

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eighth Meeting of the First Session of the First House of Assembly held in the House of Assembly Chamber on Thursday the 14th day of May, 1970, at 6.00 p.m.

PRESENT:

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

GOVERNMENT:

The Hon Major R J Peliza – Chief Minister
The Hon M Xiberras – Minister for Labour and Social Security
The Hon Major A J Gache – Minister for Information, Port, Trade and Industries
The Hon J Caruana – Minister for Medical and Health Services
The Hon W M Isola – Minister for Tourism and Municipal Services
The Hon Miss C Anes – Minister for Public Works and Housing
The Hon L Devincenzi – Minister for Education and Recreation
The Hon C B O’Beirne, CBE, QC – Attorney-General
The Hon E H Davis CMG, OBE – Financial and Development Secretary

The Hon P J Isola, OBE

OPPOSITION:

The Hon Sir Joshua Hassan CBE MVO QC JP – Leader of the Opposition
The Hon A W Serfaty, OBE, JP
The Hon A P Montegriffo, OBE
The Hon E J Alvarez, OBE, JP
The Hon M K Featherstone
The Hon I Abecasis
The Hon Lt Col J L Hoare

IN ATTENDANCE:

J T Summerfield Esq – Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 9th April, 1970, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

The Hon the Minister for Information, Port, Trade and Industries laid on the Table the following document:

The Money Order (Amendment) Regulations, 1970.

Ordered to lie.

The Honourable the Financial and Development Secretary laid on the Table the following documents:

- (1) The Financial Report for the year 1968.
- (2) The Income Tax Ordinance, 1952 – Wear and Tear Allowances for Machinery or Plant. List of Percentage Rates.

Ordered to lie.

ANSWERS TO QUESTIONS

STATEMENT BY THE MINISTER FOR LABOUR AND SOCIAL SECURITY:

HON M XIBERRAS:

Sir, in answer to a question in the House on the subject of shop assistants on 17th December, 1969, I said that it would of course, be desirable if the Gibraltar Shop Assistants' Association and the Gibraltar Chamber of Commerce could try to reach agreement on a revision of wages for shop assistants but that should it appear to Government that these should continue to be regulated by Law, the matter would be referred to the Regulation of Wages and Conditions of Employment Board for their recommendations.

The Chamber and the Shop Assistants have been discussing the latter's claim fully without reference to the Regulation of Wages and Conditions of Employment Board and, I am informed, in an increasingly sensible and responsible manner. This would seem to indicate that attempts to establish and strengthen direct negotiations between the parties concerned have had a fair measure of success, and that my own hopes that this would come about were not entirely misplaced.

Unfortunately, complete agreement has not been reached. There has been, however, a counter offer from the Chamber on all the points raised by the association, a counter offer which marks a considerable advance from the shop assistants' present minimum conditions of wages and employment. On the question of wages the position is as follows:

- (1) Minimum wages: the shop assistants asked for a scale starting with £5. 8s. at the age of 15 and finishing up with £10 at the age of 20. The Chamber's counter-offer starts at £4. 8s. and finishes up at the age of 20 at £8. 2s. – this is for males. There is, however, a separate proposal by the Chamber of a system of annual increments for shop assistants who remain with the same employer over a period of 5 years, whereby 6/- a week would be paid over the minimum wage at the end of each year of service to both, male and female shop assistants. So that the scales for males would be between £4. 8s. at the age of 15; and £9. 12s. at the age of 20.
- (2) On minimum overtime rates the shop assistants' claim was for time and a half on normal working days, except Saturdays and Sundays. Double time for Saturday afternoons and Wednesday afternoons in the case of hairdressers and sugar confectionery shops, and double time with the minimum of 4 hours plus normal payment for hours worked on Sunday by certain categories of employees. Chamber's counter-offer was for time and a half on normal working days and Saturdays, and double time on Sundays and holidays. As regards hours of work per week the Chamber offered a 40-hour week to under 18's but no change on the present 44-hour week for over 18's. This is in reply to the shop assistants' claim for a 40-hour week.

Apart from overtime and wages and hours of work the claim is concerned with other points which I shall not quote here, but those quoted show that on comparison with present standards, I repeat, present standards, there has been some considerable progress. The Shop Assistants' Association have now written to me as follows:

“We are very grateful to you, Sir, for the help and encouragement you have given us from the start of our discussions with the Chamber. We are sorry to report that they have not been as fruitful as we would have wished. You will be glad to know, however, that we have all agreed to continue our dialogue on a formal basis in order to discuss problems affecting both employers and employees, in the retail trade. But you will understand that we have no option but to make a direct appeal to your Government in order to obtain what we feel is justice for the shop assistants.”

I have, therefore, taken the matter to Council of Ministers and with its agreement, I have asked the Governor to refer the matter to the Regulation of Wages and Conditions of Employment Board in accordance with the relevant Ordinance.

There are 3 general points which the labour situation as a whole, demands should be considered:

- (i) That there is a considerable, perhaps an excessive, number of girls leaving school, who take on employment as shop assistants. They receive no formal training;
- (ii) That other occupations, for instance: nursing, are short-staffed, so that in considering the wages in any particular industry, more general considerations about the labour situation should not be excluded; and
- (iii) That the Ordinance should provide for contracts of employment for Gibraltarians, will be put to the House, probably at the next meeting, and that this will naturally affect shop assistants. The existence of a contract will give the Chamber and the Shop Assistants the opportunity of including such other conditions, on which they may agree, into the shop assistants' contracts. This will, I feel, give added validity to any agreement.

Finally, I am glad to say that it is the intention of both parties that whatever the recommendations of the Regulation of Wages and Conditions of Employment Board may be, the two parties will continue to meet in order to achieve what, to my mind is perhaps the main basic thing at stake; the establishment of proper negotiating machinery between the Chamber of Commerce and the Shop Assistants' Association, which will enable either side to forward its aims without reference to Government.

HON P J ISOLA:

Sir, I am sure all Honourable Members will welcome the Minister's statement and especially the more enlightened approach of the Chamber of Commerce in holding discussions with the shop assistants' union and negotiating on a broader basis. Whilst congratulating both parties on their partially successful negotiations, I welcome the initiative being taken by the Minister in referring this important issue to the Regulations of Wages and Conditions of Employment Board; thus indicating, I think, the importance the Government attaches to the solution of the claim.

Sir, anyone who was present at the Mayday Rally of the Young Christian Workers must have been enormously impressed by the spirit of determination and sincerity of the Young Christian Workers, among whom, because of their age, are a large number of shop assistants. Equally, many of us who were there were dismayed to hear of the efforts of certain people to have the chaplain of the Young Christian Workers removed from this area of activity. May I ask the Minister the following questions arising from his statement: In formulating their directions to the Board will the Governor in Council bear very much in mind that they are dealing with the conditions of employment of young persons mostly under the age of 21 and that apart from the issue of weekly wages payable, answers should also be sought to the problem of

conditions of work, hours of work etc. which are desirable in the case of young persons? Secondly, Sir, may I ask the Minister if he will give us an assurance that he will be ever watchful and quickly condemn publicly any attempt secret or otherwise that may be made to have union leaders or movement advisers or chaplains removed or dislodged from pursuing their lawful activities in the interests of those for whom they are responsible? And thirdly, I would like to ask the Minister whether he will agree that in the case of shop assistants who are mainly of tender age if he does not agree that the Government has a special responsibility to see that justice is done?

HON M XIBERRAS:

Mr Speaker, I thank my Honourable and Learned Friend for the other statement and for the three questions. I think it is very relevant and I am glad that he has made it. Dealing with the first question about young persons and Government's responsibility towards them, I should say that the under 18's are already an issue which has been raised by the shop assistants themselves. And therefore the thing would be on the table as it were. Over and above that, of course, I agree that Government has a special responsibility for the protection of young people in whatever occupation they may be. And if any occupation is more prone to abuse than another, then Government should have some special consideration for that occupation.

On the question of union leaders being removed, or the possibility of their being removed, I hope that my Honourable and Learned Friend is not suggesting that this is a matter of habit in Gibraltar; because it runs contrary to a few speeches I have made from time to time. However, I too was present at the Y.C.W. Rally and if the evidence were presented that anyone in a position such as my Honourable and Learned Friend has alluded to, were to suffer in the way he alleges that perhaps someone has suffered then certainly I shall condemn it not as a Minister fur as, I hope, a democrat. And, may I add, also as a Minister.

May I take this opportunity of saying that this is not always an easy thing to do, in fact I have had two cases of victimisation, which I have had to drop precisely because further victimisation might result in greater losses to the two individuals concerned. I am not satisfied that the Minister is all powerful in this respect; and I refer in this case specifically to two shop assistants.

Thirdly, I think the question was: Is there a special responsibility towards young people? Yes, I think this is very like the first question, Government does have a special responsibility towards young people, my department is not directly concerned with this, it is the Department of my Honourable Friend the Minister for Education. I think a law is being revived today – being given a new lease of life today – and my Honourable Friend, the Minister for Education, will have something to say about this. All in all, Sir, I thank my Honourable and Learned Friend for his comments and for bringing these matters to light.

STATEMENT BY THE MINISTER FOR MEDICAL AND HEALTH SERVICES:

HON J CARUANA:

Mr Speaker, the shortage of nurses in the Medical Department and the failure of candidates to come forward in the required numbers to take up nursing as a profession, have been matters of great concern to the Government. Ways and means have, therefore, been examined in consultation with Mr Marsh to try and improve that position. He will no doubt make his final recommendations in due course, but it has been agreed that as an interim measure some improvements should be effected immediately in this Department. Normally, I would like to explain, Mr Speaker, a person wishing to become a nurse joins the department as a Nursing Auxiliary, then becomes a locally registered nurse on completion of the local training and then, after a further year's study in the United Kingdom, becomes a State Registered Nurse. The salary scale, however, of the Nursing Auxiliary was devised for candidates who were 20 years of age or over when they joined. Under that age they were paid a lower salary according to age. This, I am glad to say, has now been abolished and all candidates join at the same salary irrespective of age. As regards Nursing Auxiliaries already in post, their salaries have been adjusted to the point in the scale which they would have reached had they been appointed initially at the salary which would be appropriate to a person aged 20 or over. This, I am sure, as the House will appreciate, gives a substantial increase to Junior Nurses. All nurses who have not benefitted by this arrangement have been granted a special payment of 25/- a week in consideration of the demands made upon them as a result of the shortage of staff. Thus no member of the nursing staff has benefitted by less than this amount. The scheme was introduced with effect from the 1st April, 1970, and I am pleased to inform the House that even at this early stage there are encouraging signs in the number of enquiries received.

I would also like to take this opportunity of informing the House that K.G.V. Hospital has been completely vacated now and handed over to the contractors. Simultaneously, the Operating Theatre at St. Bernard's Hospital is in the process of being furnished and equipped and we hope to start operating within the next three weeks. In the meantime emergency operations are being done at the Royal Naval Hospital.

I am sure Mr Speaker that the House will join me in thanking our friends from the Royal Naval Hospital for their unstinting cooperation and encouragement they have given the Department especially during these delicate stages of the integration of the Hospital services.

HON A P MONTEGRIFFO:

Mr Speaker, while wishing all the best of luck in the world to the Minister in recruiting much wanted and needed nurses with a review of salary scales, I would just like to put one question: Will the 25/- now being granted to the

more senior grades become a permanent feature or is this a bonus which might be withdrawn when they have the full complement if the Government ever succeeds in being able to obtain this?

HON J CARUANA:

Yes, I am very grateful for that question, Mr Speaker, because as I'll explain this is an interim restructuring which Mr Marsh has done only at the Junior grades, he has not touched the senior grades at all. Their restructuring will take place as promised when Mr Marsh finishes his studies. However, since nurses are working at an increased pace now, and in order to avoid as far as possible any anomalies in structure at the present, we have awarded not some sort of a bonus but this special award for the time being until their salary is properly restructured. When the salary is restructured I think that this will be a point, not only in my Department but in many other departments, that the increases in wages to be paid to the employees will be received as part and parcel of possibly – if I can stick my neck out – of extra effort being put by the employers. Therefore, since this could in a way be considered as a sort of a productivity bonus for work done by less people in lieu of other people not present, we hope that when the final restructuring comes the extra work will be compensated within the new salary scales. And any anomalies will be re-adjusted, I am sure, by that date.

HON P J ISOLA:

Sir, we are grateful to the Minister for the efforts he is making in his department to ensure that his department not only is properly staffed but stays properly staffed. But he has talked about substantial increases in salary or wages to junior nurses. Can he give us some idea about what the substantial increases are in terms of money or percentages?

HON J CARUANA:

Yes, Mr Speaker, I will be very glad, but my Honourable and Learned Friend will no doubt appreciate that this is a fairly wide scale – I should be prepared but I have not got all the figures. I can give an example offhand, and that is that we are concerned with the young girls who come in at the early stages when they leave school or they have not made up their minds what profession to take. These are the 16-17 year olds. Now I have not this figure very clearly in my mind. Their old scale at 16 was £288 per annum, which is approximately £6 a week; their new scale not including the 8 1/3 % is £432. From £288 to £432, not including the 8 1/3 % means in terms of percentage, a substantial increase, one could say a revolutionary increase of approximately 50% at the lower scales which is what we need to attract to this very essential profession.

STATEMENT BY THE MINISTER FOR EDUCATION AND RECREATION:

Subsidised Holidays for School Children and Youth Clubs.

HON L DEVINCENZI:

Mr Speaker, as the House is already aware, the Department of Education has been making plans for what is by far the most extensive subsidised holidays for school children and youth clubs ever to be carried out. This is of course one more indication or rather proof of the systematic way in which this Government is fulfilling its promises in the field of taking effective action towards the improvement of the social and welfare needs of people generally. In this particular exercise the emphasis has been placed on the youth of Gibraltar.

Since some of the trips to London extend as far as November, 1970, it is impossible to give numbers with 100% accuracy, but as far as the Department is concerned, we are committed to about 560 school children, 30 teachers and 40 boys from Youth Clubs. These numbers, together with the actual organisation of the holidays themselves, account for a sum in the region of £14,000 as against £4,000 under the previous administration.

Although the teachers who will be accompanying the parties will not have to pay for their air fare or accommodation, it is fair to say that this is not entirely a holiday for them in the sense that they will have to take care of the children and this in itself is a great responsibility.

It is of course not all that difficult to spend £14,000 for the youth of Gibraltar, it is just a matter of taking great care where subsidies go. At this point it comes to my mind that Blands and B.E.A. have co-operated to some extent, particularly in looking for and making the necessary bookings in London. In making the arrangements, the Department has taken great care to give preferences to those children that will be leaving school this year. Out of the 560 children, 100 of them will be going on an exchange basis, that is to say, that they will be going to homes in the United Kingdom; and 100 United Kingdom children will be staying in homes in Gibraltar. A further 100 children from Gibraltar will be going to homes in the United Kingdom, but in this case there will be no need to reciprocate. I am very glad to say that I understand that this is by far the biggest exchange of students ever to be undertaken by two Commonwealth countries.

Those children who will not be going on an exchange basis will be accommodated in a very well equipped youth centre on the outskirts of London, with frequent bus and underground services to and from the city centre. The modern dormitory buildings are divided into units for twelve persons and there is a limited number of smaller rooms for adults. There are washing facilities, including showers. The main building houses a large recreation room, with juke-box and table tennis, lounge with T.V., reading rooms and restaurant. Outdoor facilities include two swimming pools, one with diving boards and one for beginners, tennis courts, cricket pitches and a

nine hole golf course. Athletic events and children's sports can also be arranged. The centre is set in 100 acres of natural parkland overlooking the Roding Valley.

The trips are for a duration of two weeks and include among other things a sightseeing tour of London and a full day excursion to Hampton Court and Kew Gardens.

Finally, Sir, Mr James Platt of the Central Bureau for Educational Visits and Exchanges, together with Mr John Hill who is the Chairman of the Association of Chief Education Officers in Great Britain, will be coming out towards the end of this month to finalise all arrangements for this year. In addition Mr David Dilks of the Commonwealth and Youth Exchange Committee will be coming in September to review the whole question of exchange visits for the year 1971, when it is hoped children going on exchange basis will be even greater than this year.

The Gibraltar Court of Appeal (Practice and Procedure) Ordinance, 1970

First Reading

The Honourable the Attorney-General moved that Bill for "An Ordinance to provide for the practice and procedure on appeal to the Gibraltar Court of Appeal" be read a first time.

Mr Speaker then put the question which was resolved in the affirmative.

The Bill was read a first time.

Second Reading

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that this Bill be now read a second time.

Honourable Members will recollect that this Legislature enacted the Gibraltar Court of Appeal Ordinance, 1969, in the month of December last. That Ordinance was given retrospective effect to the 11th day of August, 1969, when the Constitution came into force. Section 7 of the Ordinance provides that the President of the Court of appeal may make rules of Court for regulating the practice and procedure of the Court. As Honourable Members will recollect Sir Alistair Forbes was recently appointed President of the Court but as yet he has not of course been formally sworn in as President, and in consequence it is not possible for him legally to make these rules. In order to ensure that the Court is not left without the necessary provision in the way of rules should they be required urgently, it is proposed that rules should be made by means of an Ordinance. Hence this Bill which is now before the

House. For the sake of consistency it has been drafted so as to take effect from the 11th of August, 1969. I should add that when the President, Sir, is sworn in, he will then be able to make any necessary amendments to these rules, and although in this instance they will have been made by means of an Ordinance it will not be necessary in future to return of the House for any amendments which may be necessary. The rules I may add are in common form for this type of legislation. I commence the Bill to the House.

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

HON SIR JOSHUA HASSAN:

Mr Speaker, just a few words. I do not want that silence should mean that we do not attach the greatest importance to this Bill and what it leads to, which is the Court of Appeal which was agreed to at the Constitutional Conference.

I would just like to say that in accordance with practice the Honourable Attorney-General has consulted the bar and that it has met with the agreement of those who have to put it into effect and I think it is a very welcome piece of legislation and a necessary one.

Mr Speaker then put the question which was resolved in the affirmative.

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

The Criminal Offences (Amendment) Ordinance, 1970

First Reading

The Honourable the Attorney-General moved that a Bill for "An Ordinance to amend the Criminal Offences Ordinance (Cap. 37)" be read a first time.

Mr Speaker then put the question which was resolved in the affirmative.

The Bill was read a first time.

Second Reading

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that this Bill be now read a second time.

The Bill, as Honourable Members will see, is extremely short and it has a very worthy and admirable object. Namely, to enable persons in Gibraltar to paddle on the three main beaches. Honourable Members will also be gratified to see that there is a very succinct and admirable definition of paddling inserted in section 2 of the principal Ordinance. "Paddling" means being upright in water which is not above knee depth prior to the receding of a wave. And if authority is required for that, Sir, with permission may I say that this comes from the Shorter Oxford Dictionary. The other clause in the Bill, which is clause 3, merely puts a proviso into paragraph 35 of subsection 1 of section 244 but hon Members will recollect that section 244 of the Criminal Offences Ordinance contains a very large number of slightly weird offences, like putting flower pots in windows, rolling barrels in the street and so on. And one of those offences in Section 35 is getting into trouble on the beaches by bathing when you should not bathe, and having to be brought back by the police at great expense and public annoyance generally. The Bill is something of a compromise on this. It enables persons to paddle but not to bathe at times when it is dangerous. Sir, I commence the Bill to the House.

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

HON P J ISOLA:

Mr Speaker, I would just like to ask the Honourable the Attorney-General if he is satisfied as Attorney-General that he is going to be able to prosecute successfully a person who in the opinion of the policeman is bathing and not paddling when the evidence would have disappeared by the time the case comes to Court?

HON ATTORNEY-GENERAL:

I understand, Sir, that the police are equipped with an admirable frogman section and it may be useful for this purpose.

HON M K FEATHERSTONE:

Sir, far be it for me to query the Honourable Attorney-General or the Oxford Dictionary Sir, but I would mention I spent some of my life at sea, I was what I think the Chief Minister calls a Marina, and I understood that if you were in a small boat and you were moving it along with oars that was also classed as paddling. I would not like any mistakes being made by the police in their

interpretation of paddling, I wonder if perhaps, Sir, with respect, the Oxford Dictionary might be again consulted and perhaps a more concise meaning of paddling, might be a little better.

HON ATTORNEY-GENERAL:

Sir, it has been given a great deal of anxious thought, but I confess that I have not been able to take it any further than this. If I have been guilty of laxity of speech, then Sir, I am defeated.

Mr Speaker then put the question which was resolved in the affirmative.

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 will be taken at the next meeting of the House.

The Industrial Training Ordinance, 1970

First Reading

The Honourable the Minister for Education and Recreation moved that a Bill for "An Ordinance to make provision for industrial and commercial training and for purposes connected therewith" be read a first time.

Mr Speaker then put the question which was resolved in the affirmative.

The Bill was read a first time.

HON L DEVINCENZI:

Sir, at the request of Honourable Members opposite I have agreed that the Second Reading of this Bill should be taken at the next meeting of the House. Honourable Members on the other side have in turn agreed that they will raise no objections to the Committee Stage and Third Reading of the Bill to be taken at the same meeting as the Second Reading. I understand, Sir, that request from the Honourable Members opposite to do away with the Second Reading at this meeting is that they would like more time to consider the Bill. I must say, Sir, that even coming from the Opposition it is a reasonable request.

MR SPEAKER:

You have said that you are intending to take the Second Reading at the next sitting, do you intend to take the Committee Stage and Third Reading too at the next sitting?

HON L DEVINCENZI:

Yes, Sir, I do.

HON SIR JOSHUA HASSAN:

Mr Speaker, I would just like to say a word on this. We are of course grateful; we have, precisely because we did not want to alter the timetable of this, agreed that we should take the Committee Stage and Third Reading at the same time as the Second Reading. But I would like to explain that we did have to ask for time because as you well know, Sir, this Bill was not published until last Friday and it is an important Bill which has a number of clauses which are important that we should consider. And we were graciously given a printer's proof on Thursday evening but unfortunately most of it could not be read.

HON L DEVINCENZI:

Sir, may I take this opportunity of requesting the members opposite to send us any amendments they might wish to suggest within perhaps two or three weeks time, so that we in turn may have an opportunity of studying any amendments.

The Children and Young Persons (Employment – Temporary Provisions) (Amendment) Ordinance, 1969

The Honourable the Minister for Education and Recreation moved the suspension of Standing Orders Nos. 29 and 30 in relation to the Bill.

This was agreed to.

First Reading

The Honourable the Minister for Education and Recreation moved that the Bill for “An Ordinance to amend the Children and Young Persons (Employment – Temporary Provisions) (Amendment) Bill” be read a first time.

Mr Speaker then put the question which was resolved in the affirmative.

The Bill was read a first time.

Second Reading

HON L DEVINCENZI:

Sir, there is not very much for me to say on this Bill because as Honourable Members opposite are aware this is the third time in fact that this Bill has come to the House. I did inform the House quite some time ago that the proposed new Education Ordinance would in all probability make provisions which would in fact do away with this Bill. Since this proposed new Education Ordinance is now being studied, I am very hopeful Sir, that before the next six months we will be able to produce a proper Bill which will do away with this one, which I would like to get through today. I now commend the Bill to the House.

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

HON SIR JOSHUA HASSAN:

Mr Speaker, I was very interested and in full agreement with all the things that were said earlier on when the Minister for Labour and Social Security made his statement about shop assistants and the importance of provision for legislation for young people, but it is remarkable that an Ordinance that was prepared in no time in an emergency and with a limited life of six months immediately on the withdrawal of the labour force should be extended again. We are not opposing it because we know that without this we have nothing. We had nothing before, and it is important and one would hope that this is really the last time that this emergency Ordinance is extended, and that we should have something more permanent. This was done in the nick of time and at least one is glad to see that it is having some purpose.

HON L DEVINCENZI:

Mr Speaker, I would say that the new Education Ordinance does, as I said before, make considerable provision for this and this only came about at the end of March. The Opposition themselves agreed to that at the time – that was six months ago – because this new Education Ordinance was going to come about.

Unfortunately it did not come in December, it came 3 months later, that is at the end of March; and that is in fact the only reason why we have not prepared a proper Bill. I am glad to say that the Bill as it stands now, although it is not of course the best that could be done, it certainly makes adequate provisions and I think we are fairly well covered for the next few months.

HON SIR JOSHUA HASSAN:

On a point of order, Mr Speaker, has the Minister answered the debate on the second reading?

MR SPEAKER:

I am not sure whether the Minister was exercising his right to reply at that stage ...

HON L DEVINCENZI:

It was on a point of clarification, Sir.

MR SPEAKER:

That is the answer then.

HON P J ISOLA:

Mr Speaker, Sir, I am not sure that the Honourable and Learned Leader of the Opposition is being entirely fair to the Minister in his attitude on this Bill. I myself would have been inclined to have made some trouble over the passage of this Bill, because I agree that emergency legislation, and I don't know why one would call it emergency legislation, it was legislation passed to meet a particular set of circumstances that arose at the time, which set of circumstances still exist and therefore require the continuance of the Ordinance. But I am sure that all Honourable Members must be satisfied with the progress that is being made in settling the problems of children and young persons. We have – the second reading has not been taken – the Industrial Training Bill which seeks to look after the interests of young people and apprentices especially. We have it from the Minister that there is an Education Bill in the offing which will look after quite a large section of young people and I hope that in the fullness of time we shall have a Bill that fills in all the gaps that have not been made up by the Industrial Training Legislation and by the new Education Bill when it comes before the House. We also know that the Government is taking an extremely keen interest in the welfare of young people, and that must be patently clear to all Honourable Members from the statement that the Minister has made about school holidays which has shown a tremendous advance in the most desirable direction in the promotion of holidays for young people; and we also have it from the Minister of Labour in answer to a question put by me to him today on his statement that the Government acknowledges a special responsibility in the case of shop assistants, most of whom are young people. So, therefore, the picture before the House is not of a lethargic government that has not produced a proper Children and Young Persons Ordinance, but of a government that has

very much the interests of young people in the forefront of their minds. And I think it is against this background and this background alone that we should agree and we must move the extension of the life of this Bill in the full knowledge that something is being done and actively done in regard to the interests and welfare of the young people. It is in that spirit, I think, that we must vote in favour of this Bill. It is in that spirit that I certainly do so.

HON M K FEATHERSTONE:

Sir, the last Honourable Speaker apparently has intimated that had he been on this side of the House he would have given this Bill a rough time. He has previously intimated, Sir, that everything done by this side is completely irresponsible and simply with the purpose of being destructive. As was said, I think, Sir, in the very first session, this side stated quite categorically that where and if the Government did something that we considered was good we would support it. This, Sir, is not a question of giving a Bill a rough time just out of the desire to be obstructive and objectionable. We understand the situation of the Government. They are very slow readers, Sir, they haven't yet managed to read this report from the Committee on Education, yet, Sir, we were supposed to read this very complicated Bill in ...

HON L DEVINCENZI:

On a point of order, Sir, No-one has agreed that we have not read it, we have not completed studying it, but we have read it, all of us.

HON M K FEATHERSTONE:

Oh, you said earlier, Sir, with respect, that it had not been read. We are also very pleased, Sir, to see that from a statement from the Honourable Minister of Education, that a great deal has been done for our youth. Here Sir, they are following in the footsteps of the previous Government. They are following in the path that we have set. I think, Sir, it would be reasonable for us to state now that if they come back in another six months then we will give this Bill a rough time, because then they will have had ample time to produce a proper Education Ordinance but to be obstructive now, Sir, is not the case in point, and we are of course quite and fully willing to support this Bill.

HON M XIBERRAS:

I would not have risen except for two reasons. One that the Honourable and Learned Leader of the Opposition mentioned by name, not by name but made allusion to me. I think that my Honourable Friend has replied in a pretty good manner summarising what has been done by this Government for the young people. Of course, the Minister for Education has said that this is not a satisfactory thing. I don't think that the Honourable Member opposite has

added anything except a few wise cracks in his usual fashion, which completely miss the point of the subject at hand. However, I do understand that it will be possible to have a better Bill than this especially in the light of the recommendation of the Education Commission Report and certainly I will welcome this.

However, may I say that this was no doubt part of the contingency plan of the last Government as well. I shall pass no comments on that. I have refrained from doing so, except when people get a bit obstreperous and begin to criticise little things of this nature and take the opportunity for making comments of the sort that the Honourable Member opposite has made. Thank you, Sir.

Mr Speaker then put the question which was resolved in the affirmative.

The Bill was read a second time.

The Honourable the Minister for Education and Recreation moved that the Committee Stage and Third Reading of the Bill should be taken at a later stage in the meeting.

This was agreed to.

HON ATTORNEY-GENERAL:

Sir, I have the honour to move that this House should resolve itself into Committee to consider the next three Bills on the Order Paper, clause by clause.

This was agreed to and the House went into Committee.

HOUSE IN COMMITTEE

The Control of Employment (Amendment) Ordinance, 1970

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

Clause 4. The Honourable the Minister for Labour and Social Security moved that the clause be amended by adding a further paragraph to Section 8(3) as follows:

- “(d) if the Director is satisfied as the result of a test which he has caused to be made that the workman does not possess the degree of skill needed for that employment.”

HON M XIBERRAS:

Sir, I gave notice of amendments to be sponsored by Government at this meeting and this is one of them. I think I outlined in the last meeting of the House what the substance of this amendment was. So I will be brief here. It is to enable the Director when he has reasonable doubts that a worker coming in does not possess the skill which he is supposed to have to cause the worker to be examined by an authority of the Director's choosing, and certain consequences which have been discussed already will flow from that. He could for instance have his work permit withdrawn.

Sir, whilst I am about this I hope with the leave of the House to make certain points of clarification, at this early stage, though I know I am not strictly speaking on this particular amendment. And that is that at the last meeting of the House certain members opposite more specifically the Honourable Mr Montegriffo raised a few points which I said I would consider. Accordingly a meeting was held at my office at which the Honourable Mr Montegriffo and the Honourable Mr Alvarez were present, and at which we discussed the main points raised by them. If I may remind the House, Honourable Gentlemen opposite felt that there should be some means of compensating a worker whose work permit was revoked by the Director under the proposed Section 8(3)(b) as a result of a breach of contract by the employer. The House will remember that I conceded a certain amount on this point and agreed that there was a possibility that this should happen under the Ordinance as it stood. But then I also assured the House, and I have assured the Honourable Members who attended the meeting, that this was certainly not the intention of the Government, and that in practice this would not happen. In fact that this bit of the Ordinance was of a permissive nature, that it was a 'may' and not a 'shall'. As a result of the meeting it was agreed that if it was necessary to have this in this form, then the Opposition would raise no objection to this and I think on the assurances which I gave on intention and practice the matter was accepted. However, on the question of compensation more to the point. There is a law which I showed to the members who attended the meeting a part of the Regulation of Wages and conditions of Employment Ordinance says something like this. It is subsection 6 of Section 22 cap. 139, whereby an employer who dismisses an employee before the expiration of the time of the contract of service shall pay the employee one half of the wages due to him under that contract and in reverse it applies as well. On consideration of this it was decided by the members present that they would work for the dropping of an amendment.

Sir, on another point that there might well be the case where there has been a breach of some condition of the contract and yet no dismissal takes place, would it be fair to withdraw the work permit. I can assure the House that it is not intended again, neither is it envisaged, that the Director of Labour should use the powers in this sense, and again this was accepted by Honourable Members opposite. The other point that was raised at the meeting was the question of one month's notice in the case of a Gibraltar becoming available for the job occupied by a non-Gibraltar. Now, in regard to this I said at the last meeting of the House that the Ordinance should have teeth. In

other words that we should be in a position to be able to do something drastic should the situation demand. I should explain that if the Manpower Planning Committee works properly this kind of situation should not arise if things go well, but things do not always go well. I feel that the power should be kept and members there agreed, but I had committed myself to reviewing this situation in the light of experience and to give the members opposite every opportunity of raising the matter either privately or in the House if they feel, or I shall raise it certainly if I feel that there is going to be some victimisation or hard kind of treatment of any worker.

Sir, I thank the House for being indulgent with me and allowing me to discuss these rather extraneous matters in relation to this particular amendment, but I do feel that I should put the Opposition at rest that certainly I was doing as agreed. I would not like to leave the impression with the general public that these things are consulted behind closed doors. However, I should like to make it quite clear in the interests of the general public that any member on this side of the House or on the other side of the House is perfectly free to raise points at this stage, unless they do not desire to do so. It seems an obvious thing but I thought I should say it. On the other hand I would like to thank members opposite for the interest they have taken in this Bill and for the suggested improvements. I thank the House, Sir.

MR SPEAKER:

I now propose the question which is that this amendment be made.

HON P J ISOLA:

Mr Speaker, I would like to avail myself of the opportunity. I am glad to see the Minister has been anxious to assure the general public there was nothing consorted about this. I think it is a pity in a way that Bills that are in front of the House and before the House, agreements of clauses and withdrawals of amendments, should be done in the forum of the Minister's office and not in the forum of this House where they can be properly discussed and arguments for and against made. But still, if that is the sort of procedure that is preferred by Honourable Members on both sides, well let it be so. The only suggestion I would make to the proposed amendment is that I wonder whether it would not be better, this is a purely technical thing, but I think it would read better when the Ordinance is printed, whether this clause 8(3)(d) should not really be 8(3)(c) and clause 8(3)(e) renumbered 8(3)(d). Because clauses (a) (b) and the one before the House now refer to specific instances when the Director may revoke a permit, 'whereas clause (c), 8(3)(c) as at present drafted is a general power to the Director to take away the permit whenever there is a breach of a condition. Therefore I would propose an amendment to the amendment that Clause 8(3)(c) be renumbered 8(3)(d) and that a new clause to be numbered 8(3)(c) be inserted.

HON M XIBERRAS:

I follow that crystal clear exposition. I see the Attorney-General shaking his head and in this case I bow to his advice and perhaps against my own judgement. I would like to take up my Honourable and Learned Friend on something. What I have said happened on this Bill is nothing like establishing a system. This is no system, Sir. This is a simple case of a rather complicated little thing being sorted out almost behind the Speaker's chair as might happen at Westminster, whatever that phrase means, Sir. I assure the member, and I have come clean on it and have made it quite openly, the Honourable Member is in fact making use of his privilege now, he is standing up and objecting to the method that this Bill has proceeded through the House. I would like to make the point that there are a certain number of practices that do go on in Westminster which have not been entirely adopted here. I think letter writing has been adopted and we have received a certain amount of lecturing from the other side on the question of letters and replies, this is an effective procedure, Sir, what can be kept quiet in the letter can be kept quiet in a meeting and vice versa. So it does not depend on the procedure used, but on whether members are prepared to speak in the House when they feel it is their duty to do so.

MR SPEAKER:

Do I understand Mr Isola that you have proposed an amendment to the amendment? May we have it in writing please. I am afraid that debate has to stop until we have the written amendment.

HON P J ISOLA:

Section 8(3)(c) as section 8(3)(d) and by adding a further paragraph to be numbered section 8(3)(c): "if the Direction is satisfied as the result of a test which he has caused to be made that the workman does not possess the degree of skill needed for that employment."

MR SPEAKER:

I now propose the question which is that this amendment to the amendment be made. May I remind the House that they may only talk exclusively on the amendment to the amendment.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I oppose this amendment. I oppose this amendment on the ground that renumberings when you have possible cross references is almost a quagmire, I don't say that it is impossible, but one could not accept an

amendment like this without having further time to consider it. And as we do not have further time to consider it I must regret that I will not support it.

HON P J ISOLA:

Mr Speaker, if that is the case, I would have thought it was a perfectly simple amendment to consider because I am only worried about the form the bill will take when it is printed. Where there will be a (c) which refers to a breach of a condition of any condition imposed by the Director which will seem to cover everything, and then you get following that a condition, another special condition. If the Honourable and Learned Attorney-General indicates to me, and Honourable Members indicate that this is a quagmire and not the present position, and that this will create great difficulties before it can be supported, on consideration I am just as anxious that this Bill be passed as anybody else and I would be quite happy to withdraw the amendment, if that is helpful.

HON M XIBERRAS:

Sir, on the amendment to the amendment, I do not pretend to be a legal authority, however I endorse what my Honourable and Learned Friend has just said, that it is the sort of bill which has been some time in coming and the sooner it goes out of this House and receives the assent so much the better, Sir. So I would very much appreciate if my Honourable and Learned Friend could be prevailed upon to withdraw his amendment.

HON P J ISOLA:

I will most certainly be defeated, Sir, I withdraw it with please. (Laughter).

HON A P MONTEGRIFFO:

There is very little I want to say but I hope that what I will say is of some substance and members of the House will take the hint. Sir, the question of my visit publicly at 10 o'clock in the morning, with plenty of people about, to the office of the Minister of Labour and Social Security, was done with one purpose and one purpose alone. Not to try to plan behind the people's back in the sense that I was not prepared to discuss what I thought were my feelings and ideas in this House. But having raised points in this House regarding this Bill, I thought having myself been in Government and knowing how difficult at times it is to suggest things which from the point of view of administration may not be on, I thought, Sir, that a lot of time could be saved, and a lot of work done, by seeing the Minister with experts and clearing my points. And such points as I raised then in this House were cleared, and I am glad to say thanks to the co-operation from both sides there has been no need for a debate from which we might have come out in an entrenched position and that would have been most unconstructive.

I myself can assure the House that I will not for the sake of scoring debating points do anything or say anything in this House as may poison the atmosphere as it seems to me there are some members of the House who are ready and prepared to do so. My election to this House has been on behalf of the people of Gibraltar, despite the fact and I am very proud to carry the label of the GLP/AACR; but nevertheless it is my duty to work for the best and in the best interest of the people of Gibraltar, and I will do that without in any way betraying the best tradition of Parliamentary and democratic practice. If anybody does not like that I am very sorry but those are my principles. The principles with which I have been schooled in the party I belong to and to which I will always subscribe.

HON P J ISOLA:

Mr Speaker, Sir, I think the dissertation by the Honourable Member on his activities is very interesting and I am sure very satisfying to both sides of the House. I was not trying to suggest in any shape or form that there had been any furtive discussions or any secret discussions on the matter. What I was trying to do is to issue a word of warning that in the interests of the House the Honourable and Learned Leader of the Opposition has asked me who I am and my answer to that is exactly like him, an elected member of this House. (Cries of Order, Order). And I think that any Honourable Member of the House can issue warnings in the House about the possible infringement of the normal democratic principles of parliamentary debate. And the point I was trying to make Mr Speaker, is that we must be careful that Sections this House passes, if they are to bear any particular interpretation different to that meaning, we must be careful that these matters are disclosed to the House at the time of Committee Stage and Third Reading. In this particular case I think we must be grateful to the Minister for Labour for giving us a clear picture of exactly what happened, and in those circumstances the procedure was perfectly proper. But I would like to say, Sir, that in this particular case it does not matter because amendments have just not been made. But where amendments are made it is in the interest of us all, and certainly I would have thought in the interests of Gibraltar, that those amendments should be discussed in this House and not outside the House. I am not suggesting for one moment that the Honourable Member is afraid of discussing any issue in this House. He has had enough parliamentary experience and ought to be able to do it. But what I am suggesting is that I think it is desirable that when Bills are before the House amendments or interpretations of the Bill should be discussed and judged upon in this House.

HON M XIBERRAS:

Sir, taking no exception from the general principle behind those remarks, I don't like its application to these particular circumstances if an application has been intended. As a matter arising of public interest, and I remind the House I was the first to raise it, certainly I think it is very much in order and I do not think the Honourable Gentleman opposite nor myself were in any way

conspiring to keep this from the House. I think that has not been my approach and it has not been the approach of the other side. However, I do take, as indeed I was the first to take, the points of debates, not the possible infringement of democratic practice, nothing like that, but that debates in the House should be quite open. However, one question and that is one which I raised a few minutes ago: what happens at Westminster? How much consultation is there behind the Speaker's Chair; is this the practice or not? If this is the practice perhaps this might be discussed fully in the Standing Rules Committee which is perhaps a good forum. May be that is also a conspiracy, Sir.

HON SIR JOSHUA HASSAN:

Mr Speaker, I would just like to say one word because we hope that every time there is consultation there is not going to be a lecture or a warning, and that we know exactly where we are and not waste unnecessary time. But there is one point raised by the Honourable Mr Isola which must be clarified in so far as we are concerned as much as I am sure the Government is concerned. What has been obtained, and this is perfectly proper, is certain undertakings as to how certain administrative measures will be put into effect. There has been no attempt to say what interpretation the Minister is going to put on the Section. This is a matter for the courts if there is any question of problem and we also know that the courts to find out the meaning of any word do not go into the parliamentary debates because then they would be even more confused. It is not, as you know, in terms of our interpretation of status, we are not allowed to read debate to know exactly what members meant. I think very wisely otherwise we would find they meant nothing. But in this case what has happened is perfectly proper and if they wish us to co-operate we shall continue, if not then of course we shall not, but what has happened is that certain fears were expressed, in effect of certain sections; the matter has been cleared and I hope that we hear the last of this kind of lecturing.

HON CHIEF MINISTER:

Mr Speaker, a point of procedure really has been raised today, which I think is an important point. One should give this point a bit of thought. I have no doubt that the Honourable Members on the opposite side would be the first to debate a point on which they disagreed. And so I have no doubt whatsoever that my Honourable Friend the Minister for Labour would do exactly the same thing if there had been no concurrence on the point. Therefore one has to weigh up to what extent it is wasteful to come here to debate a point on which both sides agree which is in fact in my view what has happened. Therefore, although in this case there has been no debate because there has been concurrence, it is not impossible perhaps even later today, that another point can be raised on which the Opposition disagrees and there will be debate. Therefore, there is no doubt whatsoever that democracy, notwithstanding that there might be this convention, will I think carry on prospering in Gibraltar. I don't think we need have any fear of what has happened. As far as I am

concerned I would be the first one to make certain that this matter was debated here if there was disagreement.

HON P J ISOLA:

Mr Speaker, may I say that I am very glad that the matter has now been cleared up, but I would like to say to the Honourable and Learned Leader of the Opposition, who incidentally, treated us Sir, to a lecture on how courts react to the interpretation of sections, that it seems to me that the only person entitled to lecture us in this House is the Honourable and Learned Leader of the Opposition who tells us when to shut up and when we can speak. But I would like to say, Sir, that every member who expresses an opinion in this House on any matter is really lecturing if he likes to call it that. But because the Honourable and Learned Leader of the Opposition objects, it is not going to stop me ever from lecturing members – if that is the word he wants to use – and himself in particular whenever necessary.

HON CHIEF MINISTER:

Mr Speaker, my position has also been challenged as to whether I have the authority to use the words 'shut up' or 'not shut up'. I can assure you that if I have used the words 'shut-up' it has been in the most friendly way (laughter) and not intended in the sense that has been intended here previously. I do hope, in fact, that now that we are talking about procedure that that word which in this case is certainly a sign of autocracy is not used again.

MR SPEAKER:

Since you are talking about procedure, may I remind the House that we are talking about an amendment to the Control of Employment Ordinance.

I now put the question which is that this amendment be made.

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

Clause 7. The Honourable the Minister for Labour and Social Security moved that the clause be amended by the insertion of the words "a date be fixed by the Director which shall not in any case be later than" after the words "valid on" in line 3.

HON M XIBERRAS:

Sir, again I gave notice of this amendment in this House the last time and I gave the substance of the amendment as well. The purpose is fairly simple, it is to give a certain amount of administrative flexibility to the Director for the

implementation of the Ordinance. This could have important effects because if it were not introduced you might find either the Labour Department under a deluge of contracts on the last day before the contracts were due to come into force or else certain employers being penalised at the expense of the others. Mind you even with the amendment this could happen, Sir, but we shall try to work it in such a way that even before the 31st of March as the Ordinance says, we will have cleared in a very short time and only move until we are ready to push out the contracts. Sir, I think there is nothing more I can say on this except perhaps one more thing and that is that the administration of this Ordinance requires – the Honourable Member opposite Mr Featherstone, will be glad to know – a lot of statistical work and this means that the Manpower Committee has to be fed a lot of statistics before we can make a rational kind of judgment, and it is unfortunately going to take some time to build up statistic. So in the actual implementation of the Ordinance, and this is a vital point in fact, this Sir, means that the Committee will have to work rather on guess work at the beginning until proper quotas can be established. I do not like the idea, Sir, but this is a fact. Employment surveys have been and are being carried out: May I take this opportunity, Sir, of asking the public to co-operate with these employment surveys; they are very very important if this Ordinance is to be put into effect eventually in a rational manner. Thank you, Sir.

This was agreed to and the clause as amended stood part of the Bill.

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

The Development and Planning Commission (Temporary Provisions) Ordinance, 1970

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

Clause 3. The Honourable Sir Joshua Hassan moved that the clause be amended by the deletion of the words “four representatives” and the substitution therefore of the words “one representative” in line 1, and the deletion of the words “three of whom shall be members of the armed forces in Gibraltar” appearing after the word “Defence”, in clause 3(1)(c).

HON SIR JOSHUA HASSAN:

The whole object of this amendment is to deal with what I say is the evil of this Bill which was that a very important organ of Government was in the hands of officials and not in the hands of elected people. I made that objection and I think that this meets my objections if the amendment is accepted. The Honourable the Chief Minister said in introducing the second reading of this Bill that this followed the recommendations of the Coutts Report. I would like to inform the House that Coutts did not recommend the exact composition as it appears in the Bill. What Coutts said in his report about the membership of this planning commission or rather not about this one but about the long term

one, but I would conceded that this one is sort of a prelude to a more elaborate one ...

HON P J ISOLA:

On a point of order, is not the Coutts report a secret document – classified? Is it in order for members to refer to it in public. I would like to know ...

HON SIR JOSHUA HASSAN:

My copy is not classified.

HON P J ISOLA:

As far as I am aware it has not been published.

HON SIR JOSHUA HASSAN:

That does not matter. It does not mean anything ...

HON P J ISOLA:

Well, Mr Speaker, there is a standing rule of the House on questions of secret documents being referred to. If it is not it does not matter at all, but it seems to me that if it is secret – I understand it has not been published – it is a secret document. If the Honourable and Learned Leader of the Opposition has come by it in his capacity as Chief Minister in the last Government, he should know whether it was published and whether it was a secret document or not.

HON SIR JOSHUA HASSAN:

All I can say Mr Speaker is that the copy I have and which was acquired by me in that capacity has no label at all on it. Mr Speaker with the greatest respect we cannot be told here that something is following on a report and not discuss the principles of it. What I am going to mention here is not anything very sinister for an action under the Official Secrets Act and so on, it is just the recommendations of the Commission. We know from the speech of the Chief Minister that this follows the recommendations of the Coutts Report and in fact even the press release of the composition says so. And I think an attempt at this stage to deprive me from saying what the composition of that recommendation according to Coutts is, is really to try and make mockery of discussion in this House.

HON P J ISOLA:

Mr Speaker, on a point of order and clarification. I am not trying to stop the Honourable and Learned Leader of the Opposition from reading a report but I am sure he must agree with me that any document, if it is in fact restricted, and I am sure he must know when he got it whether it was restricted or not; and he must know that it has not been published and he must know that reports to the Government are restricted until they are published. What I am saying is whether it is desirable in the interests of democracy that documents that are obtained on a restricted or secret basis are used in public debate.

HON SIR JOSHUA HASSAN:

There is a presumption in that which I cannot admit. I can show my copy. It is not in the least classified, reference has been made to it, there is no aspect of defence involved, it is not a question of whether it has been published or not; all sorts of reports are made and they are not published, yet they are not secret. The point is, is it contrary to the interests of the state, is it an official secret to say what Sir Walter Coutts said what the composition of the Planning Commission should be?

MR SPEAKER:

At this stage I am not in a position to make a ruling unless I am told whether the document is or is not secret. If the point of order of Mr Isola is based on that I would like to be assured that the document is secret or classified.

HON P J ISOLA:

Mr Speaker, all I can say is that I received that document myself as Deputy Chief Minister, it was restricted and I handed it back to the Government when I ceased being in office as I was asked to do in a letter from the Clerk of the Executive Council.

HON SIR JOSHUA HASSAN:

Mr Speaker, may I try and solve the situation of the classification. Perhaps if the Learned Attorney-General would listen to what I suggest, it is whether it is secret or not it has not been established. It is certainly not secret. If it is confidential or not I don't know. My copy is not marked confidential. May we have the waiver to anything confidential in the recommendation on the composition of the Commission and in that way, with the waiver of that, we will certainly not infringe anything in the report. I say conditionally on it being restricted.

HON ATTORNEY-GENERAL:

I regret, Sir, that I am not in a position to give my Honourable and Learned Friend that assurance. This would have to be referred back. I am in a position to say here and now without further reference whether it is or it is not. All I can say is that this is a report made to His Excellency, whether it is secret in the sense that the Honourable Member says, that is another matter. But I cannot give that assurance here and now.

HON P J ISOLA:

Can I ask if it has been published?

HON SIR JOSHUA HASSAN:

We know it has not been published.

HON P J ISOLA:

Then how can the Honourable and Learned Leader of the Opposition use it?

HON SIR JOSHUA HASSAN:

This is nonsense, with respect, Sir. There are all sorts of papers that are not published. Mr Speaker, we would have a very peculiar situation if I am prevented from referring to the very simple matter of having to ask the House to take away from the record any reference to this document made by the Chief Minister in introducing the Bill because it was a reference to a secret document. In fact, it is in the statement in the press release following on the recommendation of the Coutts Report. Perhaps, if it is not disputed, I will say that this composition does not comply with the recommendations of Coutts since the Chief Minister has said that it is in accordance with the recommendations of Coutts. Or perhaps refer the matter back and we can have this debate at a subsequent meeting.

HON P J ISOLA:

I want to assure the Honourable and Learned Leader of the Opposition that I am not seeking to prevent him from using any document. I think that everybody will agree that it is in the public interest that a document that has been received by anybody in a particular capacity and has not been published should not be used by that person in his new capacity, that is all. If, in fact, it was published then I withdraw my objection; but my recollection, a very sound and firm one, is that this document has not been published. That is all.

HON SIR JOSHUA HASSAN:

May I then rely perhaps on my memory on having read that some time ago and say that the Coutts Report does not recommend that there should be four members of the Ministry of Defence. It says: Ministry of Defence representation, and nothing more. Not four members. It says in the report, as the release says: "According to the Coutts Report the Chief Minister shall be the Chairman, there should be other Ministers, there should be a representative of the Ministry of Defence, Planning Officer, a representative of the Ministry of Public Buildings and Works, but not four representatives of the services". And therefore, it is because in principle whatever Coutts may have said I would have opposed the composition of this Commission as set out in the rules. And I would like to say here and now that when, we hope, in the very near future we take office again if this amendment is not taken we shall alter the composition of it whatever may happen between now and then. But I think this meets perfectly the spirit of what I remember Coutts recommended; I remember what he discussed and so on and I think that is that there should be Ministry of Defence representation.

I think that in Ministry of Defence representation one is enough having regard to the rest of the composition. I am not worrying I am not quibbling with (d) which is a representative of the Ministry of Public Building and Works. I think I remember it was recommended by Coutts that there should be a representative and I am not quarrelling with that. If they put two I might say 'yes', but one is enough. But four representatives of the Ministry of Defence, three of whom shall be members of the armed forces in Gibraltar is, in my view, over representation and going back to the old days when the local representatives did not have a majority on matters of principle which can be discussed and can be dealt with by this temporary Ordinance. Sir, I move the amendment as proposed in my written proposal.

HON MAJOR R J PELIZA:

Mr Speaker, before I start talking on this I would very much like to know, because I think this would perhaps prevent a lot of unnecessary talk, if the Honourable and Learned Leader of the Opposition could tell me why he objects to there being three representatives of the Services.

HON SIR JOSHUA HASSAN:

I think I made it quite clear at the last meeting when the second reading of this Bill was taken and I made a count, and I said the Chief Minister and such other Ministers not exceeding three. Well, I think he has appointed three, we have the risk of one of them not being here most of the time, but anyhow even if you accept that you have three then there is the Financial and Development Secretary; then there are four representatives of the Ministry of Defence and one representative of the Ministry of Public Buildings and Works make five. Now, if the Financial and Development Secretary is an official member of the

Government he is partly responsible to the Government here and partly responsible to Whitehall, and according to the constitution he has a dual personality which, I think, he carries very efficiently, but he has a dual personality and therefore I would put him on one side for the moment, and therefore he cannot be counted as a vote on the side of the Ministers necessarily because his position might be in slight conflict at a certain stage. Four and one of the Ministry of Public Building and Works being five officials. The Chief Planning Officer is an executive. It would be most unfair to expect him in a matter of planning to take decisions to vote and so on; and the Planning Secretary is the Planning Secretary and he is the executive officer of it. And, I think, and this is if I may say so as I said at the second reading, no aspersion at all on Services representation which I have been privileged to be associated with for a long time in the Council, but the fact that we would be going backwards instead of forward in a commission of this importance by being in a minority position. Mr Speaker, you will realise that according to subclause 5 of clause 4 the decision of the majority of the members present and voting at any meeting shall be the decision of the commission on any matter before it. And I want to preserve what is a civilian Planning Commission of the utmost importance – I want to preserve what we have in this House, a majority of the representatives of the people of Gibraltar responsible to the electorate and to nobody else.

MR SPEAKER:

I now propose the question which is that this amendment be made.

HON CHIEF MINISTER:

Mr Speaker, now that I know the reasons can I try and answer the Learned Leader of the Opposition as elegantly as possible without appearing that I have come to a fashion show. First of all I think I can allay his fears. This commission will be instituted by the Government of Gibraltar, and because it is a defined domestic matter, it is a matter entirely for the Council of Ministers. It is precisely the amendment that I will be bringing in later on which will make clear the powers that are given to the Commission which are purely delegated powers. Finally, as long as they come within the specific law that this Commission will work, that it will be subject to the decision of the Council of Ministers. It has been proved in the past that the Services can be extremely useful to have working together with the Government of Gibraltar. This was the case with the City Council. I think that the Leader of the Opposition will agree with me that on many instances in his capacity as Mayor he has had the opportunity of thanking the representatives of the Services for their great contribution to the City Council. He has also welcomed them time and again to the City Council and also praised them when they left. I have no belief that the Services have changed a little bit from their attitude towards Gibraltar and towards helping Gibraltar. My view is that by having gentlemen of the Services in our commission, lots of points that necessarily have to be raised in this Commission, which may conflict with the interests of Gibraltar directly,

such as military land over which we may wish to have either right of use or perhaps even transference to us, our friendly understanding in this Commission can go a long way to bring that about. Apart from that I think altogether there are in Gibraltar about 4,000 persons who are living here you might say permanently of the Services who pay rates and who I think because the City Council has now ended they should have some sort of forum where we can get together and discuss matters which are of interest to all of us who live here in Gibraltar very close together. For those reasons, particularly, I feel that it is very essential that we should have the three Services represented there. I am not afraid at all that they are going to come along to try and vote us out. This is not the case. Surely we must look at these things in a sensible and practical way and not produce theories which are of course complete and utter nonsense. If our belief is that the Services are going to come to the Planning Commission and every time there is a sensible proposition from the Government they are going to vote us out then I think we could not possibly agree even to having the Services in Gibraltar, let alone belonging to the Commission. If he is afraid of officials taking over and not having proper elected representation as he says, can he recall the Central Planning Commission. All the members of that commission were officials. And did they not have a dual capacity as well? I think that if we are going to proceed with this law thinking that the Services are in opposition to us, then we start on the wrong foot. This is not the case. We owe a good deal to them. And I feel that it would be rather a black mark for the Government of Gibraltar if we wanted to keep them out completely from having some form of representation in our administration, and I must say strictly in this sense our administration – this is not a public forum where you have representative members debating things in public. That is not the idea at all. The idea of getting there is to produce a plan which will best fit a certain situation in the circumstances of Gibraltar and whether we like it or not, in the circumstances of Gibraltar we have the Services here – I rather like that personally.

So, therefore, since this will not be infringing in the least way the rights that Gibraltarians have gained, I cannot agree to this amendment and therefore I will oppose it. I will explain later when I bring in my own amendment how it is that the Council of Ministers is supreme over this administrative body.

HON P J ISOLA:

Sir, I do not think that the Honourable and Learned Leader of the Opposition's exposition on principle and practice in respect of this Commission is right on either score. Sir, on the constitutional principle we are not talking of an elected body here, the elected body is the House of Assembly and its executive representation is in the Gibraltar Council and the Council of Ministers to which this body is subservient, so that democratically power lies in the hands of the elected majority. But let us suppose that it was not so; let us suppose that the Planning Commission itself was to vote in a different way. Is it true to say that the Government has not got a majority in that Planning Commission. The Government has four Ministers: the Financial and Development Secretary who would have to have very good reasons for voting

against Government Ministers on matters of major decisions, and I don't think he would do so. Then we have the Chief Planning Officer and the Planning Secretary both officials of the Government. If it comes to a show of strength, if it were ever to come to a situation where the Ministry of Defence representatives all got together and voted in block, I think that Ministers in Gibraltar have sufficient strength to ensure that their own officials who are responsible to them also get together and vote in strength and the result there must inevitably be a victory for the right side. So it is not true to say, Sir, that the elected representatives have divested themselves of power in this Commission. On the contrary, what this Ordinance seeks to do, and I think it is a very welcome thing, is to bring all parties interested in the Government and administration of Gibraltar and in the public sector of Gibraltar together round a particular table – this is what it does; and reserving to the Government its majority by the nature of its own officials in that committee. Now, Sir, on the practical side, is it better having found that what the Government does in fact, through Gibraltar Council, Council of Ministers and through this House that can amend the Bill – the Honourable and Learned Leader of the Opposition has said: “I am going to amend the Bill if I get back over here.” I won't make any comment on that – the only thing I say is that that proves that power lies in the elected representatives; and that this body will continue to exist so long as the House of Assembly so desires. Sir, on the practical side though, does the Honourable and Learned Leader of the Opposition really feel that one particular member of the Services is the right thing, on a practical basis of day to day working to represent all the services, with varying interests and even conflicting interests among themselves on certain matters? Is it not better to have a representative of each Service of each of the armed forces in Gibraltar who can give their opinion frankly to the Commission and contribute in its work. This Commission is being set up, I hope, not as a forum in which we can all fight each other, but as a forum in which we can put forward our own legitimate interests on each side and in a spirit of harmony and friendship work them out. I hope the day is very far off when there is conflict between the interests of the Ministry of Defence and the interests of the people of Gibraltar, I think it is very far off because we have in fact an identity of interests and where conflicts arise we can get round a table and discuss them. And, if the Commission cannot work, if major decisions of policy had to be made, well you have your Gibraltar Council where again you have an elected majority. Accordingly, Sir, I think that the arguments being put forward by the Honourable and Learned Leader of the Opposition are not right either in principle or in practice and, I think, and he himself should be the first to acknowledge this, that it is desirable to have Services representation of each particular Service to continue this having regard to his own experiences in the City Council. Why didn't the Honourable and Learned Leader of the Opposition, when he was Mayor during his 20 years of office, come forward in the City Council and amend it and have just one Service representative. They had a majority it is true; but he didn't, because he realised that it was worthwhile if possible to have a member from each Service. And here, Sir, this is the Ordinance, the frame-up, the fact that it comes from this House, that power resides in this House to alter it, the fact that there is a Council of Ministers and a Gibraltar Council; all are sufficient guarantees to the misuse of the powers or votes by any member of the Commission. I am sure that this

will never be the case, and I am sure this shows the funds of goodwill and respect there is between the present Government of Gibraltar and the Ministry of Defence. I think, Sir, that this augurs well for planning for development and for the future of Gibraltar.

HON SIR JOSHUA HASSAN:

Sir, I would just like to say a few words. I would like to say that ever since I started public life I thought one of my most important missions, at a time when it was much more difficult than it is now, was to bring about a good understanding between the Services and the civilian population; and nothing that the Chief Minister may have said really bothers me because there is no intention whatsoever in any way to minimise their contribution to Gibraltar, not to minimise the fact that over the years their co-operation has increased from the time immediately after the war when they still thought they were fighting other wars and it was difficult even to put normal street lighting because they were preparing for the next one. These are the difficulties that some of us encountered at that time.

Therefore, nothing that I say is in any way derogatory of the fair contribution that they make to life in Gibraltar and the fact that they must be associated. So when he says I don't want anybody this is not the case. I would not mind if the Chief Minister were to assure me that he was going to have an increase in ministerial representation. I would say "alright, I will settle for two or three." It is the principle of the thing. It is not either that it is going to be a matter of everytime taking a vote, but from the experience of those who came before us in the City Council up to 1940 when there was an official majority, despite the fact that there were elected people, the official majority was a very powerful thing to know it was there, and to carry weight. I cannot accept under any circumstances the idea that this is subject to the directions of the Council of Ministers because it is a statutory body that is being created. That is why we have a law. If it were an advisory body we would not need a law because it would be advisory on the recommendation of the Governor, or rather on the recommendation of the Chief Minister appointed by the Governor – he can appoint as many advisory boards as he thinks proper. But when you put a law into it, then you cannot say it is overruled. Of course it can be overruled by bringing in an Ordinance to upset it, but this is the sort of thing I want to avoid. I want to avoid friction and you avoid friction if you have a majority. This is the thing which one has learned with bitter experience. You avoid friction if you have the majority. Mention has been made about the City Council. Imperial Treasury was paying 33% of the rates long ago, and they still had about that amount of representation. They didn't have five, they had three in an elected body. This was the great achievement of the 1945 Constitution. When the Honourable Mr Isola said I did nothing about it, of course we did, we did because in the course of the amendment in the 1945 Constitution of the Council there was one more official member – the Director of Education was a member, and he was taken away; and there was another nominated member and he was taken away; and there were left those who were paying rates in proportion to the rates they paid. The fact that there are

4,000 people here and those that are here pay rates, or rather their representatives pay rates in that proportion, does not entitle them to have this representation. To us it is not a question of wanting to create any animosity, very much the opposite. As the Chief Minister has correctly said, I welcomed them. I think they have made a wonderful contribution. Everytime one came he was made welcome and everytime one left, if he had done a good job. Some of them were interested in one aspect of municipal life and some contributed more than others. This is usual. But, nevertheless, the elected members of Gibraltar were there in a majority; this is all I want to ensure. Whether they agree or not is a matter for them, and it is quite obvious that they don't agree. But let there be no misunderstanding about the motive – no misunderstanding whatsoever. It is purely the essentials that we consider to be maintained by having a majority there in case (I just don't say that everything will be taken by vote – just in case). We know that the Services are very helpful, but occasionally you have a conflict and where there is a conflict of interests these things matter; and I am sure that a lot can be done by persuasion and so on, but just in case I would have my little Gibraltar majority in a statutory body of that importance and that is why I move the amendment.

MR SPEAKER:

I now put the question which is that this amendment be made.

On a division being taken the following Honourable Members voted in favour of the amendment:

The Honourables: I. Abecasis
E. J. Alvarez
M. K. Featherstone
Sir Joshua Hassan
Lt. Col. J. L. Hoare
A. P. Montegriffo
A. W. Serfaty

The following Honourable Members voted against the amendment:

The Honourables: Miss C. Anes
J. Caruana
L. Devincenzi
Major A. J. Gache
P. J. Isola
W. M. Isola
Major R. J. Peliza
M. Xiberras
E. H. Davis
C. B. O'Beirne

The amendment was accordingly defeated.

Clause 3 stood part of the Bill.

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

Clause 7. The Honourable the Chief Minister moved that paragraph (b) of Clause 7 be amended by the deletion of the words “relating to town planning” in the first and second lines.

HON CHIEF MINISTER:

Sir, the clause reads: “Carry out such other functions relating to town planning as the Governor may from time to time prescribe.” It would now read “to carry out such other functions as the Governor may from time to time prescribe.”

The first thing I want to draw attention to is that the Governor does not mean the Governor. With the change of the Constitution, strange as it may seem, the Governor in this instance, and in every instance where it applies to domestic matters, means the Council of Ministers. Perhaps the Attorney-General could enlarge on this later.

I would say that the Governor now means, under the constitution, the Council of Ministers. The Governor comes in for the purpose of giving his assent; because the powers under the new Constitution on domestic matters lies with the Council of Ministers. The idea of doing away with the words: “relating to town planning” is to make sure that other matters which we in the Council of Ministers may deem necessary to see that the Commission undertakes can be handed over to the Commission. But in a similar manner the Council of Ministers (because this happens to be a defined domestic matter) can withdraw powers. I am glad to see that the only reason why the Opposition were proposing the previous amendment and opposing the idea of having four servicemen was not because they feared that the Services would start using the votes against us, but precisely to try and avoid any friction. This is where there is a different conception on both sides of the House. Whilst they are afraid of some conflict arising, we do not believe that there will be any conflict arising and what we do is we want to foster friendship. So the difference on one side of the House is a fear of friction and on the other side sureness of friendship. It is on this precisely, on this that the whole attitude on this debate is taking place. We are absolutely certain, looking into the past history of the contribution of the Services here, that this will be the case. That we can foster friendship by getting as many people of the Service involved, even if it is in a very small way, in our affairs in Gibraltar. The other fear that they had was this business of a majority – but the majority is held by the Government at all times. There is no fear of that. The majority is held by the Ministers and by the officials who are servants of the Ministers. And this is what they are, servants of the Ministers, they are there purely to give advice and their advice having been taken they then will act in accordance with the manner in which the Government wants them to act. There need be no fear at all that the majority lies with the Government, and if the power of delegation lies with the

Government, by a simple operation if this became the case, as the Leader of the Opposition himself said, by increasing the number of Ministers in this Commission the whole problem will be over in 24 hours. But why fear there is a problem when there is none? Why when in the past, as the Honourable and Learned Leader of the Opposition has said, he welcomed the services to be in the City Council because their contribution was great, why now suddenly believe not to welcome them because their contribution is not going to be great – that they are going to be obstructive. I do not believe this, I know he is saying “No, no, no.” But whether he likes it or not this is the implication, and this is why I am trying to put it so clearly. That whilst they are afraid of conflict we are sure of friendship. Whilst they are trying to avoid friction we are fostering friendship and understanding. This is the way to do it, in the manner in which we are doing it. We are not surrendering any rights whatsoever. The powers of delegation are with us. The rights are with us. The majority is with us; and therefore I have no fear whatsoever and I propose that the present amendment be made.

MR SPEAKER:

I now propose the question which is that this amendment be made.

HON A W SERFATY:

Sir, the Honourable the Chief Minister shows a great deal of ignorance on the things that have been happening in the last few years and I think I speak with some knowledge of the subject because I was a member of the Economic Development Committee, quite apart from the fact that because of my profession I have sent many drawings in the last 30 years to the Central Planning Commission or the authorities that came before it. The Chief Minister apparently does not know that we have a timber stadium because of some funny ideas of some Service experts. The Chief Minister perhaps does not know that the Cafeteria in Eastern Beach was virtually wrecked because the air ministry objected to a part of the Cafeteria overlooking one of the buildings in the R.A.F. compound. These are the things that we are worrying about on this side of the House; and to make matters worse the Honourable the Chief Minister now proposes to delete the words “relating to town planning”. What does this mean? To me it is perfectly clear. It means that the Council of Ministers proposes to send to this Commission projects on economic development for the economic development of Gibraltar because there is no, there will be no other committee or commission in the administration to study and advise on schemes on economic development. And what will happen is that in this scheme of economic development where there may well be a clash between the civil authority and the military authority, the military authority will have a larger number of representatives. We are really heading for trouble, Mr Speaker.

HON P J ISOLA:

The military authorities will have a larger number of representatives? Has the Honourable Member looked at the section? The military authorities or the Ministry of Defence has four or possibly five and the Government side has seven. It is quite clear. As we have said before, what makes the Honourable Members of the Opposition feel that the Ministry of Defence will all act in accordance with the directions given to them, but that on important matters. Gibraltar Government Officials will not act in accordance with directions given by their Government? If that is the sort of situation that Honourable Members opposite envisage, then I can only predict chaos for the proper Government of Gibraltar. That is not the position, and the Honourable Members opposite should know, and especially the Honourable and Learned Leader of the Opposition should know from his own experience both in the City Council with a Government representative there and in the Central Planning Commission as Chairman, that what the politicians say goes in Government insofar as Officials are concerned when it comes to the vote. Can the Honourable Member opposite ever envisage a situation when the two official members in this House would vote against a government measure?

Let us not talk nonsense on this issue. The Government of Gibraltar in the Planning Commission has in fact a majority on important issues. But, as I understand it, we do not expect the Planning Commission to work in situations where entrenched positions are taken up because if that is the case you might as well scrap the Commission because there will be an entrenched majority on the Government side. As far as what the Honourable Member said about the cafeteria not going on Eastern Beach, is it not right, is it not just, that both sides should be heard. Is it not just that if the Air Ministry had objections to the cafeteria (I don't want to go into it, or into the arguments or what happened even). But is it not right that if they had objections they should have a forum where they can ventilate it? This is what the Government is doing so what is the Opposition crying about?

HON A W SERFATY:

If I may speak again, Sir. I have the greatest respect and admiration for our Central Chief Planning Officer to say nothing of the Financial and Development Secretary; but let us not forget this, and I think I have a right to say it, the salary of the Chief Planning Officer is paid for by the British Government not by the Government of Gibraltar. I am sure the present holder of the post will stick his neck out in defence of the civilian interests of Gibraltar. But let us go further ahead, I think it is most unfair to expect officials like these gentlemen to come into politics and tip the balance in a matter which might be very controversial.

HON J CARUANA:

Mr Speaker this is an innovation, that the representatives of the armed forces are going into politics. This is far from what is happening I think that this is an inaccuracy that has to be corrected. They are not going into politics. They are still officials, as the Honourable Member on my right has mentioned, on the side of the armed forces, in the same way as the Financial Secretary and the Chairman of the Planning Commission and the secretary are officials of the Government side, and there is nothing in that Ordinance that prohibits them from voting. It does not say that the Secretary cannot vote, that the Chief Planning Officer cannot vote, or anything like that. So, in fact, their loyalty, as it has been argued, leads us to assume that they will vote with the Government. As to the fact that if there are disputes and differences of opinion and there should be heated debates at the meetings. This is a Commission where every detail has to be discussed. You quite rightly said there might not be other bodies in Government or elsewhere to deal with matters. This is precisely what we are creating a body where the details of the subjects are going to be discussed, where all the differences – whether the flag goes here or goes there or whether you spend this money or you don't spend this money on this particular sort of thing – are going to be considered. But the policy, the ultimate policy, always rests with the Council of Ministers – it is already happening, we are putting it into practice already. This is happening now with certain projects of the development plan. It takes its stages. First of all it goes to the Planning Committee then it goes to the Economic Committee, and then it goes to the Commission. Finally, if it is a sensible and practical thing the Council of Ministers will agree, if it is not sensible they will disagree and will probably make the Commission look into the matter once again. I am no lawyer but I can't see that this Commission, even though it is statutory, says that the decision is final and that Government and this House is bound by the decisions taken by this Commission. This is utter nonsense and is not the case. They are a working party with all the parties represented on it. They have the facts at their disposal and you put your case in favour or against. I think that this is a very healthy state of affairs. I will also agree to a large extent and led to believe, even though the Opposition is trying very hard to cloud it, that this is a matter of ideology. It is a matter of principle. The principle is the ideology of closer, friendlier relation and, if you may, integration in Gibraltar – integration between the community and the Services. You sneer, Sir, but this is true. Integration starts here. racial integration, religious integration and integration with the Services. We must not be frightened to do this. So this is what you are afraid of, integration through the back door because we are hand in hand with the Services? This is not true. What we are doing is establishing a working party, and as I have explained very clearly, this is all it is. But you sneer, this was at the back of your minds. Mr Speaker, this was at the back of their minds, but they have not come out to say so. It is a matter of ideology. We want friendly relations, we know that we can discuss the matter on equal terms, perhaps they might not feel so equal. This is where we differ.

HON SIR JOSHUA HASSAN:

Mr Speaker, it is interesting to argue a point, invent it, argue against it, and then say that it was somebody else who thought about it – wonderful parliamentary performance of the last speaker. Wonderful for the circus. The objection that we had to clause 3 and which I wanted to avoid by my amendment is more than augmented by this Section, because what it means is that the Council of Ministers are going to delegate part of their functions to this body. Now, it is all very well to say we have the ultra power, but you cannot delegate to anybody if you are going to overrule them. It is funny you know, I did not want to bring major politics into this, but it is funny that all this talk of friendship and so on is coming now about integrating with the local people and so on, when in fact the members of the party who advocate that policy were the people who least trusted the British Government in the past and have created scares in Gibraltar saying we were going to be sold down the river, and I had to stick my neck out in front of the British Government – this is the irony of the thing. But be that as it may, let us go back to the actual fact. And I say so again in all fairness to all the arguments, it is not a question that we expect friction. We don't expect friction. I think I can speak – with the greatest respect and with all due modesty as I never like to mention myself – but I can speak with perhaps the most experience in this House of dealing direct with the Services over the years and I know that it can be worked out very well; but I also want to safeguard the rights of the Council of Ministers and of the Ministers. And because there is no majority it is delegating; almost going back to colonialism. If that is called integration, well, it is typical colonialism.

HON L DEVINCENZI:

First of all I think, Sir, that it has been established that the Council of Ministers have, in the final analysis the last word. Secondly, I know that there is perhaps a slight fear of possible friction; but even if this were to happen, if we were to weigh this against the practicability of having all Services within this Committee, I think that the advantages of having them outweigh the possibility of there ever being any friction. One last thing, Sir, perhaps if this composition of the committee had been imposed upon us by the British Government then it would be a retrograde step, but this is not the case. This is of our own making. We can, if we choose to, amend this. So really we do have the position clearly in hand and I don't think there is anything that could be argued forcibly against the present composition and I would suggest, Sir, that members will vote in favour of the amendment. (Laughter).

HON MISS C ANES:

May I say something. I feel, Sir, that the purpose of the commission is so that everybody can sit round the table and discuss, suggest, argue and perhaps quarrel about some things, rather than all sit on one side with no object whatsoever of what is going or not going to be done for Gibraltar. The Forces

have always helped us. There is no reason why they should not do so now. I don't see why the Honourable and Learned Leader of the Opposition should fear that because there are only four Ministers it is going to be a worse situation than when he was the only elected member in the last Commission. After all he was very certain of himself there, and he was sitting in a dual capacity being Mayor ...

HON CHIEF MINISTER:

On a point of clarification the Leader of the Opposition was not elected in the Central Planning Commission, he was there in his personal capacity and therefore there was no representative of the people, not even one, in that Commission.

HON MISS CANES:

This, Sir, makes it much worse does it not? Because in this instance there are at least 4 elected members. The fact that one of them is away from Gibraltar on occasions does not mean to say that he is not doing his duty. In the last Government we had the Minister for Housing who was never present, and when he was present was never heard; and the Acting Housing Minister, the ex-Chief Minister, never took an interest in the Department at all. So, Sir, to say that as one of the elected members in the Planning Commission happens to be a member, or a minister who is away from Gibraltar on occasions, that does not mean to say that the Commission has a minority of elected members, at all. It does not, Sir. When the Committee meets that member is sure to be present and he is informed by the rest of the members, Sir. At least he takes an interest in knowing what goes on in Gibraltar rather than shrug his shoulders and say I can't see anybody I can't be bothered with this or that and delegate other people to do it for him. I think the Central Planning Commission is a very good thing, and it must work if we are interested in making it work. Unless we are very dissatisfied with our own ways and our own ideas, of course it will never work. But if we are interested and we aim at making it work and we are desirous of making it work, it will work properly.

HON A P MONTEGRIFFO:

Mr Speaker, we are confusing the issue by going from the Honourable Minister for Information, Ports, Trade and Industries' absence from Gibraltar to what was being done in the City Council and what was the composition of the relevant committee which is now being replaced under the powers of the Bill. But I think that on a point of clarification, or rather two points, the first one is that the previous Town Planning Committee was mainly a technical committee, while this one covers quite a wide variety of powers and interests as distinct from the other one which was limited. In any case, whatever our old law might have said, this is the opportune moment to put it right, and this

Bill is doing precisely the opposite. We are going backwards rather than forwards with regards to the civil rights of the people.

HON SIR JOSHUA HASSAN:

I would like to clarify one point, Mr Speaker, with regard to the Central Planning Commission. First of all let me say that the Planning Commission was created in 1947 when there was no legislature, and that although I was there in my personal capacity, I was there because I was a representative of the Council and indeed the letter of appointment was that if I severed my connection with the Council, a Council representative would be put there. The Honourable the Chief Minister has the files available at the Secretariat and they will confirm that; but it was a technical committee, and the only thing they did was technical matters which is precisely what the technical committee under this Ordinance is already doing I understand, or the proposed committee is now being presided by the Development Planning Secretary whatever the name of the new post is. And, therefore, it does not bear any comparison. This was only on statutory conditions on the building applications that came before the committee and the planning application in accordance with an outline town plan that had been approved by the then Executive Council with which I had no connection at all in 1947. So really this does not bear comparison because the committee that is going to take the functions of the Central Planning Commission is going to be all technical. And this was the idea, a technical committee with a lay chairman and nothing more. But it does not bear comparison because this is going to have much wider powers, I hope, if it is going to do what Coutts said it had to do. It said that they had to have all the planning and all the important factors, and this is a matter of approach. I don't think we ought to make ridicule or anything, we ought to try and see whether we can agree or disagree, fair enough – but don't let us look for other motives. Our motives are perfectly proper; our motives are that having tried over the years (perhaps it is an obsession) to obtain a majority for the elected people, one doesn't want to see it go by the way. That is all.

HON L DEVINCENZI:

Sir, it is an obsession I am sure.

HON SIR JOSHUA HASSAN:

A what?

HON P J ISOLA:

Sir, I now would like to question the fact that the Central Planning Commission was a technical committee, because in actual fact the Central

Planning Commission to my knowledge made decisions that offended against the outline town plan and permitted buildings that consisted of changes of policy if the town plan was in fact the Government policy; and I could refer Honourable Members to particular instances if they so wish but I think it is irrelevant for the purposes of this particular discussion. But I do question the statement that it was a purely technical committee.

HON SIR JOSHUA HASSAN:

I must say, Sir, that this is interesting and I ought to clear it. Of course the town plan had to be diverted from, it was Mr Holiday's town plan with the help of a number of people and some of the things could never be implemented because they were idealistic. Town planning is never static, it moves all the time with the life and with everything – the people, the customs, habits, circumstances, all sorts of things move it, not just a plan. And it is in respect of that that the outline town plan was a guide. Of course it was a guide, it was not a statutory thing, it was a guide, and it has been used. And as I said at the last meeting, there were only two appeals against decisions from the Town Planning Commission to the Governor. One was dismissed and the other one was cut in half, like the judgement of Solomon, in a very small matter. But this is beyond the point. We are dealing with a matter which has got much more power and I hope will have much more influence in the life of Gibraltar than just the Central Planning Commission had and therefore it is important just in case to have a majority.

HON M XIBERRAS:

I would like to make some brief comments. I think there has been a certain amount of reminiscing on the other side and I think a certain amount of confusion too – not explicit but perhaps implicit. Whilst this commission is not a Central Planning Committee neither is it a City Council. It is nothing at all like the City Council even though people may be there as rate payers out of the consideration that they pay rates and so on. I think to raise the issue of popular representation, the Committee, whose functions primarily are technical, is precisely to give the kind of importance which members from the other side would not wish to give to this Commission. I did not quite catch what the Honourable and Learned Leader of the Opposition said as to whether there was ever any disagreement in the Central Planning Committee, but if there ever was and my Honourable and Learned Friend's points are valid that is that the Central Planning Committee did perform useful functions, then we have the sole semi representative only of the people of Gibraltar there doing ... by officials whom they were supposed to serve at the time.

I think that my Honourable Friend's, the Minister for Education's point is a very valid one – one of size. The Commission is already pretty big. If one had to choose between having representation between the three Services and increasing the number of Ministers on the other hand, then we are in danger of a wieldy kind of body, and I think the Hon and Learned Member of the

Opposition did make the point somewhat at the last session of the House, so between that what are we left with.

Before we go to that point may I clear the question of domestic matters. Even though this Commission has got statutory standing, and this is so, it is an important body, perhaps the next most important body to the Council of Ministers – even though this is the case, it must be clearly understood that matters of a development nature which the Government would then consider and fully discuss in detail – (discussed in detail by the Council of Ministers before it goes to the Economic and Planning Committee) and then, after that, the big fact staring the Honourable and Learned Leader of the Opposition in the face is that we do have a majority and that we can count on the support, whatever the Honourable Member opposite might say, of the Chief Planning Officer and of the Financial Secretary and so on. This is Government policy being discussed in the Economic Planning Committee where the Services are fully represented. There is absolutely no danger that if the Government really wants to win out in the Economic Planning Commission it can and it will. There is absolutely no doubt at all whatsoever about this. The Government will carry everything it wishes to carry in the Economic Planning Commission. And this, I think is being skirted by Members opposite. The references to the Chief Planning Officer – that he may be paid by an authority in England – well, this is so of other government servants at present in the Government service, this does not mean that they owe allegiance to anybody but the Government in defined domestic matters. And I will be the first (and I have a place in the commission for the time being) to come down and protest to the Chief Minister if this were to be the case and I have every expectation that the Chief Minister conscious of representation as he is and of equal rights and of equal rights and of other things that have been mentioned by the other side, would not hesitate but to talk to the official concerned and influence his vote because he is a government servant and if this did not suffice certainly we could change the law. Now, the Honourable Member opposite has also said: “What if the Services were to vote against?” In the first place this is the point I have made in loud terms now, that even if the Services voted against, government has still got a majority; but I go further than that, if MOD in England, if MPBW in England, or if the Services were to be sticky on that score, then what is the use of having a majority? Are you going to actually change things by beating them on the Economic Planning Commission? Are you going to nationalise things in this House? If there is disagreement there is disagreement. And if there are strong reasons, if there are any reasons, I would say going further, why the Government should be impotent in the Economic Planning Commission. Government, I am sure, would still be important in this House about those issues. So the one fact which I think you have not played upon, the Hon Members opposite have not played upon, or given due consideration to, is that there is a majority; that this is not a City Council; the question of representation can become an issue, if it is made an issue. But this is not the purpose of the committee. If Hon Members opposite were to argue that this was a substitute for the City Council then certainly I would support that. I don't know what the Hon and Learned Leader of the Opposition's memory would say in this case, whether Coutts did want a substitute for the City Council or a technical committee, I will not venture to trust my memory of

reading the Coutts Report. But certainly this is the point. The issue is not representation. The issue could be majority, but as far as majority goes that majority is firmly with the Government. That you cannot escape from – that is with the Government. If the CPO or any other expert disagrees he has to be brought to heel on this. If it is an urgent matter, an important matter, one which really affects the people of Gibraltar then it is the duty of the elected representatives to act as they would act in any case. So, Sir, I think that the issue of representation, not of integration or free association and so on, but the question of representation has been brought in, but the point has not been made that if the issue of representation is to be brought in then you must also argue that this is somewhat of a substitute for the City Council rather than a technical committee in which views of different rate payers can be represented.

HON A W SERFATY:

Sir, the more I listen to the Hon Minister the more I realise the enormous fundamental difference there is in our thinking on this matter. Really, Mr Speaker, there is a great difference in the fundamental thinking on this. I think that the Hon Mr Xiberras does not agree or does not appreciate, because I heard him speak on television, that economic development policies should stem from this Commission, not necessarily from the Council of Ministers. This is what the late committee on economic development was for: to give birth to schemes and to do constructive thinking on schemes of economic development. That is why it is so important that there should be an elected majority of Gibraltarians. If this Commission were simply a planning commission it would not be so important, I grant you that. But being a commission in which schemes of economic development, and I hope you will agree that the future of Gibraltar depends to a great extent on the economic development that we plan now, whatever Mr Xiberras may say about the emphasis being on the UK employers, if we agree on that, then I cannot understand why we disagree so fundamentally on this. I think it is fundamental for Gibraltar that the majority of the members of this Commission in which will be born I hope schemes of economic development, should be Gibraltarians.

HON M XIBERRAS:

Sir, may I pass a few remarks on that. In fact, even though the Economic Commission may be the place where ideas first begin to move, because here are the technical people, I think two points should be borne in mind. One that the people on the Economic Planning Commission such as the CPO are government servants, and therefore can advise government – government as government not the government members of the Economic Planning Commission. Secondly, that I myself feel rather strongly that any initiation of policy, of economic policy, should come in however general the fashion to Council of Ministers first. That it should come and Council of Ministers should have a kind of a view about it – I do not mean that the Council of Ministers

should sit and decide on every single detail of it, but certainly the Council of Ministers should have a good grasp of the fundamentals of any schemes, be they housing, be they hotels, whatever they may be. Council of Ministers should know as Council of Ministers. I don't mean, I repeat, do all the measuring and all the rest of it; and that Council of Ministers knowing this should submit to the Economic Planning Commission. They can take as much time as is necessary, cut up a project as much as is necessary and take the major decision before the eyes of Ministers there. Ministers who are conscious of the general decisions taken by Ministers before. Finally, if there is any danger of something that is contrary to the general statement of policy, the general proposal made by Council of Ministers, if there is anything against that, if the Ministers smell a rat in the Economic Planning Commission, then immediately there is reference to Council of Ministers and instructions to go out to say: all government people elected or non-elected will vote against this Bill. I hope that this will not become necessary. Now, the Chief Planning Officer knows more about development than I do but the CPO is not an elected Member, so I would like Council of Ministers to be supreme at the beginning and also at the end of the project and also in between. This Ordinance does not say that Council of Ministers will not be supreme either at the beginning, in the middle or at the end of any project. Now, you say that this might inhibit the work of the Economic Planning Commission. Anybody, any government, can inhibit any committee but this is not the idea. The idea is to allow the Economic Planning Commission as much power as possible. I think there is a certain amount of contradiction on the other side; one side says too much power the other side says not enough power, and the argument of representation is still not made clear whether it is a substitute for the City Council. In any case I think it depends on the government of the day how it utilises that Commission. If the government of the day will not take things to Council of Ministers beforehand obviously this Commission is going to decide fabulous things, tremendous things of tremendous importance; but if government says this is what we want done and if the Services come and say this is what you want done, and there is continuous link between Ministers with the majority in the Commission, and the Council of Ministers, what possible danger is there of inhibitions of the Commission, of loss of control of elected members, what possible danger is there in this, except that on paper it would be said that four Ministers or four elected people and so many non-elected people.

HON A W SERFATY:

There is just one question I want to ask. If the Honourable Minister is right in what he is saying, what is the Government waiting for to appoint a Minister of Economic Development so that he can bring his schemes to the Council of Ministers before they stem from here?

HON CHIEF MINISTER:

Mr Speaker is this just the end of this debate or is it a point of clarification? This is a matter that concerns me very directly and I shall answer later when I wind up the debate.

HON MAJOR A J GACHE:

Mr Speaker, there have been some doubts cast on how the civil servants are going to operate or might operate in the commission. The Governor has also been mentioned here and the power of the government in connection with this law. I would like to refer to the despatch on the constitution at page 4 where it speaks about the civil servants, and there, if I might quote, it says:

“In respect of defined domestic matters which are the responsibility of Ministers, the civil servants concerned will work direct to the Ministers responsible.” Therefore I would say that in this case the civil servants, since this is a defined domestic matter, would have to take the decisions of the Ministers and vote accordingly in this Commission. I would also like to refer to the position of the Governor in this case to section 50 of the Constitution, which again if I might quote reads:

“Subject to the provisions of this section the Governor shall consult with and act in accordance with the advice of the Council of Ministers or a Minister acting under the general authority of the Council in the formulation of policy relating to any defined domestic matter and in the exercise of any power conferred upon him by this Constitution or any other law to the extent that that power relates to a defined domestic matter.” Therefore, Mr Speaker, I have no doubt that in this case the civil servants will comply with this Constitution and His Excellency the Governor will do likewise.

HON CHIEF MINISTER:

Mr Speaker, I am going to answer the last question first. I know that the Hon. Member Mr Serfaty is very worried about economic development, and rightly so. I mean we are all very concerned about this. But the whole object of the operation is to tie up the little bits of committees all over the place which could never get together and work in co-ordination, and also to have the Services interested in the same committee where difficulties to do with land or any other thing, two of which he mentioned, could be sorted out in a friendly cooperative manner. This is the whole object of the operation. If he wants to know if someone is going to be responsible for economic development that, Mr Speaker, is myself. It is precisely because I think this is so important that I have taken it over. It is precisely because I think this is so important that I have taken it over. It is precisely because I think it is important and even Mr Coutts thought it was important that I should be the Chairman of the Central Planning Commission; so I don't think we need have any worries about that. Just to bring out a couple of points such as the timber stadium, the cafeteria

at Eastern Beach having the windows the wrong way, and there must be other instances where there were conflicts, I don't know very much about what happened but I can guess why there was a timber stadium there at one time. This is because defence requirements at the Airport made it necessary that this be so. For all we know it might be so tomorrow again if there is a change in the type of planes landing – we don't know what kind of planes are going to come in. But whether we like it or not we do owe something to the Services in Gibraltar. In fact, as he agrees, it is the mainstay of Gibraltar. These things are done not because we wanted, or they wanted to have a timber stadium, but because there were technical difficulties in landing of planes, or for other good military reasons. And so, these things that will no doubt in the future come across any development or even just purely local housing, playgrounds, recreational grounds; we are not going to have lots of letters going backwards and forwards – a tug of war confrontation – when the whole thing can be done amicably round a table. This is the whole object of the operation, to give maximum effectiveness to the potential and resources of everybody who is living in Gibraltar as very close neighbours. The three Services we hope will be there to help us as they have been doing so far. There is no reason why we should fear that anything else is going to be the case. I am sure that the Leader of the Opposition also feels the same way, he said so before. Why therefore be so scared at this stage? If this should arise the whole thing can be changed. Why be so cautious when nothing has happened in the last 25 years according to him. It is precisely those few cases they are mentioning that perhaps should never have taken place and perhaps will never take place, if we are all together, acting as a team. He is also very concerned about having proper democratic representation, and here I am afraid I cannot believe the sincerity. I say so because in the CFO, in which he was the only representative who was not an elected member, he was not there as an elected member, he was there on his personal capacity, and he said he did not fear that because he happened to be at the same time an elected member. It so happened that he was also the Chief Minister and Mayor. But why did he not resign when he ceased to be that? Why did he take four months to give up that post? And why did he say he retained it because he had it in his personal capacity? To what extent is this representative? This is not democracy at all. I say that if he is sincere in what he is saying he would have shown it by leaving that committee the moment he ceased to be the Chief Minister of Gibraltar, so I cannot but doubt his sincerity in that connection, although I respect him in every other respect. I think we have spoken enough. There is no doubt that there is a clear conviction from every member in this House that we want proper representation. I think it is also clear that this Government is not going to allow any authority, forget about the Services, any authority to try and overrule the decisions of this Government. If we go too far, for that we have the House of Assembly. In the same way as this is being debated today, it can be debated tomorrow. And I am sure that in the long run the people of Gibraltar would not allow it in any case. So I say we can all get to sleep without any fear that the Services are going to take over.

Mr Speaker then put the question that the amendment be made.

This was agreed to and **Clause 7** as amended stood part of the Bill.

Clause 8 was agreed to and stood part of the Bill.

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

The Children and Young Persons (Employment – Temporary Provisions) (Amendment) Ordinance, 1970

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.

RESUMPTION

Third Reading

HON ATTORNEY-GENERAL:

Sir, I have the honour to report that the Control of Employment Ordinance 1970 and the Development and Planning Commission (Temporary Provisions) Ordinance 1970, have been considered in Committee and agreed to with certain amendments; and the Children and Young Persons (Employment – Temporary Provisions) (Amendment) Ordinance 1970, has been agreed to without amendment and I now move that they be read a third time and passed.

HON SIR JOSHUA HASSAN:

Mr Speaker, I would like the Third Reading of the three Bills to be voted on separately.

The Control of Employment Ordinance 1970

Mr Speaker put the question which was resolved in the affirmative.

The Bill was read a third time and passed as amended.

The Development and Planning Commission (Temporary Provisions) Ordinance, 1970

Mr Speaker put the question which was resolved as follows:

FOR: The Honourables: Major R. J. Peliza, Major A. J. Gache, M. Xiberras, W. M. Isola, J. Caruana, Miss C. Anes, L. Devincenzi, C. B. O'Beirne, E. H. Davis, P. J. Isola.

AGAINST: The Honourables: Sir Joshua Hassan, A. W. Serfaty, E. J. Alvarez, A. P. Montegriffo, M. K. Featherstone, I. Abecasis, Lt. Col. J. L. Hoare.

The Bill was accordingly read a third time and passed as amended.

The Children and Young Persons (Employment – Temporary Provisions) (Amendment) Ordinance, 1970

Mr Speaker put the question which was resolved in the affirmative.

The Bill was read a third time and passed.

ADJOURNMENT

The House then adjourned sine die.

The adjournment was taken at 9.20 p.m.