerned but, anyway, we know they take a lot of time to put things right but does not the Government think that six months since complaints were made have been long enough to put these matters right and certainly I would welcome a statement from the Minister for Education on the position in that school. Clearly he is not going to give it, he walked out just as I was asking him, here he is, good. Whenever I mention a Member of the House he is just walking out, Mr Speaker, because I am not going to say much more at all but only congratulate my Hon Friend in moving his motion in such measured terms and to say that, of course, on this side of the House we fully support it and we hope that we can receive assurances that at the beginning of the school year 1983/84 we will be able to have the school officially opened within a week of the opening of school term. Thank you, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I would like to say at the outset that I am terribly cynical about designs of buildings and designs of designs and it is not only here but in many places where you employ top architects, you employ top consultants, you employ top builders, you pay top money, very top money and naturally you get the top of everything and yet you do not get top results and this seems to be through no lack of ability or designs of building, I don't know I am very cynical about this, it is not only in Gibraltar but in many places you hear of new hospitals having to be closed for months because there are design faults. It may well be as the Hon Minister has said that the rawl plugs were wrong but why were they wrong? This is the sort of thing we want to know. He is not saying that it is justified, he is just giving information but I as a layman and as somebody who does not know anything about building say: "Well, if that is so then somebody must have made an error of judgement". No doubt they consider that it is an

error of judgement when in fact the consultants or the people who did it are going to do it on their own because after all not only is it fair that it is redone, there is bound to be an effect on their respectability and their standing in this particular discipline whether it is building, design, architecture, structure and what have you. This is something which is very alarming and we do not under-estimate at all the concern that the motion has expressed and the concern that there is generally, particularly because of the result of this some classes have had to be stopped and that of course is an unfair thing on the particular students who were doing that discipline. We are as concerned as Hon Members opposite are and more concerned because we have more responsibility, if I may say so, to see that it is done and all that we say is that within the terms of contract, within the terms of what we have paid for, what we have obtained, we shall not hesitate to take whatever steps are required to see that this is put right. In the case of the Varyl Begg Estate from the very beginning there were queries about the design and about the fact that the open terraces had been overloaded with hangings and so on and all sorts of things. Here I am glad to find out, I did not know before the Minister spoke, that no one is questioning anything but that to put it right and therefore we have no hesitation to support the motion except that we cannot go along with the last few words of the motion which says "as occurred so disastrously with the Varyl Begg Estate" and I therefore move formally, Mr Speaker, that the last nine words of the motion be deleted. I so move.

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

MR SPEAKER:

Does any Hon Member wish to speak on the amendment?

HON A T LODDO:

Mr Speaker, really I cannot object to that amendment because I think that all Members here will in fairness realise that this is by way of a comment added on and as I had mentioned this in my original letter to the Minister for Education when I wrote to him, I felt that I had to put it in together with the motion to keep it in consonance with the sentiments expressed in my letter so we have no objection to that being made.

MR SPEAKER:

Any further contributors to the amendment?

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

MR SPEAKER:

Any Member who has not spoken to the original question is still free to do so. Does the Hon Mover wish to reply?

HON A T LODDO:

Yes, Mr Speaker, there is not very much more to say. As I said during the course of my intervention, most of what refers to the Girls' Comprehensive School took place long before my time but I was interested to see that when the decision to build the school was being taken, a number of areas were contemplated, namely, Hargreaves area; Cormorant and Alameda Parade and that perhaps when I said about indecision I should have post-dated it or pre-dated it a bit and of course the question of the ceiling collapsing, being told by the Hon Minister Mr Featherstone, that it was just a question of rawl plugs and screws. Well, Mr Speaker, when we are talking of \$6m it looks to me like spoiling the ship for a halfpenny worth of tar if we cannot go to the extent of having the proper length and thickness of screws and rawl plugs and, Mr Speaker, to clear up once and for all the comparison with Varyl Begg it was not on the basis of the defects. I was not here when the Hon and Gallant Colonel Hoare called the defects minor, it might have been minor when they started but they developed. My comparison was in the protracted negotiations and how long everything took to settle and then I do not think it was settled as I would have wished, that was the comparison, really, nothing else. Mr Speaker, I commend the motion to the House.

Mr Speaker then put the question which was resolved in the affirmative and the Hon A T Loddos motion, as amended, was accordingly passed.

SUSPENSION OF STANDING ORDERS

HON P J ISOLA:

Mr Speaker, I would like to move the suspension of Standing Orders.

MR SPEAKER:

May I explain. You have one of two options, doing what you were intending to do just now, to seek the suspension of Standing Orders or leave the motion over because this House is not adjourning sine die but it is adjourning to a fixed date. I thought I would make this comment and it is up to you to decide.

HON P J ISOLA:

Mr Speaker, I would like to move the suspension of Standing Orders in order to enable me to move the motion standing in my name which I gave notice to you, Mr Speaker, yesterday morning and I would ask the House to allow suspension of Standing Orders to enable this motion to be discussed because it is important it should be discussed now and, secondly, Mr Speaker, the statement that has been made by the Hon and Learned Chief Minister in our view is quite inadequate and we would like to debate this matter and in the same way as the Government thought it necessary to suspend Standing Orders in order to enable them to rush through legislation affecting 140 people, I would have thought that Government would agree to suspension of Standing Orders to enable a matter which is of great concern to the whole of Gibraltar to be discussed in this House and I move the suspension of Standing Orders.

HON CHIEF MINISTER:

Mr Speaker, I do not think I have ever opposed the suspension of Standing Orders to discuss matters that have come in that are of importance and have come in out of time, I normally reasonably agree to that but I do not see any point since before the motion was moved I had given notice that I was going to make a statement. I have made the statement, the statement goes as far as I can go and no amount of discussion will move me from that statement - I can tell them now - and I think it would be an utter waste of time so we are not agreeing to the suspension of Standing Orders. I might have said before, Mr Speaker, if you would allow me, that this motion could have been easily in the Order Paper if proper time had been given.

HON P J ISOLA:

Mr Speaker, may I tell the Chief Minister in answer to that that it never occurred to us that the Chief Minister would not make a full statement to the House on returning from England and the motion was prepared on the same day that he did not give the statement and although it is dated the 7th it was actually prepared the day before and put in at 9 o'clock in the morning on July 7th, that is why five days' notice has not been given.

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

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

The following Hon Members voted against:

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

The following Hon Members abstained:

The Hon D Hull
The Hon R J Wallace

The motion was defeated and Standing Order No. 19 was not suspended.

ADJOURNMENT

HON CHIEF MINISTER:

I move, Mr Speaker, that the House do now adjourn to the 25th July.

MR SPEAKER:

I will propose the question which is that this House do now adjourn until Monday the 25th July, 1983, and in so doing I would like to take this opportunity to congratulate Mr John Sanchez, who in the recent Birthday Honours List was honoured by Her Majesty with the award of the British Empire Medal. I am sure all Hon Members agree with me that it is a highly merited award. We all know the great service he renders the House and the dedication with which he carries his responsibilities and we congratulate him and his wife and family.

HON J BOSSANO:

Can one comment on the desirability of the adjournment to the date proposed before a vote is taken or not?

MR SPEAKER:

On the adjournment there is no discussion but if any Member wishes to make a short statement I would never ever rule him out but I will not allow the matter to be debated. If you want to make an observation you are free to do so.

HON J BOSSANO:

The observation that I wish to make, Mr Speaker, is that it seems to me in the light of the experience that we have had of adjourning to fixed dates I would like to ask what is the advantage of having a fixed date and can in fact we be assured that there is no possibility at all that developments or discussions or whatever it is that are still taking place will not take longer or be more complicated than might be envisaged and then we find ourselves coming here on the 25th in order to adjourn to a different date. That is the point I want to make.

HON CHIEF MINISTER:

That is a very good point, if I may say so, Mr Speaker, but we cannot do it the other way. We cannot have a longer one and then be ready and bring it forward so that is why I have chosen after considerable thought and discussion with everybody concerned, that this would probably be the earliest date at which a meaningful debate can be had, it does not mean that we will be ready. It may well be that we have to come here and adjourn for another day. There is no other way of doing it because it could be at short notice that we can be ready and then it would take another ten days to summon a meeting of the House.

HON J BOSSANO:

But why do we have to have a date, that is what I am saying? Cannot we just adjourn and then the Chief Minister

MR SPEAKER:

No, with respect, we must adjourn either to a definite date or sine die. If we adjourn sine die, as the Hon and Learned Chief Minister has quite rightly said, then we have to go through the process of giving notice which, of course, takes fourteen days.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Monday the 25th July, 1983, at 9.15 am.

The adjournment of the House to Monday the 25th July, 1983, at 9.15 am was taken at 12.15 pm on Friday the 8th July, 1983.

MONDAY THE 25TH JULY, 1983

The House resumed at 9.25 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 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

ABSENT:

The Hon J Bossano
The Hon A J Canepa
The Hon A J Haynes

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 I last moved the adjournment to this morning I indicated to you and the House that I was hoping to be able to move a motion and that this was the earliest day I thought it could happen. As it is, it is not really, the position is that

I shall be in a position to move the motion of what I have given general notice at 4.30 on Wednesday afternoon. Barring any air difficulties I hope to return on the Wednesday plane and I shall then take the very first opportunity on return to move the motion that I had intended to do and I therefore now move that the House do adjourn until 4.30 pm on Wednesday.

HON P J ISOLA:

As you know I have a motion standing in my name of which the requisite notice has been given and certainly on this side of the House we are anxious to have more information as to what is happening. The Chief Minister talks of moving a motion on Wednesday at 4.30 pm which itself will require suspension of Standing Orders, can the Chief Minister not tell us now at least what are the terms of the motion he is going to move on Wednesday?

HON CHIEF MINISTER:

If I knew the exact terms I would not be going to London this afternoon to find out and bring it back on Wednesday.

HON P J ISOLA:

Can the Chief Minister, Mr Speaker, give us some information? Everybody else seems to be giving information about what is happening except the Chief Minister. Does he not think that the people are entitled to know a little more than he has told them so far?

HON CHIEF MINISTER:

Of course the people are entitled to know everything, the only point is when, and insofar as any journalistic speculation that is the privilege of a free press to speculate on what can and cannot happen but what is obvious is that we are in intensive negotiations with the British Government, that I have seen the Foreign Secretary and the Prime Minister, that that was followed by a meeting with the Under-Secretary of State for Defence and that later on there was a further meeting last week upon which certain progress was made which requires an answer from the United Kingdom. It is all related to what is to happen to the Dockyard and what is to happen to the economy of Gibraltar. I am afraid I cannot go any further than that.

HON P J ISOLA:

Can I just ask one last question, Mr Speaker, with your indulgence? Can I ask the Chief Minister why it has been necessary, a British Minister having come to Gibraltar last Thursday, what makes another visit by him to London necessary and can he tell the House who at least he is going to see in London?

HON CHIEF MINISTER:

I cannot for certain say how things are going to go in London but having been once and having gone to the top I do not think that it will be any different.

Mr Speaker then put the question which was resolved in the affirmative and the House adjourned to Wednesday the 27th July, 1983, at 4.30 pm.

The adjournment of the House to Wednesday the 27th July, 1983, at 4.30 pm was taken at 9.35 am on Monday the 25th July, 1983.