

HOUSE OF ASSEMBLY

HANSARD

OF MEETING

HELD ON 1 MARCH 1972

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Twentieth Meeting of the First Session of the First House of Assembly held in the House of Assembly Chamber on Wednesday the 1st March 1972 at 6 p.m.

PRESENT:

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

GOVERNMENT:

The Hon Major R J Peliza, Chief Minister.
The Hon M Xiberras, Minister for Labour and Social Security and Housing.
The Hon Major A J Gache, Minister for Commercial Economic Development.
The Hon J Caruana, Minister for Public Works.
The Hon W M Isola, Minister for Tourism and Municipal Services.
The Hon Miss C Anes, Minister for Medical and Health Services.
The Hon L Devincenzi, Minister for Education and Recreation.
The Hon R H Hickling, CMG QC, Attorney General.
The Hon A Mackay, CMG, 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:

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

PRAYER.

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES.

The Minutes of the Meeting held on the 13th January 1972 having been previously circulated were taken as read and confirmed.

DOCUMENTS LAID:

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

- (1) The Industrial Training (Hotel and Catering) Order 1972.
- (2) The Industrial Training (Levy) Order 1972.

Ordered to lie.

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

- (1) The Labour from Abroad (Accommodation) Rules 1972.
- (2) The Labour from Abroad (Accommodation) Order 1972.

Ordered to lie.

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

Supplementary Estimates No.6 of 1971/72.

Ordered to lie.

ANSWERS TO QUESTIONS

- (1) The Minister of Education and Science
- (2) The Minister of Health
- (3) The Minister of Labour

STATEMENT BY THE CHIEF MINISTER

Sir, I think the House would like to record its appreciation of the manner in which Sir Alec Douglas-Home has been trying to resolve the Gibraltar impasse this week in Madrid. We are particularly satisfied that he has stressed the paramountcy of the wishes of the people of Gibraltar, that he emphasised the importance of the wishes expressed by the people of Gibraltar at the Referendum and that he undertook to continue to consult the people of Gibraltar on any possible solution. We welcome the initiative he has taken in establishing contact with his opposite number in Madrid, in order to create an element of understanding whilst safeguarding the principles that are fundamental to the people of Gibraltar. We are of the opinion that there must be a long-term solution that takes into account these principles and we feel that this may well be found when it is recognised by all concerned that it is bound to come about in a United Europe when the existing differences will be seen in a new light. We hope that this evolution towards better relations will become obvious now so that a solution to the problem can be found earlier in the interests of all concerned. We now sincerely hope that the process of thinking together will ultimately lead to a return to normality and the resumption of those good neighbourly relations that have always existed between the people of Gibraltar and the people of Spain.

HON SIR JOSHUA HASSAN:

Mr Speaker, whilst I entirely agree with the sentiments expressed by the Chief Minister, I am not in the least surprised, nor did I expect anything else because unlike other people I have always had faith, that the British Government would stand by the people of Gibraltar and that this was reiterated many times, and I think perhaps the most important feature of the visit of Sir Alec Douglas-Home to Madrid has been the insistence on which he has reiterated the need for consultation with the people of Gibraltar on any matter affecting us, which I think is almost an inevitable lead-in to the fact that if and when there are talks, the people of Gibraltar should be represented.

HON P J ISOLA:

Sir, I congratulate the Chief Minister on the statement and I congratulate the Government in the forthright manner in which they have kept up the interest of Gibraltar with the British Government, and put their views forcibly to them. May I also say, Sir, that this is surely, what has happened in Madrid is surely a vindication of the views of those who were absolutely certain that the British Government would stand by the people of Gibraltar, and that there was not any need for Gibraltarian

watchdogs in case the British Foreign Secretary did not toe the line. And I think people will welcome, the people of Gibraltar will welcome particularly, the frank and forthright manner in which the Foreign Secretary has conducted negotiations and the frank and forthright manner in which the Foreign Secretary has been ready to say in Madrid in public, for the first time in public in Spain, that there can be no question of the British Government doing a deal over the heads of the people of Gibraltar. And that there can be no question of the status of the people of Gibraltar being altered without their consent. And does not the Chief Minister consider it most unfortunate to say the least of it that views should have been expressed in the middle of these talks by one Isaac Benyunes in the Post, that the British Government and the British people were decrepit and falling to bits and weak as never before and that the position of the people of Gibraltar was getting slowly worse and weaker? And does he not believe and agree with the views of those that feel that the entry of Britain into the European Economic Community and the assurances that the British Government have given, and the economic situation of Gibraltar, stronger than ever, is sufficient guarantee for the people of Gibraltar of a future of security?

HON CHIEF MINISTER:

The last speaker has posed a lot of questions, too many for me to answer....

MR SPEAKER:

On a point of Order, I would like to say that on a statement the only questions allowed, are for the purposes for clarifying any matter within the statement. I have been slightly liberal due to the subject matter that was being discussed. I am just saying that while I have been liberal up to now, we mustn't fall into the temptation of debating the statements. Mr Chief Minister, do continue now by all means, but I would like to give this warning before we go any further.

HON CHIEF MINISTER:

Mr Speaker we had quite a number of questions there, and I think I would like to bring them all into one single answer. I think that as we have the freedom of the press in Gibraltar, it is inevitable that suggestions will be made in the press which could well be detrimental to the stand the people of Gibraltar are putting up in these very critical days. I feel that one of the reasons why it is possible now to talk from equal strength is precisely because of the determination and tenacity of the people of Gibraltar and also because of the strength of Great Britain even today however much some people may think that Britain is in decline. I think the

people of Gibraltar have absolute faith in the support that is forthcoming and will continue to come to Gibraltar from Britain. And I think that whilst no one can stop the local press from publishing articles of that nature, this must very much be left at the discretion of the Editors, to do what they think is responsible at present, and I need not say more than that and I hope I have answered Mr Isola.

STATEMENT BY THE CHIEF MINISTER

Gibraltar Regiment

Sir, at the meeting of this House held on the 18 November 1971, when moving the Second Reading of the Military Service (Repeal and Consequential Provisions) Ordinance, I said that I would be kept informed by the Governor, by means of periodical reports, of the activities of the Gibraltar Regiment Association and that I, in turn, would keep the House informed as necessary about the affairs of the Regiment generally. I am now in a position to make my first statement on this matter to the House.

Following the enactment of the Ordinance, the Gibraltar Regiment Association Regulations were made in December and the Association itself has now been constituted. The Chairman of the Association is the Hon A J Vasquez and the three ex officio members are the Honorary Colonel of the Regiment, Colonel Charles Norton; the Commanding Officer of the Regiment, Lieut. Colonel J J Porral; and the Deputy Fortress Commander or his representative. Messrs A Olivero, E J Hoare, A J Cottrell, A Hermida, J W Coelho and L R Hompstead have been appointed members of the Association. I am sure the House will join me in wishing this new and important body every success in carrying out its functions and will also share the Government's readiness in giving the Association every encouragement in its activities.

Turning now to the affairs of the Regiment itself, the House will be interested to know that, following the very successful recruiting campaign carried out last year, the Regiment was marginally over-established. Of the recruits taken on by the Regiment, 49 are employed by the Gibraltar Government, 89 by the other Official Employers, and 53 by the private sector, which is regarded as being a reasonable balance of distribution. The number of officers had necessarily to be reduced from 26 to 13. Those officers who are now off the establishment will continue to be associated with the Regiment; will receive a limited amount of training and will be eligible for selection to the establishment to fill vacancies.

95% of the Regiment have undergone two weeks training in 1971 at a series of camps held in Gibraltar and the UK; following the pattern established in 1970 members of the Infantry Company trained in the UK, and for the first time, detachments of the Artillery Battery did likewise. Plans are now in preparation for approximately 50% of the Regiment, both Infantry and Artillery, to train in the UK this year. The military authorities are very conscious of the problems imposed on employers if too many members of the Regiment are away simultaneously and every effort will be made in the planning of training to take account of employers' difficulties in this respect.

Plans have been drawn up, and are now under consideration by the Ministry of Defence, for additional social amenities and improved training facilities for the Regiment. Members of the Regiment had access to the full range of recreational facilities available to regular members of Her Majesty's Forces in Gibraltar. The Regiment will be performing the Ceremony of the Keys and will also parade its Colours this year.

As regards clothing and personal equipment the Regiment is scaled on exactly the same basis as comparable units in the British Territorial Army. However, currently, there are deficiencies but the majority should be made good by the autumn of this year. Similar deficiencies exist in the British Army. It is unlikely that the local need will be given special priority.

With regard to pay, a review is currently being held and consideration is being given to what changes might be necessary to reflect the general movement of wages in Gibraltar.

As the House is aware, the transition from a conscript to a volunteer force has been smooth and entirely successful. I think that this is a matter for congratulation of all concerned in this flourishing and well-trained Regiment. I will make further reports to the House on the affairs of the Regiment periodically.

STATEMENT BY THE MINISTER FOR LABOUR & SOCIAL SECURITY & HOUSING

Industrial Training

Mr Speaker, the Industrial Training and Levy Orders in respect of the Hotel and Catering Industry, which I have had the honour to lay on the table earlier in these proceedings, can be regarded as the first concrete manifestation of Industrial Training in Gibraltar.

The on-job trainer course and the Instructor Course to which they relate are actually taking place now. They involve selected key staff from 6 establishments, the object being to train this nucleus in the art of instruction so that in their turn they will be able to organise and carry out training within their establishments, either in the working situation or away from it. Some 140 hotel staff will thus benefit directly or indirectly from the present exercise.

These two courses together with the Management Seminar which preceded them are parts of phase 1 of the reports on the survey of training needs in the Hotel and Catering Industry produced by the Productivity & Training Unit for consideration by Government and submission to the Industrial Training Board. Phases 2 and 3 aim at broadening and deepening the structure of training, and include suggestions for an apprenticeship scheme within the industry and the possibility of further education. The Industrial Training Board is at present considering them and consultations are taking place with the Hotels Association. A practical and helpful attitude prevails in these consultations which is most encouraging for the future.

These two courses are also significant because, as can be seen from the orders, they have brought into play for the first time the administrative and legislative machinery envisaged by the Industrial Training Ordinance. A levy has been made, however modest, and part of it will be refundable. The Overseas Development Administration has helped by providing two first class course leaders from the Hotel and Catering Industry Training Board in the UK, whilst Government has provided the necessary co-ordination.

Finally, the courses are significant because others will follow in other industries in the private sector. I trust that the survey being done at present in the retail and distributive trade and the consultations being carried out by the Productivity and Training Unit with the various interested parties within the Industry will be equally successful, so this

industry which employs some 500 Gibraltarian Shop Assistants, will be amongst the first to receive regular training. The Construction Industry and the Motor Trade will, I hope, soon come within the Ordinance and preliminary steps have already been taken in this direction.

All in all, the House can look forward to the establishment of systematic industrial training in the major industries of the private sector of the economy within the next two years.

STATEMENT BY THE MINISTER FOR PUBLIC WORKS

Parking and Traffic

Sir, at a press conference held on the 20 January, the Chief Minister expressed his concern at the problem of Parking, which is becoming an increasingly difficult one as more and more cars are imported into Gibraltar.

The Chief Minister also stated that the Government was determined to have a comprehensive plan for Parking within the next 18 months, the problem being of such magnitude and seriousness that it might become necessary to consider either having to limit the importation of cars or having to pay for parking, which would help in the long term to finance the full-scale programme project.

In a nutshell the traffic problem in Gibraltar can be summarised as follows:

- Traffic congestion at all times;
- Traffic jams;
- Great inconvenience and danger to pedestrians;
- Dust displacement and, therefore, dirty buildings.

In the affluent countries of the world this is a serious and common problem; in Gibraltar the problem is doubly concentrated and cannot be diluted other than by a determined strong line of action. Both my colleague the Minister for Tourism and Municipal Services and myself are greatly concerned about this problem and are working jointly to find a solution.

In the first instance, roads and car parking constitute primarily a town planning problem, and the social and environmental influence that they may have, on a town or city, should ideally be considered at the town planning stage. However, the truth - and this is the real difficulty of the problem - is that, in Gibraltar, both public and politicians alike aspire to and demand all the optimum conditions found in the new towns of today, forgetting at times that we are trying to graft these demands onto a town with settings and limitations determined for us as far back as the 17th and 18th century.

Overcoming these limitations and adapting them to the 20th century requires one thing only: considerable amounts of money. Plans and ideas are plentiful but finance is very scarce, especially when other important

priorities have to be met at the same time which take up virtually all of our resources, i.e. the New Refuse Destructor, a new Generating set, a new Desalination Plant and of course, the increasing cost of maintenance and improvements in the social services. This Government, as everyone is aware, has provided finance for, and already started construction of, all these things on a scale hitherto unknown, because of the necessity to do all these vital things during the same period. We have not, however, by any means forgotten the problem of traffic, and especially the problem of traffic as it concerns roads and parking spaces. One could summarise the answer to the traffic problems as follows:

- Decongestion of the city centre;
- Re-arranging traffic flow;
- Providing substantial parking spaces in the short term;
- Providing parking spaces in the longer term;
- Construction of new roads;
- Comprehensive programme for improving the state of the roads.

My friend, the Hon Minister for Municipal Services, has already spoken about the desirability of decongesting the city centre, but this cannot happen in isolation since other roads will be affected as a consequence. Hence the whole question of traffic flow and decongestion is energetically being pursued at this very moment by the Public Works Department and the Transport Commission.

I would like to say that I intended making this statement at the next meeting of the House since it would have been more appropriate to have spoken about new projects at estimates time. Therefore I will be forced to refrain from mentioning figures of cost, but what I can say is that the expenditure in itself is unprecedented in Gibraltar and provides for all that could be done during the coming year and represents a definite Government policy to tackle the problem of roads and car parks.

It is proposed that the following areas will be cleared and made suitable in the short term for car parking; other areas will be car parks on their own right:

- In the neighbourhood of Arengo's Palace (16 car spaces)
- In the neighbourhood of Castle Ramp (18 car spaces)
- Town Range, North of Old Bakery (26 car spaces)
- Parcar site will provide approximately 78 car spaces some of which will be for public use;
- Governor's Parade new car park (54 car spaces)
- Slaughterhouse area, Eastern Beach (52 car spaces)
- Rosia Road (43 car spaces)

Glacis Housing Complex (110 car spaces)

Viaduct Housing Complex (350 car spaces)

(And Reclamation Road, Mr Speaker will be classified and re-conditioned as a parking area, utilizing the available area to its maximum capacity for parking.)

Total provision could be anything in the region of 500 to 700 car spaces.

As I have stated before, these are short-term projects to provide an immediate if partial remedy and do not preclude consideration of long-term plans for car parking. Consideration has been given to the possibility of providing multi-storey car parks and it is intended to publish an official notice in the near future inviting the submission of proposals in a preliminary form from interested parties. The method under which car parks will operate in the various districts is of course a related problem and will be decided in due course when the position is clearer. Mr Speaker during the same period it is proposed to provide for the construction of the following:

One-way ring road down Castle Steps with lay-bys for 2 good vehicles;

A new road system, in two parts at Waterport, one of which will serve the new Viaduct Housing Complex and the other Waterport itself.

New car parks, new roads. What about the existing roads, what of them? Here again, Sir, we are proposing to undertake during 1972 a comprehensive road resurfacing programme which, subject to satisfactory negotiations, will improve the condition of the majority of our major roads.

Sir, no-one can deny that the contents of this statement present us with a challenge which, if we are able to meet it, will make significant inroads into the problem of traffic flow, roads and car parking; a task which we trust will put us on the road to better and happier driving.

HON LT COL J L HOARE:

Mr Speaker, that is a very good statement. As I have said before the poor old motorist seems always to catch the sticky end of the stick or has been lately, and it seems to me a little bit odd that despite the fact that we get so much from motorists by way of ^{licensing fees} / and so forth, they can't get a bit better service; ^{fees are} ~~it is~~ being used for something else. May I put forward a couple of more ideas for consideration, when this thing is.....

MR SPEAKER:

A Member is entitled to ask questions to clarify the statement but nothing else.

HON LT COL J L HOARE:

I will put it in the form of a question, Sir. Has the Minister considered the need for a road linking ^{the} Line Wall.....

MR SPEAKER:

The only questions that can be asked are questions which clarify any matter which is being considered and is the subject matter of the statement.

HON A W SERFATY:

Mr Speaker, I asked a question earlier this evening, on the question of the matter of multi-storey car parks and the use of shelters. As the question of war-time shelters has not been mentioned, if I remember rightly here, can I now ask the Minister whether the use of the war-time shelters is going to be considered for car-parking?

HON J CARUANA:

I am grateful to the Hon Member opposite for reminding me of that question. It is not in the statement precisely for one very important reason that the investigation into the use of shelters for the purpose of parking has already been carried out and is a non starter. There is one very suitable one but the approach and exit is very difficult and that is the one in Engineer Lane which ends at Turnbull's Lane but this one has a tremendous difficulty of approach, and therefore unless something unforeseen turns up, our investigations into shelters have proved unsatisfactory.

HON A W SERFATY:

Has the Minister seen - I have not for a number of years, I have to admit - the recommendations of the Study Group Report on the question of parking? The Study Group Report which was prepared about 5 or 6 years ago. I think he would be well advised to have a look at this. I haven't got a copy so I am not able to refer to it but I do remember that the question of parking was mentioned in extenso.

HON J CARUANA:

Mr Speaker, I have seen from time to time excerpts of the recommendations which were made by the Study Group and I am all the time seeing proposals which have come down through the years, but I have not seen the Study Group Report in toto so I can only trust that I am getting the relevant and practical solutions.

HON LT COL J L HOARE:

You will perhaps remember that I had a question about parking. And I was told not to pursue it because of the statement. The question being: In view of the lack of parking space in Main Street opposite the Catholic Cathedral, what steps have Government taken to provide alternative parking space? It was on that basis that I was asking the question.

MR SPEAKER:

You did ask a question which has remained unanswered on the undertaking that it would be dealt with in the statement, and insofar that it relates to the parking area in Main Street, which has been done away by the re-development of the ^{area} /opposite the Cathedral, of course you are in order to ask.

HON LT COL J L HOARE:

HON LT COL J L HOARE: Yes, it is in that general area that I was asking about. I was going to ask the Minister, had that question proceeded, whether he had had a look at providing more parking space at the end of Prince Albert's front, at the northern end by the War Memorial. Some has been provided already but if there ^{was} ~~were~~ a little ramp it would make room for another dozen cars, that is one ^{item}. At the end of Prince Albert's front by the American War Memorial, it only requires filling in a step a little bit there. The other area which I thought might offer temporary relief is perhaps the Boulevard at one end - the Line Wall Boulevard - above the Naval Hockey ground on the North Side. There is a great deal of wasted space. Pedestrians and people who sit down are protected because they are on a higher level. And thirdly, and the other suggestion I would like to make is Reclamation Road. There is no access road to Reclamation Road from the town except through Ragged Staff Gates or Waterport. Now, an access road from about the Bristol Hotel, through the Hole in the Wall as I call it, might be possible, or somewhere further along, by the War Memorial. It would make more parking spaces available. At the moment if one can't find parking space in Main Street, one has to go right down to Ragged Staff to find it down there.

HON J CARUANA:

Mr Speaker, I think that the question read: In the view of the loss of parking space in Main Street opposite the Catholic Cathedral, what steps is Government taking to provide alternative parking space in that area? So, Mr Speaker, I have not in my statement exactly gone into that area but I think that I have presented a comprehensive plan which, if anything, suggests two sites in that area, which are in fact Library Street and

Reclamation Road* Prince Albert's front, Sir, is very much connected with the Parcar parking proposals. So there is a scheme for that.

HON. LT COL J. L. HOARE:

If I may correct the Minister, the part of Prince Albert's Front I mean, is directly west and south of the American War Memorial. An extension of the existing car park made by the Royal Engineers a couple of years ago. There is room for another 8 or 10 cars there.

HON. J. CARUANA:

Sir, I think that I could say that the car park for Parcar when it is finished will be on top of the fish market, and that is precisely leading on to Line Wall Road, which is just two paces away from the area the Hon. Member is talking about. And that provides for 78 parking spaces.

HON. A. W. SERFATY:

On a point of clarification. Mention is made here of a one way ring-road down Castle Steps. I remember a project which was designed to improve the access to St Bernard's Hospital of converting Castle Street into a road. Does the Hon. Minister mean Castle Street when he says Castle Steps?

HON. J. CARUANA:

I mean that part of Castle Street or Castle Ramp which comes to the front of St Bernard's Hospital and ends at the junction of Engineer Lane with Bell Lane.

HON. A. W. SERFATY:

It is Castle Street, if I may correct the Hon. Minister.

HON. J. CARUANA:

I am not sure, I stand to be corrected.

HON. P. J. ISOLA:

The statement by the Minister shows the enormity of the problem and although his suggestions for improving them are obviously welcome and will take us some way towards the solution of parking, obviously it will not in fact, I am sure the Minister will agree, bring substantial relief to the situation, and it is quite clear from the enormity of the problem and for what is being thought of by Government and perhaps restricting the importation of cars to Gibraltar, which would neither be popular nor I think acceptable to people generally, but would it not be better in order to create the atmosphere necessary for the building of multi-storey car parks

and so forth which are the real answer in the long run to the parking problem; would it not be better for the Government to take the bull by the horns and start a system whereby people are charged for parking their vehicle and have those funds, that money collected from that, to a central fund to enable Government schemes to go ahead but by having people paying for their parking, they are creating the necessary and the right atmosphere to get capital investors interested in multi-storey car parks in places like Willis Road and so forth where there are very serious problems of parking which affect the smooth flow of cars in that area. Does not the Government think that the most realistic way to approach this very big problem is to start a system whereby motorists who, I agree with the Hon and Gallant Col Hoare, are already contributing sums of money but whereby motorists can by paying be able to park their cars and start the process of decongestion. Does he not agree really that all these schemes are only on the fringe of the problem, and that the problem really has to be tackled head-on in the knowledge that there just isn't enough money in Gibraltar to provide from public funds all the parking amenities that obviously we would all desire?

HON J CARUANA:

Mr Speaker, I don't think that the statement in itself precludes the question of paying for car parking. In fact my statement was carefully worded to leave this door open, when I said that the method under which car parks will operate in the various districts is of course a related problem and would be decided in due course when the position is clearer. I could say that various systems of paying for car parking are being considered to see which is the one that would best meet the situation.

HON P J ISOLA:

Is the Government considering the introduction of a system by which certain parking areas, or certain places which are habitually used for car parking by motorists are made subject to a charge?

MR SPEAKER:

Order. We are again falling into the temptation of debating the question of parking in Gibraltar and not just asking questions to clarify matters contained in the statement.

HON P J ISOLA:

Sir, I am seeking clarification on a remark made by the Minister that there was a way by which one could consider charging motorists, and what I was asking on clarification is whether the Government are considering any scheme whereby in particular areas, motorists are charged for parking?

HON J CARUANA:

Mr Speaker, this is definitely part of the general considerations which are taking place at the moment.

STATEMENT BY THE MINISTER FOR PUBLIC WORKS

Water Situation

Sir, at the last meeting of the House of Assembly I made a statement regarding the water situation at that time, and in it I announced that a further tanker of water had to be ordered by the Government incurring an expenditure of £25,600 for 4.36 million gallons of water. I also said that, whilst I did not wish to go into any great detail at that time, the reason for ordering this tanker was that the North Face Distiller would have to close down in order to clean all tubes and vessels in the plant and to install an additional piece of equipment. At that time I added that the picture was not a good one since the Government would have to face the possibility of importing further amounts of water during 1972.

I regret having to announce that in order to keep our stocks at a safe level the Government has had to order another Tanker for 4 million gallons at an expenditure of £28,600 due to arrive late April. The possibility of importing further amounts of water is certainly not discounted.

The position is that the North Face Distiller was stopped on the 16th January 1972 for the above mentioned purpose and therefore during the last 42 days we have lost 8,232,000 gallons in production.

It is anticipated that the distiller will not come back on line till mid-May, though everything possible is being done to expedite matters. The stoppage till mid-May means a total of 23,700,000 gallons in lost production.

A departmental report on the present situation vis a vis production and consumption is being studied at this moment by Ministers and the situation is being reviewed on a day to day basis. We are considering whether it will be necessary in the public interest, because of the sums of money involved, to obtain the services of an independent authority to look into the whole matter.

HON SIR JOSHUA HASSAN:

Just one or two points on clarification. Is it not a fact that the tubing of the North Face Distiller was not cleaned last year? And should it not have been cleaned periodically every year?

HON J CARUANA:

Mr Speaker, the Hon & Learned Leader of the Opposition's information is quite correct. Last year, the distiller could not undergo its prescribed maintenance because we were running very, very low on water, and even though we continued the distiller working for the full year, if the House will remember the Government had to import two tankers of water which shows, in fact, how low we were on water.

HON SIR JOSHUA HASSAN:

The other point is that it is very difficult nowadays to assess the situation of water when no statistics, no figures are given of the stocks held from time to time which makes the people more water conscious, particularly in times when there is difficulty, and gives the people the wrong impression that the strong downpours of a day or two is going to solve the situation for the rest of the year and would it not be advisable for the Minister to issue from time to time a release say fortnightly or monthly of the stocks held, very much as it was made public in the City Council before, ^{i.e.} that gathered from rainfall, that gathered from distillers and so on. Because this keeps the question of water to the fore. People easily forget what they anxiously desire to forget. And this I think would make people much more water conscious in times of difficulty. The other point is, do I then understand, the position now is that whereas the plant was provided with pistol shot ^{brushes} for cleaning, the new way of cleaning it is by rubber balls and if this is so, is the Government or the Minister satisfied that this is going to be a better process to clean the over thirty miles of tubing that the distiller has?

HON J CARUANA:

Forty seven miles of tubing Mr Speaker, for the record. The new equipment that has been installed, as the Hon Leader of the Opposition is aware is a system whereby impregnated rubber balls are shot under pressure on a daily basis through the tubing. This is not a new thing, because this was available at the time when the machine was purchased, and provision was made for eventual installation of that equipment on to the distiller.

HON SIR JOSHUA HASSAN:

The other point I would like to raise with the Minister is about a matter which I raised last time, and this is the question of unaccountable figures of water. This is a matter which his colleague on his left raised regularly every fortnight when he was a Councillor, and that is the leakages of water, or the absorption by evaporation and so on. As we haven't got any figures, it is very difficult to say, but is the Minister satisfied with the position with regard to the

water accountable in terms of draw-off by the private sector, the establishment, shipping and so on, that the losses are not very high in view of the fact that sometimes they can be as much as 10%, 12% or even 15%?

HON J CARUANA:

Mr Speaker, I think I said last time that we were satisfied that there had been no serious problems of leakages or breakdowns of that nature. There is obviously always a factor of the wastage, and we cannot in any event prevent unscrupulous use of water.

HON P J ISOLA:

Sir, the statement of the Minister reveals a disastrous situation in the North Face Distiller and it is quite clear that despite endless expenditure on it and despite the loss of millions of gallons of water, we still soldier on in the hope that production will start again in mid-May. Can I ask the Minister by way of clarification, about the last sentence in the statement that the Government is considering whether it will be necessary in the public interest because of the sums of money involved, to obtain the services of an independent authority? Can I ask how many more millions of gallons must be lost, how many more hundreds of thousands of pounds must be spent before the Government will consider it necessary to have an independent authority looking at this wholly disastrous situation?

HON J CARUANA:

Mr Speaker, the answer to that question was in my statement. That ministers were considering the report submitted, which dealt with production and consumption, and it is not up to me to pronounce any decision on that matter. It would be a matter for the Council of Ministers to decide when they find this necessary.

HON SIR JOSHUA HASSAN:

Mr Speaker, I am afraid I did not get from the Minister, though I saw that there were nods of assent from the Chief Minister, a reply to my suggestion about making public stocks of water, and perhaps he will deal with that when he also deals with one or two points that I wanted to raise on this question of the unaccounted consumption of water. If there are figures for 1970 or 1971 about it, and perhaps it might be of interest and I don't expect the Minister to answer these questions now, I would like him to take a note of them and deal with them at a subsequent meeting. And that is what steps are taken during the year to check leakages, that is tests to trace sources of leaks? How many times was the testing of potable water

mains carried out during silent hours, i.e. when nobody is using them? Normally you advise people of cut offs for testing. I haven't seen any notices of that recently. Are the waste detection meters installed in the various districts being read daily? If these meters are being checked, is the information obtained from them being compared with the local meters consumption of their respective districts? These are all matters which show whether, in fact, all the water that is coming into the tanks, or a substantial part of it is going to consumers and not being lost by the way. I know these are rather technical questions, and I would not expect the Minister to be able to give me an answer to that now, but these are all matters of general interest in water, and I am sure that it will be helpful for us to have not just a concentration as I am sure it is because of the difficulty on the North Face Distiller but on the question of water generally in Gibraltar, which is also of great interest.

HON J CARUANA:

Mr Speaker, I am grateful to the Hon and Learned Leader of the Opposition. We shall do everything possible to try to publish the figures of water stocks from time to time. I also take note, I hope correctly, of the four points which the Hon and Learned Leader has made and I hope I shall be able to give an answer on that particular question which refers to a possible loss through leakages to see that they are accountable.

HON SIR JOSHUA HASSAN:

Thank you.

HON M K FEATHERSTONE:

What is the stock of water today?

HON J CARUANA:

The stock of water on the 28th February ^{was} 11.65 million gallons of water.

HON M K FEATHERSTONE:

The other point was that the last time we were promised a very full statement with all details, I did ask two questions last time with regard to the distiller. They have not come out from the statement; may I be permitted to ask them again, Sir?

I did ask Sir, how many days did the distiller not work in 1970? How many days did it not work in 1971? And of those two ~~amounts~~ ^{amounts} of days, how many were foreseen that it should not work and how many were due to breakdown? If the Minister will give me an undertaking to send me this in writing, it will be satisfactory.

HON J CARUANA:

I would be very pleased to send this in writing if the Hon Member wishes.

The North Face Distiller in any event during 1970/71 operated for 250 days of that year.

HON M K FEATHERSTONE:

Can I have what I asked in writing?

HON J CARUANA:

Yes, yes.

HON M K FEATHERSTONE:

Excellent.

STATEMENT BY THE MINISTER FOR PUBLIC WORKS

Clean City Campaign

Mr Speaker, on a lighter and cleaner note. The Clean City Campaign. I would like to take this opportunity to introduce to this House "PROJECT WILLIS'S ROAD".

Project Willis's Road, Sir, is a task chosen and to be undertaken by, the Youth of Gibraltar and organised by the members of the "Clean City Project Team" in collaboration with the Public Works Department. The purpose of this project is two-fold; it is intended to landscape, brighten and tidy up Willis's Road from Calpe Gates to the junction of Flat Bastion Road. No less than 24 spots have been chosen to be painted and 4 spots to be landscaped, with plants, pots and cheerful colour schemes, and interesting features will be made to stand out. The second purpose, and the most important in the project, is to awaken a sense of awareness in the public and to show through example what can be achieved for Gibraltar by the people themselves. I am hopeful that the neighbourhood, and indeed other neighbourhoods too, will respond by at least maintaining the districts bright and tidy. Another aim of the task is to get children and grown-ups to respect what is done for them by their own and, in order to drive this point home, posters will go up which say:

"This district has been cleaned and painted by your youth, please help to keep it clean. Thank you."

No less than 80 youths over the age of 15 years have volunteered for this project which will be starting on Saturday the 4th March. The organisations from which volunteers have come forward are the Girl Guides, Boy Scouts, Gibraltar Youth Clubs, Gibraltar J.C.'s, and Secondary Schools. Mr M Suetta has untiringly prepared the details of this task. I am sure that the House will wish to join with me in thanking all these persons for their enthusiasm and civic spirit.

HON M K FEATHERSTONE:

Well Sir, this is a most laudable scheme, there is only one small point. Will the Government see that these young people are adequately insured, in case there should be any accidents?

HON J CARUANA:

Mr Speaker, everything possible has been done, and the question of insurance will be settled.

MOTIONS

SUPPLEMENTARY ESTIMATES NO.6 OF 1971/72

HON FINANCIAL & DEVELOPMENT SECRETARY:

Sir, I have the honour to move that this House resolves itself into Committee to consider Supplementary Estimates No.6 of 1971/72 in detail.

This was agreed to and the House resolved itself into Committee.

HOUSE IN COMMITTEE

Item 1. I. Audit was agreed to and passed without amendment.

Item 2. II. Cemeteries was agreed to and passed without amendment.

Item 3. IV. Education

HON M K FEATHERSTONE:

Sir, No. 23 - Special Equipment. Is there any reason why this should be brought now? Is there any urgency why we should have this supplementary provision just at this moment?

HON L DEVINCENZI:

is.

Well, Sir, as a matter of fact there/ This special equipment has had to be ordered, ~~it~~ really affects the Girl's Comprehensive Schools and it is therefore necessary to bring it up now.

HON M K FEATHERSTONE:

What I can't quite follow, Sir, is why wasn't this thought out at Estimate time or why is it not left to the next estimates, why must it come almost twenty days before the next estimates vote. Is there any urgency?

HON L DEVINCENZI:

As I have already said, Sir, some of this equipment has in fact already been ordered and this should have been brought before now. It suddenly came to my attention that it had not been brought to the House and rather than leave it for later, I hope we are not being ^{accused} of being early this time, I thought of making sure that it would go through.

Item 3. IV. Education was agreed to and passed without amendment.

Item 4. V. Electricity Undertaking

HON LT COL J L HOARE:

I have a point on some of the items there. There are a lot of new items on the list from 37 to 48. I think this is all Electricity Undertaking. My question was are they all going to be paid for before the 31st March this year? If not there is no need to have brought them in at this stage.

HON SIR JOSHUA HASSAN:

I have a much more broader question on this. Why have all these items - not all of them - I can see that some are not ordered or do not come in time, but either they were not required in 1970/71 or none of them became available or they were ordered before their time. What is it? All the revotes which are detailed at page 2 of the list, from item 37 to item 48. I am sure there is a very good reason and we would like to know it.

HON FINANCIAL & DEVELOPMENT SECRETARY:

Well, Sir, the reason is that the department who had been hoping to meet the full cost of these revoted monies out of savings from the Head, but has been unable to do this to the extent of the amount which now has to be asked for.

HON LT COL J L HOARE:

But surely this is improper, to pay for these items from savings from other heads. They have to be voted on separately.

HON FINANCIAL & DEVELOPMENT SECRETARY:

I beg your pardon, subhead.

Item 4. V. Electricity Undertaking was agreed to and passed without amendment.

Item 5. VI. Fire Service was agreed to and passed without amendment.

Item 6. VIII. Judicial was agreed to and passed without amendment.

Item 7. IX. Labour and Social Security was agreed to and passed without amendment.

Item 8. XI. Public Works Annually Recurrent was agreed to and passed without amendment.

Item 9. XII. Public Works Non Recurrent

HON LT COL J L HOARE:

Item 2, as regards the toilet facilities for the Girl's Comprehensive School. Is that what it really is? Do we know where the comprehensive school is going and what can be put in it, in the way of toilets, already?

HON J CARUANA:

Part of the conversion of the Girl's Comprehensive complex around the Loreto Convent Area in Town Range, Loreto Convent, St Christophers School and the rest from St Joseph's. And this is £15,000 which we are now providing for biology, general science, housecraft and toilet facilities, extra toilet facilities or better toilet facilities. And this is part of the £10,000 previously asked for.

HON LT COL J L HOARE:

I have not heard mentioned previously that in fact there was going to be a Girl's Comprehensive School?

HON L DEVINCENZI:

It is a known fact that as a temporary measure it might be four or five years, but it is understood by everyone, certainly by those concerned, that the Girl's Complex should be Loreto High, St Christopher which is just opposite, and the Mackintosh Hall where we have St Josephs. That is the Girl's Comprehensive School.

HON P J ISOLA:

I notice that the note says cost of minimum adaptation required. I do hope that as is clear to all of us that the Girl's Comprehensive School will not come for four or five years - the new building - I do hope that because expenditure here on adaptation will necessarily be temporary, that you will not just supply the minimum. I hope that it will be fully adequate for the purpose.

HON L DEVINCENZI:

Perhaps the word should be maximum, I don't know, but the fact remains that there is a new school to be built. In fact these provisions might even become more than £20,000 as we go along.

Item 9. XII. Public Works Non Recurrent was agreed to and passed without amendment.

Item 10. XV. Medical and Public Health was agreed to and passed without amendment.

Item 11. XVI. Miscellaneous Services

HON M K FEATHERSTONE:

On item 9 it seems to be carrying more than a 50% under estimation, I hope this is not going to be the practice in future years.

HON LT COL J L HOARE:

May I ask, Mr Speaker, why item 1 - £21,000 revote from 70/71 rates for quarter ended 31 March 1971; ^{were} not adjusted within the year - since this is a paper transaction, why wasn't it effected in 1970/71?

HON FINANCIAL & DEVELOPMENT SECRETARY:

Mr Chairman, I am afraid I cannot answer that question at the moment, I will undertake to do so later.

HON LT COL J L HOARE:

I would like to refer, Mr Speaker, to item 9. Is this underestimate due to the verbosity or the frequency of Ministers' statements?

Item 11. XVI. Miscellaneous Services was agreed to and passed without amendment.

Item 12. XVII. Pensions was agreed to and passed without amendment.

Item 13. XVIII. Police was agreed to and passed without amendment.

Item 14. XIX. Port was agreed to and passed without amendment.

Item 15. XXI. Prison was agreed to and passed without amendment.

Item 16. XXIII. Revenue

HON LT COL J L HOARE:

One question, only on elucidation. At item 1, what is the significance of 15th November? Is that the date on which the statistician came out?

Item 16. XXIII. Revenue was agreed to and passed without amendment.

Item 17. XXIV. Secretariat

HON P J ISOLA:

Sir, could we have some little information on this?

HON M XIBERRAS:

Sir, this refers to the training of Productivity and Training Unit Officers on which I gave full details in a statement to the House. So we are talking about the training of local officers for the Productivity and Training Unit

which make them competent to undertake the duties which I have described more than once. I shall not add any more words to the score

HON LT COL J L HOARE:

On the same item, Mr Speaker. That answer was not to me, it was to somebody else. Why is it 16 and isn't this new, and if so why is it not indicated as new? Under Head XXIV the numbers finish at 11, what happened to 12, 13, 14, 15. Have they gone for a ride?

HON M XIBERRAS:

I do not know why it should be 16 and not the figure the Hon and Gallant Member says it should be.

HON LT COL J L HOARE:

Is this not new? Is this not a new item?

HON M XIBERRAS:

Sir, it must be new insofar as this is the first time that they have received training, but insofar as the general item is one that the House has discussed before in providing for the salaries of these people, this is not new, I would imagine.

HON SIR JOSHUA HASSAN:

According to practice a new item is stated as new and not an increase on the present item?

Item 17. XXIV. Secretariat was agreed to and passed without amendment.

Item 18. XXV. Telephone Service

HON M K FEATHERSTONE:

Sir, is there any reason why these people seem to be more fortunate. They obtained their lorry while the Electricity Undertaking who had ordered it in 1970 are still waiting.

Item 18. XXV. Telephone Service was agreed to and passed without amendment.

RESUMPTION

The House resumed.

HON FINANCIAL & DEVELOPMENT SECRETARY:

Mr Speaker, I now propose that the votes detailed in Supplementary Estimates No.6 of 1971/72 be approved.

Before putting the question Mr Speaker invited discussion on the motion.

There being no response Mr Speaker then put the question which was resolved in the affirmative.

The motion was accordingly carried.

RECESS

The House recessed at 8.55 p.m. and resumed at 9.15 p.m.

BILLS

FIRST AND SECOND READINGS

(1) The Housing (Special Powers) Ordinance 1972.

The Hon the Minister for Labour and Social Security and Housing moved that a Bill entitled "An Ordinance to further the proper and effective use of accommodation allotted by the Government in such a manner as to promote the public benefit by providing for the resumption of any such accommodation whenever it is not in the personal occupation of the tenant to whom it has been allotted, and for certain ancillary purposes" 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 M XIBERRAS:

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

Sir, I crave the House's indulgence to make a speech on this Bill at this time of night, but I do feel that it embodies an important principle and therefore by attempting to limit myself to the necessary comments I do feel it has to be treated fully.

Sir, may I start by saying that the Housing situation is a serious one. That over the years it has proved to be one of the most, in fact, the most intractable of our social problems due to the increase in resident population through the closure of the frontier and the soaring demands for better accommodation arising from improved economical standards of the people of Gibraltar. Sir, at this present moment, as I said in answer to a question earlier in the proceedings, there are some 1,300 applicants to the Government scheme who qualify for accommodation now and about 400 whose

qualifying period has not yet expired. Against this 1,100 dwellings are expected by the time the Viaduct scheme is completed. There is no doubt that the high number is possible depending on the accommodation left vacant by those who are newly accommodated, in the Glacis scheme and in the Viaduct scheme, but it will be seen in these terms that a very definite improvement can be expected from a scheme which provides some 200 flats more than the present Humphrey's Estate. The problem is still with us and there should be no room for complacency. My Hon and Gallant Friend the Chief Minister has said and previous Housing Ministers, and Ministers for Public Works have stated that the Viaduct scheme would break the back of the housing problem but none of the people who have spoken on the subject meant to say that the problem would be ended with the Viaduct scheme because certainly it will not be. Further Sir, it is imperative that the rate of new construction should not be allowed to abate. It is also, however, necessary - and this is coming nearer home - to make the best possible use of existing accommodation in the interest of those persons who are resident in Gibraltar. I say this particularly in this day and age when to be a resident of Gibraltar requires a certain amount of tenacity. Some little time ago, there was some discussion about rehabilitation of existing premises. My Hon Friend the Minister for Public Works has this matter very well in hand and I think the House will see in the very near future something rather dramatic in this region, and that is the rehabilitation of existing Government quarters. But despite this Sir, we have a scheme, a Housing Allocation Scheme to maintain, and in circumstances where demand is vastly superior to supply, it is necessary for the Government as the biggest landlord to take into account what best it can justifiably do to make the best possible use of existing Government accommodation. Sir, the House knows that Government flats or dwellings are treated on a priority basis. This means that ipso facto other people are excluded from existing accommodation or available accommodation. Government must therefore ensure that the best possible use is made at all times of the limited accommodation available and this should be done not only in the public interest but also in fairness to the applicant, the individual applicant on the waiting list. The purpose of the Bill before the House is precisely this. To make the best possible use of existing accommodation in the public interest and in fairness to individual applicants on the Housing List. Sir, I think an excellently drafted explanatory memorandum on the subject appears attached to the bill and I would gladly go through the individual points again. I say this because I think that the drafting of this explanatory memorandum has in fact been exceptionally good and clear in very direct, practical terms, but I will refrain from doing so, except to say that members might consult sections 4, 5 and 7 of the explanatory memorandum which deal with the procedure to be followed in the application

of the powers which the Bill seeks from the House. It is appreciated fully, Sir, that this Bill asks the House to agree to special powers. This is clearly admitted in the Short Title to the Ordinance. Having had experience on this myself in the House before, I know that such powers should not be sought lightly. I can assure the House that in this case these powers have certainly not been sought lightly. They have been the product of considerable deliberation and of a reading of considerable history of the Housing Section and of the opinions of many of my predecessors in office, none of which as far as I can determine were opposed to measures of this kind. Sir, I would ask the House to bear in mind not just the theories about the rights of the individual but also the practical day to day struggle in the Housing Unit of the Housing Allocation Committee and the idea of justice and fair play which the normal applicant to the Housing Allocation Scheme has when he comes up the flight of steps to the present Housing Unit. It is the practical consideration, Sir, of the respect that people should have for the law and for the administration of the law and of the administration of the Government scheme, which influences the lives of many of the families of Gibraltar. If respect is to be had from these applicants, then the law or provision of the scheme must be effective. And I make these general remarks not solely in regard to this particular bill for I think they are of general validity, but in a situation that many people are chasing after the same object and the object is a limited supply, it is necessary in the interest of fairness, in the interest of equity and in the interest of the respect that people have for Government, to be quite firm in the distribution of these objects, in this case flats. Sir, there is no getting away from it, the Government is responsible in the last resort, for the allocation of Government dwellings. It is true that it has sought and has got the valuable assistance of the Housing Allocation and Housing Advisory Committees but the Government is responsible for the fairness of allocation, since the scheme is a Government scheme. Therefore no effort should be spared, in making this scheme not only as fair but also as effective as possible and as credible as possible, to the mass of applicants which constitute an important percentage of the population of Gibraltar. I am glad to say, Sir, that this Bill has been the subject of intensive consultation with both committees associated with the allocation of dwellings. I refer of course to the Housing Allocation Committee and the Housing Advisory Committee. I am also glad to say that they have not just welcomed the bill, they have not just acquiesced to its terms, they have in fact said that it is a positive step which will help them in the performance of their task, I am much indebted to them, not only for the normal work they do during the year, but for their most constructive comments on the drafts produced for them. Sir, apart from these two important bodies, as far as I can judge from the substantial

number of applicants I have personally interviewed, since the bill was in the mind of Government, the bill is considered very desirable in itself and also as evidence of the Government's resolve to adhere strictly to the allocation scheme. Against this, Sir, I have heard very little or none at all of the sort of criticism which makes a Member of this House think again on the terms of a bill which he brings to it. The only, if I may say in fairness, criticism which I have heard is an ambiguous reference to it in one newspaper. Sir, is the bill really necessary? My belief is that it is and it is the Government's belief. The present process is ineffective, it is ineffective insofar as it gives the initiative in any controversial situation to the present would-be or presumptive absentee landlord, short of very lengthy litigation of which there is little evidence and this proves the point in the past, the Housing authority has to wring the property away from the tenant and this is made all the more difficult since generally the absentee tenant by definition is not in Gibraltar and can dodge all attempts to bring him to face the problem. It is not possible to say, Sir, how many absentee tenants there are at present, but if I said just ten and of this we have direct evidence, then the bill would be worthwhile in financial terms and still more worthwhile in terms of the justifiable frustration which people feel at seeing ten vacant flats at the present state of the game in Gibraltar. But I think Sir, the written and the unwritten annals of the Housing Unit would show that the number of cases that have come up of this kind or the number of cases which reflect the second part of the bill, that is the problem of "caretaker tenants", and I would put that remark in inverted commas, is vastly greater than ten. The temptation is always a strong one and the problem is a very real one and it is a problem against which or in which the Government must be firm not out of lack of humanity but out of the consideration that in being humane to the person immediately in front of you, immediately concerned in a flat, you are being inhumane or unfair or unjust to other people on the housing list. Sir, it can be safely assumed that in the future the number of cases of this sort will not be less, the pressure of housing will not be reduced all that much until Viaduct is built and even after that there will still be cases. I therefore would say Sir, that the bill is necessary because the procedure at present is ineffective, because it is far too lengthy and because the initiative lies with the person who is holding up the works, if I may say so, and also because both in financial terms and in moral terms, Government or the Housing Allocation Scheme is bound to suffer. Another relevant question of course is, will the bill work?

One way in which it will work is that it will make clear the Government's intention to honour the Housing Allocation Scheme, and to make clear also

its intention to take action against misuse of scarce Government accommodation. Of this, Sir, I had already evidence in the interviews that I have had over the last four weeks involving a number of families on the housing list. It will discourage the absentee tenants and the practice of circumventing the scheme by putting in "caretakers" who then eventually become tenants. The penalty of £200 maximum will add to the risks that those who take the law into their own hands, or squat or attempt to pay key money to unscrupulous Government tenants; these risks will be all the more. People will have to face not only being ejected from their house but also pay a certain amount of money up to £200 which should make them think twice. This is not to disregard the case that individual persons may have when seeking to squat upon Government accommodation. But if the Government or the Minister in charge ever gave way to that, then there would be no stopping people taking this action. Ministers may be skilful indeed in dealing with this type of situation, but apart from skill, I think that the Housing authority, the permanent authority and the Minister is grateful for a signal to go out to people who are thinking of doing this sometimes not with entire justification or even with understandable justification that this signal should go out that the Government intends to deal in a tough way with those who take this stand. To do otherwise is to encourage, in fact, this kind of circumvention of the scheme. Sir, every single flat obtained means another family whose housing problem can be solved. But if we think only of the person who is either in a plight or puts himself in such a position, then we cannot think of the other family that is left out in the cold, because out of weakness, out of general humanity or out of general consideration for the problem involved, one allows to take possession of a particular flat. In financial terms, judging from the cost of new construction it is worthwhile even from the point of view of recovering just ten flats. A quick mental arithmetic will show that such a bill will save the Government more money than many of the measures that come before this House. In general terms the strengthening of the allocation scheme and the giving of statutory recognition to the Housing Allocation Committee is essential, and I value them highly. And I can inform the House also that other measures in the same general line of strengthening the Housing Allocation Scheme and strengthening the housing authority can be expected.

Sir, the second schedule incorporates the regulations relating to the occupation of Government flats and so on into the bill. It should be noted by the House that the tenancy agreement remains as a contract between tenants and landlord, but now the rules made are subject to the House, which has the opportunity of debating them, and it is hoped that as a result the House as a whole will give the support to the Housing authority in dealing with the various day to day problems to which the rules relate. There has been no substantial change in these rules, except as regards pets, the

purpose now being to enable housing authority to deal realistically with the problem, rather than impose unrealistic and unenforceable and categorical conditions on tenants. The other innovation is aimed at making allowances for the inclusion in the rents of a charge for the cleaning of communal areas, which innovation is at present being considered by the Government. Sir, I put these matters to the House and I put them into the schedule because the House cannot afford, Government being by far the largest landlord, to be lukewarm about the whole of the housing estate. These are practical problems that have come before the House. The question of lifts, the question of vandalism, the question of litter. All these things, and I think the House will be wise to accept the proposition that these regulations should be given the force of law and should be given the support of both sides of the House. I am perfectly willing to consider any amendment to these regulations. In fact I have - I use the word deliberately - suggested in the legislation, a couple. If Members opposite wish to amend these regulations further, on the grounds of realism, on the grounds of practicality, then again this side of the House is willing to consider such amendment. But it is important that tenants of Government flats should not get away with the idea that they can take the law into their own hands. Be it in regard of business premises, be it in regard of wash-houses, be it in regard of many vexed questions which affect the Government's housing estates at present. And therefore, Sir, I think that in the special circumstances of Gibraltar, when Government is by far the biggest landlord and where many people depend on Government for accommodation, these rules and regulations should, all due respect being given in the law for the rights of the individual, all these things should form part of the law. And this is the proposition which is put forward or which is suggested by the Second Schedule. Sir, I do not believe that humanity or being humanitarian is or should be an excuse for inaction. I believe that the House should judge this bill coolly but it should not be fanciful, it should not drag in considerations of this kind which are not going to help the ordinary citizen, the ordinary Government tenant, to appreciate what the law is and what he must do to help the community generally and the Government housing estate in particular. Sir, fairness ensures humane treatment, just as much as compassion and sympathy. We must not just look at the person if he is rather in a plight or who puts himself in that position. We must look at the general list, the long list of people who have been waiting for accommodation for some time. Sir, it would be unfair not to make allowance for the bona fide absentee tenant. Clause 12 of the Bill with rules to be made, makes reference to this. We have tried to give an indication of the sort of application the Housing Unit will consider as bona fide. Obviously we are not going to get people who go

away and study, people who are sick and have to receive treatment in the UK, people of this nature, and for this rules of guidance will be given to the Housing Manager and to the Housing Allocation Committee. I shall undertake Sir, that the Bill does not come into effect until such rules have been published. There is provision in the law which makes such an undertaking unnecessary. The law itself has been produced as a result of deliberation and it provides that no step can be taken without the closest consultation with the Housing Allocation Committee, which as I said before must be statutory recognition. Sir as explained in the explanatory memorandum if you will pardon the repetition there is provision in the Housing Allocation Scheme enabling the person who goes away to seek his well-being elsewhere and then return within a period of 24 months. This provision remains in the scheme. He is still to benefit from a waiver of the 24 months waiting period for Government accommodation. Government commitments in this respect still remains, and this enables the bona fide immigrant to come back to the sort of housing which he had before. Sir, such provisions I am perfectly willing to expand upon and even to make concessions on, to make sure that the purpose of the bill is none other than what I am saying at the moment it is. But at the same time there can be no backsliding to my mind in this one because the attitude we take to the whole business of fairness is most important to the Housing Allocation scheme. Sir, I have said before, the bill will not come into effect until the regulations are laid before the House. I will also say Sir that it is the intention that the Housing Allocation Committee should determine whether a case qualifies as being one of personal occupation or not being of personal occupation. This is implicit in the bill, but if the House considers that it is necessary to make it explicit then I shall gladly do so. May I explain what I mean by analogy. There are some rules in UK for example the Race Relations Bill in which it is impossible to define what sort of action constitutes discrimination. If you punch a chap in the eye, if you punch him in the ribs or if you knock his glass over or if you do this in a public place or in a bar, all these things are quite incapable of definition to my mind. We must now allow ourselves to drift into the situation in relation to this particular bill, where it is impossible to pin a person who everybody knows is not in personal occupation, for reasons which are not acceptable to this House to get away with it. Therefore, Sir, there must be some sort of safeguard for the person, but there must also be effective judgement of every individual case. And I have intended to provide such judgement in minute consultation with the Housing Allocation Committee headed by an impartial chairman, so that every case can be judged on its merit. I am not in favour of any check, such as consultation of the man's passport and so on, per se because on their own they can just be used as excuses for personal

occupation. But such evidence as is available in every case, and we don't anticipate a tremendous number of cases at one go before the Housing Allocation Committee, Every case goes to the Housing Allocation Committee at every stage and if the Housing Allocation Committee is not satisfied then it will be stopped. If Members read the form which is suggested for the procedure of taking possession, they will see that the Housing Allocation Committee is quoted as having given authority for taking steps, the steps which are necessary. Therefore Sir, I feel the House would be failing if it does not consider the matter in this light of providing adequate safeguards for the bona fide case but at the same time enabling each of these individual in very complicated cases being judged as any member of this House would judge them. Sir, there may be other points for which again I am grateful if the Opposition could suggest answers. One point that has occurred since the bill was published is, does this apply through Government leases? Well it is not the purpose to interfere with Government leases. The purpose is to safeguard those flats that have been allocated on merit, and therefore it belongs to Government, it belongs to a tenant if I may use the phraseology because his case was worse than somebody else's on some clearly stated ground, and that if advantage is not taken by such a person given by a Government authority such a flat then the Government would be able to deprive the person of such a flat. Sir the last problem I would like to bring about is the question of where does one start? In legislation of this kind, it is always difficult to have a starting point. When powers have been inadequate in the past one can explain that certain people should be in possession of certain flats but if one does not start, then the number of people in this situation would be greater and therefore one must start and start as early as possible. I do not think the House should shun this responsibility or shirk rather, this responsibility, I do not think we should move away from it, I think the public generally is in support of this. I think the cases which have been brought to me of technical but not personal occupation are justified cases. I feel that there are difficulties in the law in dealing with these cases. Perhaps this is why it has not been done before. But I feel the House should move forward now on the basis of this bill and should at this stage here and now bring forward any suggestion which might improve it. But the principle should stand and the effectiveness of the bill should also stand.

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

HON IABECASIS:

Sir, the Bill at first glance seemed to me a good Bill. At least that was my first reaction, when I read the bill for the first time. Because I said to myself, who can object to an ordinance designed to further the proper and effective use of accommodation allotted by Government in such a manner as to promote the public benefit? Who can object to an Ordinance designed to meet the justifiable irritation and frustration felt by hard pressed applicants for Government Housing arising out of the present state of affairs? It is when one reads the small print of the ordinance that one begins to change one's mind. Like in a detective story, Mr Speaker, it becomes more and more suspicious, more and more rigid and more and more dramatic. The ordinance reads: Notice will be given to the tenant by posting the copy of a notice at the front door of the premises. The Housing Manager may enter upon the premises and remove therefrom all moveable property therein. The Housing Manager may sell all perishable goods therein. The Housing Manager will put up for sale by auction any moveable property. Any person who remains in occupation shall be guilty of an offence and liable to a fine of £200. The Housing Manager it is said in the bill is invested with certain powers, I would say with too much power. The Bill is too cold and too rigid, Mr Speaker. Of course there is a need to strengthen the Housing Allocation Scheme, of that there is no doubt in my mind. I am the first one to support anything which will stop this abuse. But let us be realistic about it, the bill is and I am quoting again: "The tenant shall be entitled to possession of the premises under the agreement, relating to such premises, so long but only so long as he personally occupies the premises comprised in such agreement. It is twice emphasised, that the tenant must be in occupation of the premises, and I said what about the genuine cases, what about those hundreds of families who are residing with in-laws for years and years? Does it mean that if a person decides to emigrate the other family must vacate the homes? What about if a tenant goes to Britain to explore the possibility not to stay there, but to explore the possibility of taking up residence in the UK, and he leaves behind his family for the time being, what will happen to the family? Will they be faced with a £200 fine and perhaps out in the street? One could go on for hours quoting different examples. I note that the mover says that under Clause 12, subsection 1, this item will be looked at. I would like to see them before I can make up my mind to whether this was a good ordinance or not. I repeat Mr Speaker, that there is a need a great need, to protect those people in the waiting list, I know from experience, personally, when I worked for the housing section. I know how distressing it is for those people who are waiting years and years, and they find that they have to wait more. But certainly Mr Speaker, there must be a less drastic way of doing things, at least a

more humane way of doing it.

HON P J-ISOLA:

Mr Speaker, Sir, I am sorry in the way that the Hon Mr Abecasis whom I know has taken such tremendous interest in Housing and has experience of the Housing Department as he so rightly said, should have taken a negative attitude to this Bill, and not accepted the invitation that the Minister has given, requesting suggestions from Hon Members as to what manner and in what way the bill can be effectively enforced. I have no doubt in my mind that the Honourable Member opposite has sympathy for the bill in the sense that he knows there is an ill which has to be remedied. I myself, and I am sure other members especially in the legal profession, will not have looked kindly on this bill on presentation because experience has shown that in matters relating to the rights between the subjects and the Crown, of the Government and so forth, the Courts tend to bring a better balance than the executive arm of the Government, and I think experience has proved that this is so. But there have been exceptions and I think what the minister is trying to put to the House is that this is the sort of case where the executive arm must be given fuller powers than it actually has. And I think anybody who has dealings with housing cases as I have, as a member of this House for many years, I found by experience I had to bother the Housing Manager on a great number of occasions on housing problems. I think that any person who has had that experience will say that one of the most frustrating factors to people in the waiting list for housing is the number of flats that are shut and not occupied and it is so often that one rings up the housing manager that people come up to one and say: "Look here, I've got this terrible situation, and they usually are terrible situations, and I haven't got a flat. Why can't the Government give me such and such a flat in the Laguna Estate? Such and such a flat at Witham's Road? Such and such a flat somewhere else? It is closed and empty." I ring up the Housing Manager, and then I hear that the tenant has gone away but was expected back and so forth. And I think people on the Housing List; people who are not fortunate enough to have their own flats, people who live in dreadful conditions, people who would like to better their conditions, young people who want to be married are desperately frustrated by the number of flats that are empty and are closed. It is essentially a human situation where I think what the Minister wants to do, what the Government want to do is to give the administration executive powers to do the job to get possession back of flats that should not be kept closed, should not be empty, should not be taken away from the waiting list, should not deprive families who desperately need housing for a great number of reasons from a house. And it is because I know from experience that this is a fact of life, and this is something that is occurring in Gibraltar, that I myself will support a bill which, against my better judgement, takes away the power of the judiciary and gives it fully to the executive arm of the Government to decide when a person should be dispossessed from a house. It has been said that an Englishman's home is his castle,

and this has been a fundamental concept in democracy and in British law and one has to think twice before interfering with that concept, but I think that in the circumstances of Gibraltar, I think in the circumstances of the housing shortage in Gibraltar, in the circumstances of the continuing housing shortage in Gibraltar in the foreseeable future the executive must be ^{helped in} ~~this~~ and what is more important, people who are in the Housing list must be able to see that the people that unjustifiably hold houses back, who go and seek their fortune elsewhere, and stay six months, 12 months, perhaps a year and a half, should not be able to do so, and deprive people of urgently needed housing, especially in view of the clause that states that anybody coming back within a period of 24 months will be reaccommodated, and that is the guarantee of the person who goes away. And of course, it can never be ~~fight~~ for a person to go away to collect key money for a flat, and pass it to somebody else by some subterfuge of 'caretaker' or whatever you like to call it. We lawyers know only too well how easy it is to get round lots of laws and how easy it is to maintain a position legally which would be recognised by the courts. So that in that case, on that particular ground alone, one must try, I think the House must try and make this Bill effective at the same time preserving as much as possible the rights of the individual, the liberty of the subject, the principle that the Englishman's home is his castle. And I was very glad to hear the assurance which the Hon Mr Abecasis apparently had not heard from the Minister when he said that the Bill would not come into effect until the rules to be made by the Governor-in-Council had been laid before the House. And I would hope that we would get as comprehensive a set of rules from the Governor-in-Council as would make it absolutely clear to everybody that when the Executive moves it would be fully justified in the position it takes up. Now, Sir, the main clause in this Bill and the main rule, under rule 12 section 12, is section 4 which deals with the right of the Housing Manager to interfere with the approval of the Housing Allocation Committee, whenever the tenant is not in personal occupation of premises, and I would suggest in a constructive spirit to those who draft the bill and Ministers generally that one must be very careful in legislation when using words that have been interpreted judicially that the aim of the bill will not be defeated by the interpretation of these words. The word personal occupation of flats, personal occupation, has been defined by the courts in landlord and tenant cases over the years and I think one would have to, one must try to avoid a situation where a tenant will go to the court and get what is known as an order of mandamus ordering the Housing Manager to exercise his powers judicially, in other words you cannot say a man is not

personally in occupation if these, these and those conditions are not fulfilled which have been laid down over the years by the court as meaning occupation. In other words very often a chap can be in occupation although he is living somewhere else. And I would suggest for the consideration of the promoters of the Bill in a constructive spirit that the definition of personal occupation as such or rather the way that this bill is worked is that whether a person is in personal occupation or not should be a matter to be decided by the Housing Allocation Committee subject, of course, to appeal to the Governor or whoever it is, as suggested later on.

Because if one is going to give the executive arm, if one is going to give the executive arm, the right because of a situation to interfere in this sort of tenancy, one must be sure that the executive arm will be able to act effectively. And as I understand it the Housing Allocation Committee has a lawyer as Chairman and has different people in a committee all getting together who no doubt look into every case very carefully and no doubt the Governor in Council in the rules that he may lay down under section 12 will ensure that matters for the guidance of the committee are laid down very clearly and this will be subject to the rules of the house. But if we are going to have a Bill let us for goodness sake have one that will be effective. I put this thought out in answer to the invitation of the Minister.

I am glad of the assurance given with regard to what this bill applies, it is obvious it applies to that section of flats allocated by the Government which pertains to the Housing Allocation Scheme, and not to Government leases, etc. It might be advisable, I would suggest, that there might be a clause in the Bill or some amendment, making it clear that these special powers are only being taken in respect of accommodation in the housing allocation scheme i.e. accommodation to which the scheme of priorities and so forth applies. That deals, I think, Sir, generally with the principle of the bill with regard to the powers that we are giving the Government in these very special circumstances. And I myself bear very much in mind the words the minister has said about the public interest and the very real public interest involved here of ten, five, one or twenty flats could be used to accommodate people in vital and real need of housing but which cannot be used for that purpose because of some technicality or because of the slow process of the law because of heavy weight of Government business, heavyweight in different departments, we lawyers know. Somebody comes along and says: "I want to chuck the chap out." He is lucky ^{if} he has got him out in a year. This is a fact, this is the business, this is how things are working in Gibraltar because of the extreme pressure of work everybody labours under, I think it is important that in a matter as vital as housing and provided we have the safeguards built into the ordinance as I hope we will do, I think that

there is no question in anybody's mind that common justice demands that people vitally in need of housing should not be deprived of the same because of others who take advantage of technicalities, who want to get the best of both worlds, who want to retain a flat in case they should like to come back or they use a flat when they know they are going away for good either to get a premium or want to use a flat to accommodate some close member of the family and so forth. I am sure that we must credit the Housing Manager and the Housing Allocation Committee with a certain amount of intelligence, reason and common justice, and I am sure that the sort of situation that the Hon Mr Abecasis is worrying about of a tenant going off and the family being turfed out I am sure that that sort of situation cannot arise with the Housing Manager who is doing the job, or the Housing Allocation Committee who are doing the job, who must be aware of all the facts and circumstances in every family make-up, and how every family is carrying on. Sir, the only last thing I would like to mention is I would like to take up the invitation of the Minister with regard to the third schedule to the ordinance, which gives the agreements of tenants and landlords these responsibilities and I would invite the Hon Members of the Opposition, even if they are opposed to the principles of the bill, I would invite them very much in the interest of housing as a whole and of the people of Gibraltar as a whole to try at least even though they may vote against the bill in Second Reading, which I hope they will not but if they do, fair enough, but in the Committee Stage or now when we should ourselves try and have a common policy of this legislature on the third schedule. The reason I say this is that the way houses are managed, the rules and regulations governing the ordinary conduct of housing is something to which I feel the whole of the legislature should try and seek to have a common concensus, it really amounts to good estate management and I personally welcome the amendment, for instance, with regard to animals and birds whereby before, as I understand it, there was an absolute prohibition against having any animals or birds in a flat and this law was flouted and has been flouted for many years by every tenant. Now with the proposed amendment of putting in that you cannot have it without the consent of the landlord, will give the landlord a control at least if we agree, a control to do away with them if they are obnoxious with tenants whose dogs or cats or whatever it is, are obnoxious. They would have to go. Others who are able to control pets and keep them properly in their flat they may keep them. I think we ought to face up to this, to this particular third schedule and try and get a common concensus on it. For instance, paragraph 1(d) which forbids the hanging out from any window or any balcony of any unsightly object. We know only too well in this House, how that particular provision is ignored fully in lots of Government housing estates, clothes are hung out and so forth. I would suggest, my own view for what it is worth with the Minister is, that some sort of review should be carried out as to what inconvenience is caused to

tenants by carrying out this particular rule. What in fact, is the inconvenience? What housing blocks for example, have their own washing and drying areas? In what blocks is it legitimate to expect tenants to hang the washing and so forth and not in the other places? And if it is our common consent that there is no excuse for hanging them out of the windows, which is unseemly and very bad from the general point of view of Gibraltar, if it is our view that there is an alternative, then I think we ought to state this quite firmly. I am sure the Hon Mr Serfaty for example, who has shown such tremendous interest on tourism and such tremendous interest in the development of the private sector would welcome any suggestion that would make the entrance to Gibraltar far more attractive than it perhaps is today by all the washing that is hanging out. If there is no alternative, I think that the tourists will have to put up with it, but if, in fact, there is an alternative, if in fact there are these drying out spaces washing spaces, and it can be done with convenience, I think we ought to enforce it and we ought to have a common consensus about it. That is the only way we can improve Gibraltar. Instead of talking and claiming and complaining it is for this House to do something positive. It is for this House to put forward its views. Sir, and on the other point in the third schedule which I would like to express an opinion is clause 2 with this question of clause 2(b), it is termed in such a manner as may be agreed with or determined by the landlord to keep the passages and staircases used in common etc. I think this contributes. I agree with it fully, as it contributes to good neighbourliness, it contributes to a sense of responsibility among the tenants about their possessions, it makes them realise that what is theirs is not just from the door in, but the whole make up of the property, the whole sightliness of the property so that when their friends come it is clean all the way up. And I think this is something which we should in this House endorse, again as a positive contribution towards a better Gibraltar, a positive contribution towards a tidier Gibraltar, and a place more pleasant for all these tenants as well as ourselves to live in. I am not afraid, Mr Speaker to state these views on the third schedule, I think it is important from the general interest of the tenants and the people of Gibraltar and I do hope that we shall hear the views of other members of this House. For what it is worth those are my views on the third schedule and subject to the Minister and the Government generally, if I may say, not mopping up but making the necessary amendments to the ordinance to ensure that we have justice, and to ensure putting into effect the provisions of this bill at the same time giving the tenants as much protection, as much right to shout and talk, this can be done through the rules by the Governor-in-Council which are put to the House at the same time as the bill is to have effect, I think subject to these things I will certainly welcome this bill, although I must confess that this is not the sort of legislation I like and not the sort of legislation I would support except in the circumstances as cited by the Minister. Thank you Sir.

HON A P MONTEGRIFFO:

Mr Speaker, I have got more qualms about this bill because though I entirely, and I am sure I am expressing the feelings of all my colleagues on this side of the House, though we entirely agree with its intention, we find it difficult to agree with its approach and the method that we are being asked to support. We have already been accused by the previous speaker, of not having made constructive proposals. But let it be said that at the moment what we are discussing is the principle of the bill and a very big principle at that. For as the Hon Mr Peter Isola said, we are asking for the transfer of judicial powers or the powers that the judiciary has, to be passed over to the executive. And one would have expected that if in asking for such drastic measures to be taken and for such departure from judicial procedure to be effected that the Minister himself in putting forward his case could have given us an insight into the enormity if such is the word, of the problem. But so far the figure ten is about the only figure we have heard in the House tonight. And certainly if one is going to take such special powers in special circumstances, one would have hoped that we would have been given a clearer picture of what those special circumstances are. It is no use saying that there may be ten cases or five cases, or one case, it may well be that there is need for this but before we support measures of this nature, which as the Hon Mr. Isola has stated is a departure from normal procedure, we want to be convinced in the public interest too that we are doing the right thing and that in taking such an important departure we are not going to create more problems than we are going to solve. Housing, as I am sure the House will agree with me, is very much a social and human problem and I am frightened, a little bit frightened, that the application or the rigid application and that can well happen when you are transferring powers to a committee of laymen, however well intentioned they may be, it may well be that the application of this law might cause more human problems than we are going to solve. I sometimes think of housing as patients waiting in a medical clinic. Of course there is the anxiety of the last one and the second last one who try and jump the queue and it is very wrong that they should do so. And the Opposition doesn't condone in any way jumping the queue especially where public money is involved. Let that be made quite clear. But surely if he does jump the queue and you get one case or two cases every year, you don't introduce legislation, such drastic legislation, as will make it possible to the nurse in charge to get hold of the patient and throw him out of the clinic. One must use a sense of proportion, before one indulges in this type of legislation. I feel, Mr Speaker, that before one agrees to take away the powers from the judiciary in matters of this nature, one must be very careful, and one must be fully aware of all the facts and do it with our eyes open, that what we

are doing is in the public interest. I am doubtful that it is in the public interest. And of course if the law is too cumbersome today, that is why we are here, let us streamline the law, so that judicial procedure may be more effective.

Mr Speaker, I do feel that in their right intentions of coping with the problem - I don't know what size of the problem because the Minister has not told us - the Government has produced a bill which has little human feeling in dealing with a very human problem.

HON J CARUANA:

Mr Speaker, I have no qualms about this bill. The Hon Member opposite has tried to put the case ^{as} if this were a human problem and that an injustice was being done to a person who has left a flat empty for.....

HON A P MONTEGRIFFO:

Mr Speaker, on a point of order. I think I made it quite clear on two occasions, that as far as the Opposition goes we will not condone, we will not agree and we certainly condemn anybody who is trying to do any queue jumping or trafficking with housing. Let there be no doubt about that. We don't want anybody to believe outside that if we do oppose the bill finally we are doing it for political motives in order to please those who are doing the squetting. That we shall never do.

HON J CARUANA:

Mr Speaker, I thank the Hon Member opposite for that explanation, but how do you stop the problem? The people who will be most affected are the people who stay behind, and the people in the queue. And one problem, one empty house provides sufficient grounds, I feel to introduce this bill. One family who are deprived for a year of being properly housed is sufficient grounds to take this action. I shall tell you why. Because even under present regulations the Housing Manager has powers to evict families who contravene the conditions of the tenements. And here now we are asking the Housing Manager to evict a person from the house he is not occupying. And with that, Mr Speaker, I back the bill.

HON M K FEATHERSTONE:

Mr Speaker, at the very first sight this Bill does have an appeal, but it also has something Sir which I find rather disquieting. It is the word

special powers. Special powers surely must come at time of emergency or in answer to great public outcry and public demand. We saw just recently, Sir, with the question of conscription a tremendous movement in town to get rid of conscription. We have not seen, Sir, a tremendous movement, a tremendous upheaval, so great that special powers must be brought in on this question. We have often heard, Sir, the words public interest used as an excuse to put through restrictive legislation, perhaps more power to the executive, removal of power from the judiciary. This, Sir, is not a thing to be desired. We have had the remark from the Hon Mr Isola about a person's home being his castle. There is also another I think, legal cliché and that is that it is better that ninety-nine people who are guilty get away with it than one innocent person should be found guilty. This Sir, is the whole crux of this bill. The Bill purports to give to the Housing Allocation Committee very wide, almost distatorial powers. It removes and possibly after a number of rules have been made, practically all the human, the humane possibilities and yet, Sir, there is one thing about this bill that has astonished me. Perhaps at times it does not go far enough. I thought there might have been a clause in the bill, Sir, to say something like the Housing Allocation Committee investigating the instance of a person who gets allocated a house under special conditions or special reasons, if those special conditions or reasons no longer apply, should not be allowed to maintain possession. But that doesn't appear and it is rather strange. It seems that sometimes there is a little flaw in these bills. One thing that is essential, Sir, I think the Hon Peter Isola did point this out, the bill must be realistic and this bill as it stands at the moment, Sir, is far from realistic, in particular the third schedule. This question of the hanging out from the window that has been mentioned. It is very easy Sir to legislate all these things and yet Sir, a tenant in a private house could hang out a piece of washing from the window, but if it is Government housing he is not going to be allowed to do so. Why this discrimination against one section of the community? It is very easy to say of course they have their special areas. You are going to need a pretty big area in one of the Tower Blocks to do all the washing that is going to be done in that place and perhaps if your special area is somewhere on the 16th floor and you live on the first you are going to have a long walk up and down because you can't rely on the lifts. The question of keeping pets. Here you have the absolute power of the Housing Manager to say, 'yes, you may keep such and such a pet.' He might be a person who doesn't like cats or doesn't like dogs, so if you want to keep a cat you are going to get the answer 'no'. Of course you can also get around this by appealing to the Governor, so we are going to have a schedule that is going to be so unrealistic that people will be appealing to the Governor for keeping a goldfish or a

lizard or something like that. Sir, the basic idea behind this law, this proposed legislation, obviously must command support from this side but people should not be allowed to get away and abuse the shortage of houses that we have. But as the Hon Mr Montegriffo has said the figure that has been given us, 10 people out of 5000 Government flats, is a very very small percentage. One thing that was said by the Hon Mr Xiberras which I couldn't understand was that these absentee tenants caused a financial difficulty to the Government. I can't quite see where the financial difficulty.....

HON M XIBERRAS:

Sir, if the Hon Member will give way I will explain the remark. First of all I think the record will show I said no such thing. What I was saying was that from a financial point of view, if one took possession of a flat and gave it to a tenant on the housing list, then Government stood to gain to the tune or whatever a new flat would cost. That is what I meant.

HON M K FEATHERSTONE:

Well Sir, that is one of the best ones I have heard for a long time. If you had 200 such tenants that would be 200 flats that you have built automatically. That is not going to solve the housing problem at all Sir. Sir, as I was saying, so far he has talked about ten people, let us even say it is 50 people. 1% of the total Government housing. He wishes to remove from the judiciary into the hands of a very small group, the Housing Allocation Committee, complete power over the lives of 5,000 tenants. This Sir sounds to me just one step more and the Government has done quite a number of steps already on the road to '1984.' I think Sir, the bill basically is good but the way it has been worked out leaves much to be amended.

HON MISS C ANES:

Being a tenant of a Government flat and having suffered some of the consequences of the condition in which it has been built and having gone through the Ministry of Housing, for a very short time, but nevertheless very thoroughly and very much involved in it, I support the bill, firstly because although the Hon Mr Featherstone says, and other Members have said that it is a very strict law, very rigid, anything that is law has to be strict because if it were so flexible that people

would do what they liked then what is the point of having any law at all. Secondly, it is only a draft bill and the Opposition have been invited by the Minister to put forward amendments or suggestions which will in the long run make it the kind of bill that is required not only for the Government but also for the tenant. The Hon Mr Featherstone said that it is better than ninety-nine guilty people get away with it than one innocent person should be found guilty. Well after all the innocent party has also got the right to be looked after by the Government, he is also a tenant and so are the other 99.

The Bill is here to protect the people/^{who}through humility, through being perhaps afraid of the law, through patience or through being the under-dog, have to wait as Mr Abecasis has said, for years and years on the list. And there are those, the unscrupulous ones, who have jumped the queue and sought in one way or another, to get a flat at the expense of the innocent tenant. We as a Government, any Government, have to protect everybody, and if the bill is rigid and strict, this is why it is here, everybody has been invited to look at it, to discuss it, to propose amendments and to make it as humane as possible. Because the fact that it is a law that is rigid and strict doesn't mean to say that the Government hasn't considered it at length. It is designed for the benefit of the whole community, the tenant and the landlord. And in this context Sir, I have no other option but to accept the Bill.

HON SIR JOSHUA HASSAN:

Mr Speaker I would start by declaring an interest. I am a Government tenant and I obtained a house on the basis of two empty flats which were available for two families to be repatriated and I have been a Government tenant paying my rent and my rates ever since. So in one way I have an interest in what I am going to say. But like matters of taxation and so on, one is entitled to speak of matters of general application and one is not deprived of doing so because one has got an indirect interest in it. The way in which the bill has been introduced by the Minister responsible shows the lack of faith in it or perhaps the concern for the very drastic powers and I can hardly identify the same person who used to lecture on constitutional law and the rights of the individual as against the executive and so on. Power does a lot of very peculiar things and it does involve ministers in wanting to get more and more

power for the executive away from the judiciary. And it is rather alarming that a person who has stood up for the rights of the constitution and the quasi judicial powers of the Attorney General and the various matters which were dealt with at the time of the human rights in our constitution for which he showed such concern, seems to be forgotten now...

HON M XIBERRAS:

Sir, is the Hon and Learned Member, referring to the privileged or as I understood then, or discussions that took place in the presence of the Secretary of State?

HON SIR JOSHUA HASSAN:

Not at all, no, in general discussion with the Minister he has always shown great concern for the constitution, I am sure the Minister will not deny that, unless of course, he is even losing interest in that. But the point is that the way in which the bill has been brought, the apologies, the invitations show that the Government really do not like the Bill. And they know it is an unpopular bill, it is a bad bill and that is why we are not in favour of its provisions, but let me say at the outset as the Hon Mr Montegriffo said that we are all in favour of legislation, regulations, administrative directions whatever is necessary to make sure that housing which is provided at public expense and in particular at the expense of the help that we are getting from the United Kingdom should be used in the best interests of the whole of the community. In that we are at one, but not in the way the Government is going about it. Housing is a very complex problem which affects people personally, socially and in every way. It can be the making or the breaking of the family. As one who has dealt with these matters well knows, many big social problems would be solved overnight if only many people could live away from their in-laws and so on, and these are matters which are of great concern to everybody. But because they are so complex and because they are so near to individual cases as the Minister himself has accepted in his comparison with the Race Relations Bill, it is impossible, absolutely impossible, to have a strict statutory code to provide printed rules applicable in every case. This is absolutely impossible,

and this note I had before the Minister spoke and I have been able to add to my note that the Minister has approved of this principle by referring to the fact that it is impossible in every case, to provide statutes that would deal with all circumstances arising out of matters so complex as housing occupation. As my friend on my right was saying about special powers it looks as if we are in a dreadful emergency. Of course housing is a big problem, of course there are more applicants than houses and we always think that the next lot will catch up and break the back of the problem and then something else happens. But this is a matter for careful and proper solid legislation which can be tested by the great safeguards of our freedom and that is the Courts of law. And it is surprising that a Government that so severely criticised an emergency legislation of six months' duration, which we introduced in a real emergency with regard to the disposition of labour, it so much criticised and indeed criticised the other legislation about young people but have adopted it and extended it until the next piece of permanent legislation has come and they have come before this House to ask for these powers to be extended various times, the same Government that criticised emergency powers for six months, provide special power in an ordinance of a permanent nature. Now this to me is contrary to all the concepts of the rule of law and all the concepts of the right of the individual. Apart from that the bill has got a very big flaw, and that is, and it has been mentioned by one of the speakers, but I am attacking it from another angle. The Bill refers all the time, to the tenant in occupation and the tenant is interpreted as being a tenant occupying premises under an agreement. Has anybody considered the position of the wife and children who are abandoned by the husband, who goes away to the United Kingdom, or somewhere where he cannot be found, or goes away and neglects the family or neglects the family ties that provide maintenance. Is it that they have to go cap in hand to the Housing Manager, the all powerful Housing Manager that will come out of this legislation and say "please may I stay in the house that my husband took for me but he has gone away, I can afford the rent, but I am no longer the tenant, the tenant is in America, or the tenant is in England, the tenant has gone." What about the family? Mr Speaker, before Ministers or Members of this House had any ministerial or departmental responsibility we sought an assurance from the Government, which was obtained and I am sure it is on the record, that except when the Housing Scheme started to take an impetus that though the Landlord and Tenant

ordinance or as it was then, the Rent Restriction Ordinance did not apply to the Crown, the Crown would normally respect it. And this assurance was given from the official side of the House to the elected side of the House at the time. And I am sure....

HON M XIBERRAS:

To what is the Hon & Learned Leader of the Opposition referring? What was the date and what was the time?

HON SIR JOSHUA HASSAN:

I am sure the people in the Minister's staff can find it. I am only speaking from memory, but I remember that it was asked for before there were departmental or membership responsibility so it must go back to 1955, 1956 or 1957 and later I remember the same assurance being given when there was an element of collective responsibility before the full ministerial status was obtained. So I don't want to be too precise about that one because I cannot remember as clearly but I can remember putting the case myself here in this House when we were just Elected Members to the Administration and I remember the Attorney General and perhaps the incumbent might give a lead or a help to the Minister in looking up the records and I am quite sure in my own mind that it was Mr Diarmaid Conroy who was Attorney General in Gibraltar somewhere about 1955 or 1955 to 1957 somewhere around that time. I remember that he was the one who gave the assurance that the Government though not bound by the rent restriction legislation would normally and we could not expect anything more, normally follow it. Now Mr Speaker, we come to the most important, in my view the most important fallacy and the most important defect of this bill, both legally and humanly and that is the definition of tenant. In the present Landlord and Tenant Ordinance, tenant is described and defined in the Landlord and Tenant (Miscellaneous Provisions) Ordinance which codified not only the old Rent Restriction Ordinance brought up to date to deal with the question of standard rent, but also brought in the protection to tenants of business premises, but insofar as this is concerned, this is a definition which has stood the test of time in all rent restriction legislation in the United Kingdom which says a tenant includes sub tenant. Well, we can do without that, but it says and widow of a tenant, because you can be not allowed to sub-let a Government dwelling but therefore

we forget subtenant, but includes the widow of a tenant who was living with him at the time of his death, or where a tenant dies leaving no widow or if a woman, the husband or the father, mother or any child who has resided with him for not less than six months immediately before the death, as may be decided in default of agreement by the Court. So there is a protection engrained in the law that a person who lives in a family unit has got a certain protection in respect of his castle which is now going to be demolished because this idea that the Englishman's home is his castle is being demolished by this bill, because it leaves very little of his castle by the time the Housing Manager or the Housing Allocation Committee has finished with him. So that is one of the great flaws of the bill and that is that the tenant should also extend the people lawfully forming part of his family more or less on the terms of that section.

Now the other very peculiar feature of this Bill, almost I would say anti-constitutional in many senses is that the binding agreement between the tenant.....

HON M XIBERRAS:

Mr Speaker, did the Hon & Learned Leader of the Opposition say unconstitutional?

HON SIR JOSHUA HASSAN:

Unconstitutional. I might be prepared should this go through as it is, to argue that it goes contrary to the human rights section of the constitution. Whatever the Chief Minister.....

HON M XIBERRAS:

Is the Hon and Learned Leader of the Opposition, after all, he knows the weight of his own words, is he prepared to assert this is unconstitutional?

HON SIR JOSHUA HASSAN:

I am not prepared to assert. I say that I would be quite prepared to argue if it goes through the way it is, but even the Minister doesn't expect it to go through the way it is because he is so conscious of the unsuitability of the bill, that he has even invited us, in fact, everybody has invited us this time - I don't know why? Even the late Minister for Housing. We do not have to be reminded that we can make proposals at the Committee Stage. We have been here long enough to know that, so we don't need these invitations or suggestions to better the bill

HON MISS C ANES:

On a point of clarification, Sir.....

HON SIR JOSHUA HASSAN:

I don't want to give way. They must think that the Bill is so bad that there is no remedy unless we come and help. Now, I can give way to the lady.

HON M XIBERRAS:

Sir,

HON SIR JOSHUA HASSAN:

I did not give way to the Minister. I gave way to the lady.

MR SPEAKER:

Order.

HON SIR JOSHUA HASSAN:

And therefore I am afraid.....

HON M XIBERRAS:

Sir,

HON SIR JOSHUA HASSAN:

I am not going to give way. I have given way three times to the Minister, I gave way to the lady.

HON MISS C ANES:

Thank you. Well I was just going to say that as the Hon and Learned Leader of the Opposition has always been complaining that Government never offer the Opposition a chance to participate in debate or in other matters, I wish to say that this is why we invited the Opposition to participate in amendments.

HON SIR JOSHUA HASSAN:

I have never complained, I have only put matters clear when another sentiment was attributed to me, or rather could have been interpreted to be attributed to me. I have never complained about that. We will see about that later on.

Now, the point is this, the third schedule alters the relationship between the present tenant and the Government.

The present tenant who has paid for, stamp duty and all, for an agreement entered into with the Government, which the Government propose to substitute by a statutory form. In some agreements there may be conditions, which are now the subject of dispute in which the Government find themselves in an awkward situation, and this is going to substitute it. Now we are not prepared to consent to the substitution of legally binding documents between a number of tenants and the Government as landlords by the third schedule. This is really too much to expect an Opposition to agree to, because this is not fair. One would want to know all the agreements, all the conditions in which there have been special provisions in all the agreements to know whether somebody is right, apart from the general one, is not going to be severely prejudiced or whether the Government is seeking to get out of one or two very serious commitments or faux pas that they have committed recently in respect of stating things said to be in ^{the} agreement, and when the agreement has been produced it has said exactly the opposite.

HON M XIBERRAS:

Sir, will the Hon & Learned Leader of the Opposition please explain this mystifying statement?

HON SIR JOSHUA HASSAN:

I will explain it in my own way but not at the invitation of the Minister. Now

HON M XIBERRAS:

Sir, in that case faux pas is a strong word, I believe he used it, mistakes or whatever it was.....

MR SPEAKER:

Unless the Hon Member gives way you have no right to speak.

HON SIR JOSHUA HASSAN:

I am not going to give way, Mr Speaker. I am going to carry on, because they know, the Government knows, how weak their position is with this bill, and they want to try - I haven't got anybody keeping statistics of the interruptions like the Minister did on a previous debate, but I am counting them myself. Now the agreements already signed are matters of great import and we are not prepared to agree that that should be substituted. The Minister said something very interesting.

He said that the powers that he sought would not be used lightly. This is always said by a legislature that wants emergency powers. When we have the powers we will have to be careful how to use it. I would rather get the courts to be careful and not the executive. Not because I attribute to the Minister any evil intentions about the use of the powers that he is seeking on this, but because there is always great danger that if you give power to the executive, the executive seeks to use it when you least expect it. And the power is there and the officials or the civil servants say "Well, the law gives me this power. I do it." And I would rather not give any power to a civil servant that he doesn't strictly require for carrying out his duties.

As to the other point which has been raised. Has the Government got the machinery to keep strict control of all the conditions and honour them if they were carried out? Has the Housing Manager strict control to see whether I have a canary, budgerigar or a hamster in my house to be able to say I give you permission or I don't? Is the Housing Manager in a position to ensure or to give a guarantee to the Minister, to give a guarantee to this House that the exclusion of animals will include a big campaign on the part of the Government to eliminate mice wherever they exist contrary to the wishes of the tenant. No, I am not going to give way, I have carried on and I am not going to give way. Restrain your enthusiasm. You have already spoken. No, you are not going to say anything, and I don't mind if we stay here until tomorrow. Is the Government in the position to keep strict control of all these conditions? You see how ridiculous all this is? The Third Schedule says: "The tenant shall not permit nor hang out from any window or out of the balcony any unsightly object." Now who decides what an unsightly object is? Is a bra unsightly or pants unsightly? Certainly not, I agree but then as my friend says on my right, it all depends on the size. (Laughter) I mean are we going to have an inspector, are we going to come to the detail of having the housing manager and the department running around to see what is done individually in the houses. I agree that this question of balconies, this major question, must be controlled and the Hon Minister for Public Works very rightly said that there is already power. Well if there is power to do it and they don't do it, why seek the powers here, to carry on not doing it? Or is it that

they are going to revolutionise the whole department, or is it that we are going to be asked later on to employ another ten or fifteen house inspectors to see whether hamsters are there, or budgerigars or huge dogs or tiny dogs?

HON P J ISOLA:

Sir, on a point of order, is it in order for an ex-minister of Housing to speak about conditions in the third schedule as if they don't exist today in present housing agreements of which he must surely have personal knowledge?

HON SIR JOSHUA HASSAN:

This is completely not a point of order, it is a point of comment. I will not allow you any more. I know it is in the agreement. Of course it is in the agreement, but the law must be observed if not it makes a mockery of this House to bring here conditions that already because they have the power and they cannot exercise it they want to put it in print. But I have my suspicions that this third schedule has got other evil intentions which have not been declared. The rules are unworkable and the powers are too strong.

We are going to put the Housing Manager above even the prerogative

writ, according to the proposals of the one and only backbencher.

The Minister said that flats had been allocated on merits; now we would like to know whether he has a list of those which have not been allocated on merits and will disclose to the House which are the flats that have not been allocated for the purpose for which they are being used now, or for the reasons for which they are now occupied. That would be an interesting aspect of this matter.

Mr Speaker, we agree that every effort should be made to ensure that houses are properly used and that there is no abuse. On that this side of the House is in complete agreement. We don't like the Bill. The Minister has said two interesting things. One is he invites suggestions, the other is he will prepare the rules before the bill comes into law. I was going to put a suggestion, because we are against the bill in its present form, and on principle we will go against the bill, but

something has been said before and with which we agree and that is that in matters of this nature, there should be a consensus because it is in the public interest that everybody should be at idem on this one matter. Because the idea behind the bill is a good one and because we want to cooperate in a matter which we would not like to be in a position at a later stage to say, if this bill goes through and we have returned we would alter it, that would upset the situation and would bring about a lot of difficulty, I am going to make this very formal and very earnest and serious suggestion to the Minister and to the Government as a whole. This is a matter of very great public importance. I suggest that a Select Committee of the House be appointed to look into the bill and to look into the rules and in that case, we would not oppose the bill. We would just abstain at this stage. I see the Chief Minister says no, then we will go to battle. I am sorry but this is.....

MR SPEAKER:

May I on a point of order, say that we are now speaking on the general principles and merits of the Bill. The question of referring the matter to a Select Committee can only be raised under Section 33 once the bill has received a second reading.

HON SIR JOSHUA HASSAN:

Yes but what I am saying Mr Speaker, I am saying in all earnestness that if the Government were to say that they are prepared in view of the undertaking given already that they want the cooperation of this House, and that they are prepared to look at the rules and so on. For example, this question of appeals to the Governor. I mean all this within the executive is really completely repugnant and we will certainly oppose it unless there is any hope that some progress will be made if there is an attempt at a concensus. If the Government do not want to avail themselves of our cooperation which they have sought in the way we think, it would better be given by having a Select Committee of both sides of the House, then we shall certainly oppose the bill and bring as many amendments as we will think it our duty to make it necessary to make the bill acceptable to us. If, as is likely and there is no cooperation, the bill will be carried by a sheer majority in this House. But I say this in all earnestness. The bill has got features which has been shown by the Minister, not to be normal legislation, let us put it that way. He has invited the cooperation

of the Opposition, we are prepared to give ^{it,} but we feel that it would be no use just making suggestions which could be easily turned down. A Select Committee if appointed would look into the matter, would look at it in a detached and proper way and I think the Minister himself has experience of how this side of the House cooperated in the Select Committee on Military Service and he would have the same rule, the same cooperation. Now, if they say 'No, we are going to carry this through', then of course we shall have to fight it all the way but let the Government beware if they want to force this issue through the House; this very strong bill taking away rights from people, that is going to create considerable hardships; that is going to bring a lot of unhappiness and concern to people. A bill that is going to upset many people, going to keep many people in fear of whether they are entitled to occupy a flat in changed circumstances or not. If they want to do that they are welcome to it. It will be them who will be responsible. We are prepared to cooperate and share responsibility on the basis of sharing authority, but not sharing responsibility and the Government having their say all the way. In those circumstances, we will oppose the Bill.

HON CHIEF MINISTER:

Mr Speaker, it is not my intention to speak at length. But I think a matter has been raised to do with the Select Committee which calls for my intervention. I would like to say that we should have a sense of proportion when discussing this bill and I doubt whether the Opposition has really shown that sense of proportion. Listening to what was being said on the other side it would seem that the intention of this Government in introducing this bill was to winkle people out of their homes. This in my view is rather absurd. There is, in fact, an admission. The powers in the nature of those incorporated in this Bill are necessary. The admission is by the Hon and Learned Leader of the Opposition himself suggesting that he would be prepared to go with this bill if there was a Select Committee.....

HON SIR JOSHUA HASSAN:

No, no I am sorry, I must on a point of order, if the Chief Minister will give way to me for one moment. I did not say that.

HON MAJOR R J PELIZA:

I do give way.

HON SIR JOSHUA HASSAN:

Thank you. I asked for it. I think he has completely misinterpreted my remark. That is not what I said. We will not go with this bill if there is a Select Committee. But what we say is this, if they want our cooperation, we are prepared to give it and not to oppose the bill at this stage, if the method of cooperation is through the means of a Select Committee. We think that none of the powers sought in the bill are required but we do say that there is a need to look at the question of improper occupation of flats generally and we are prepared to cooperate but not in the way the bill presents the problem or presents the answer. In that way we would be prepared to cooperate, it is only that that I have said and not that there is a need for this bill.

HON CHIEF MINISTER:

Mr Speaker, with all due respect I wonder to what extent the opposition can be helpful in solving the problem since they have had this problem ever since they were in power many administrations back. This is not a new problem in the House in Gibraltar. What I am saying is, that this is the policy of the Government, a policy which has not been shown before, and it is this policy that we are going to proceed with and we will not allow the opposition in any way to prevent this policy which we believe is in the interest of the people of Gibraltar and particularly of those who are homeless at the moment. It is not true to say that we are trying to take away the castle from any man at all, in fact what we are trying to do is give a castle to those who haven't got it. If we have a sense of proportion, it is possible by the system which has been provided here in the House of Assembly to find if there are any amendments that could be made to this Bill, to meet the wishes that the Opposition think should be provided for in the Bill. We have deliberately more than ever before, because we know how strongly they feel about this, offered them to come forward with amendments. This can be done in the House quite simply. In fact I would say that in the interest of the public this might be more democratic than the suggestion he is making in that these amendments can be certainly discussed openly here and on the whole it will come much more

to the interest of the public if there is open debate here, than through a concensus of a Select Committee. The last thing we want to see is any condoning of the Opposition to a bill that they disagree with through a Select Committee. So I would rather see opposition in this house, than reluctant acceptance in a Select Committee, but in any case as I say this is the policy of the Government. It is our intention to put this right. Hardly anything which is incorporated in the Bill does not exist already in the agreement. To say that the agreement is a matter for the tenant and the landlord to agree, I think the answer is that if there is no agreement, there is no law. So therefore whether we put it in the law or whether it is just in a piece of paper attached to a signature, the fact remains, the tenant who wants to get a home would have to sign that agreement and in that agreement there is everything that there is in the law, except that now there are restrictions as to how those conditions can be imposed. And I would say it is a much more democratic form of doing it now than has ever been done before, in that we have a committee, which is an impartial committee, which really sits in a quasi-judicial position to decide these cases. And if we are going to have no trust on those men who have been nominated to sit in that committee, who are public spirited men, who obviously must have at heart, very deeply at heart, perhaps even much more than a court of law because in fact they are dedicating all their time to the allocation of houses, I would say that they are in a better position to stand in judgement of any unfairness to do the Housing Allocation than a court of law which has looked at this from the legal point of view and takes nothing else into consideration. What we are here trying to do is to find the fairest way of allocating houses to the people of Gibraltar. There has been a lot of dissatisfaction as to the manner in which these houses have been allocated. I would say at stages there were even public outcries. We want to prevent that from re-occurring again. Similarly, we do not know how many cases there have been of tenants literally leaving Gibraltar and making money on the deal. It is impossible to say how many are the cases. But I think what this Government is trying to do is to prevent that from happening, and I cannot see that it can be attributed that the whole object of the Government here is to become more powerful. I don't think that is the intention at all. The way I see it, it is a method of legalising what has been happening up to now without any statutory powers, and I cannot see that there can be anything

wrong in legalising something that in fact was happening all the time. Therefore since this is very much a matter of policy, the Government must insist in going forward with the bill and inviting the Opposition to make whatever amendments they feel they should make to the bill since it looks to me that in substance they agree with it. The Hon Member Mr Abecasis who was the first speaker and is the Shadow Minister for Housing, said that he liked the bill, to start with, that it looked good at first sight and it is really the small print that they objected to. Well, I am sure that this small print, can in fact be looked at very carefully if there are any strong objections which will not undermine the effectiveness of the bill, I think this Government will gladly listen to it and if it is compatible with the policy of the Government go with it. But I think as I said before this is not a matter for a Select Committee, it is a matter of policy, it is a matter of putting something right which has been wrong for many years in the past.

HON LT COL J L HOARE:

Mr Speaker, I didn't want to start on this, but I really must take issue with the Hon and Gallant Chief Minister on him saying that he is legalising what is happening now. I am not aware of any authority whereby anybody can go and sell a man's home over his head, by merely putting a notice on the door or sending him a letter through the post which he may not even receive. This is the sort of thing that we call the small print. These are very strong powers and there are not enough safeguards in my opinion to say that because you post a letter to an individual, even registered letters are not proof of delivery. A registered letter can come back to its sender. So the emphasis should be on delivery to the individual and it is this sort of thing that we object to. Even when they sell his home over his head, he is required to claim this within the year, or else he loses it. What kind of a world is this, that a man has to claim what is his right, surely if they take these powers they should send it to him. This is the small print that we object to. It is these vast powers which I think are wrong.

HON CHIEF MINISTER:

Could I just clarify Mr Speaker, if you allow me. First of all I would say that all these safeguards that the Hon and Gallant Member would like to see in the Bill he could certainly bring out as amendments. No one is suggesting to him that he shouldn't. So I would certainly welcome any suggestions of

safeguards that he would bring forward. Secondly, I think, a lot is being made out of this notice on the door. Obviously there are many other ways of doing it and no doubt they will be done like writing letters.

HON SIR JOSHUA HASSAN:

Mr Speaker, I think this is a debate on the second reading and one point is to clarify and ^{another} is to expand and if the Chief Minister allows, I will seek leave to speak myself.

HON CHIEF MINISTER:

Mr Speaker, with all due respect to the Hon and Learned Leader of the Opposition, the Hon and Gallant Member just suggested to me and was speaking directly at me and asking about this notice. And I am just trying to explain how this would work. I said can I clarify the point and he agreed. I am not trying to start the debate all over again, so with your permission, perhaps I could explain/the Hon & Gallant Member unless he doesn't want an explanation any more.

MR SPEAKER:

Provided it is an explanation of something you have said yourself.

HON CHIEF MINISTER:

Absolutely an explanation. What I am trying to say is that if there is a person who is supposed to be in occupation of the House and has been away for 12 months and nobody can find where he is, it is obvious that the only way in which some action can be taken is by putting a notice on the door. Now up to now, obviously if it were to happen today, and someone disappeared from the house for 12 months, I presume the Government would take steps and literally break in the door even without putting the notice. This is what I am trying to say.

HON LT COL HOARE:

On a point of clarification, Mr Speaker, what I took issue with the Chief Minister was his categorical statement that what this bill is doing is legalising what is in fact happening now. This I don't accept.

HON CHIEF MINISTER:

Mr Speaker, with all due respect, what I am saying is better than what is happening now, in that with this bill you would have to put up a notice, now you can go in without a notice.

HON LT COL J L HOARE:

Well, then he should have said better.

HON ATTORNEY GENERAL:

I would like to say a few words on this particular measure but with three more bills on the order paper, I don't really relish the thought of prolonging our entertainment here Sir. Two legal colleagues have spoken on this bill, the Hon and Learned Member on my right and the Hon and Learned Leader of the Opposition, and I have listened to them with great interest. I found that, like myself ^{AND THOSE} who have given long and anxious thought to this particular matter, they viewed the bill with misgiving. I too, shared a similar sort of concern Sir, when I was posed with this particular problem. And like the Hon Mr Montegriffo ^I thought, well perhaps by some means we can streamline the procedure of the courts and remedy what appears to be on all the evidence a patent injustice, since I think there is a little doubt that the meek who we are told shall inherit the earth, don't tend to inherit Government flats very often. So I considered whether there was any means as a matter of procedure ~~accepting~~ that as a policy, whereby our judicial procedure could be streamlined. But looking at our judicial processes, Sir, they are cumbrous, involved, intricate and slow. And I think it is true to say that our inferior courts are pretty heavily burdened with work already these days, so the alternative was ~~as~~ as Hon Members and certainly my legal colleagues have observed, was to seek in a way to get round the judicial process. So to that end, Sir, we in the bill have conferred powers on the executive and we have tried to hedge them about with safeguards. My own experience here in Gibraltar suggests that Civil Servants do try and behave responsibly, they do ~~and~~ and I think this is particularly true in the Housing Department, ~~endeavour~~ to behave with humanity and I was a little hurt at comments that there was little human feeling in the bill. // Well, Sir, we know the letter killeth and it is the spirit that giveth life, and I would hope that this measure (which I think has its imperfections as Hon Members

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have not been slow to point out) would be administered with humanity; and I think, Sir, if it were not, we have a virile press and we have a vociferous opposition and we have Sir, the courts whose function is not entirely abdicated were this measure passed. Since the Honourable Member on my right speaks of the prerogative writ of Mandamus, were the principles in this bill, if it be enacted, not followed by the executive which is carrying it out, the courts would not be slow to intervene; and I am quite sure disgruntled citizens would seek their protection, and get it. Now points have been made, Sir, and very good points. The bill is a brief bill, and it is drafted in a somewhat terse and draconian fashion that Members might perhaps find a little intimidating. It was drafted in a simple and direct fashion in the hope that its message would get across to the officials of the Housing Department and more importantly to the public who are most affected by it. And of course it is Clause 4 of the Bill, that clause which lays down the principle of personal occupation which is the guts of the whole thing and on which the Hon and Learned Member on my right commented, ~~pointing out that where~~ ^{ASKING WHERE} was the definition of personal occupation. I think that is an excellent point, and other points have been made on both sides which seem to me to merit careful consideration; and I hope Sir, due consideration will be given to all of them. ~~Thank you Sir.~~

HON M XIBERRAS:

Mr Speaker.....

MR SPEAKER:

Before the mover speaks, which he has most certainly a right to do, I would like to ask does any other Member wish to speak on the question before the House. Yes, carry on.

HON M XIBERRAS:

Of the numerous points that have been raised on the bill some good, some legal, no contradiction, some not so good, some political, again no contradiction. But I cannot help saying that I find the arguments on the other side somewhat void of a certain amount of sincerity which I detected from the same arguments when they were raised in connection with the Statistics Bill. The cry of ineffectiveness on the one hand and the cry of individual liberty on the other are easy and come easily to the tongue of politicians and even at times

of legal practitioners. I cannot say that there have been in my limited judgement any substantial points of law which invalidate this bill in its entirety. There have been a number of excellent suggestions produced by Honourable and Learned friend. Despite himself there have been some good points produced by the Honourable and Learned Leader of the Opposition. They have been revealed, despite himself, despite the attitude of opposing the bill and in his general criticism of the bill. So he has pointed some of the shortcomings of the bill. But the clause I am convinced is by no means stable, the clause not only can be remedied but I think it would make a better bill and that is the reason why we came here with an open mind. However I did not give much, with all due respect to him, for the arguments raised by the Honourable Mr Adecasis. This question of freedom of the individual and there must be another way of doing it. When the Opposition was in power in exactly the same conditions and perhaps under a more stringent kind of circumstances and yet did nothing about this sort of thing, this sort of argument, I think, does not hold much water. Let us consider the main points of the Opposition's case which is that too much power will be passing into the hands of an official of the Government whatever the merits of such an official may be as my Honourable and Learned Friend the Attorney General has said that too much power would pass into the hands of an official of the Government yet at the same time they have argued and quite lucidly that the number of cases to be covered under the Bill form the exception rather than the majority. I think it needs no expert in syllogisms to deduce from that that the preoccupation with the giving of too much power to an official of the Government is a preoccupation which is concerned with the minority of cases. But let us, those who have been in the Housing Section, in charge of it, and who are sitting in this House today, let us then look at the majority of the cases which have come to them. Let us ask ourselves what influence has a clerk, a Chief Clerk, or a Housing Manager or the Housing Minister had in the allocation of numerous houses, let them ask themselves further whether such an exercise of power is subject to the courts; is subject to redress of any particular kind; is subject to any kind of control by those that have been introduced of late by the present administration and then in the words of my Honourable and Gallant Friend they will have the matter in perspective. The perspective of this case rests upon the fact that most of

the people of Gibraltar become dependent on Government housing at one time or another and that the exercise of the power to give a particular flat in the vast and overwhelming majority of the cases is exercised without any reference even to the executive body, even to Council of Ministers. It is exercised simply by officials, by the Minister in the last resort, and I have heard no criticism in this House of that state of affairs. But as soon as someone tries to put right in the interest of a more fair, a more controlled, a more democratic and a more constitutional system, the exercise of these which I consider to be the most drastic powers any Minister in Government has to exercise, the giving of a single flat without reference and without consultation in the exercise of these powers, we have not heard the Honourable and Learned Leader of the Opposition with his experience in the Housing Section, we have not heard the Honourable Mr Abecasis with his experience in the Housing Section, raise one cry against all those cases of people who did get flats purely on the recommendation, advisedly and deliberately of one person. Now that Sir, puts to my mind in a true perspective the scruples, well-intentioned they may be, of Members on the Opposite side. They have been looking at my ten cases, they have been misrepresenting my ten cases. I did not say Sir, that there were only ten cases, But what about the one thousand one hundred flats that are going to become available, of that there has been no talk at all. That is perfectly democratic, that is perfectly constitutional, for that there is no need for any alarm, any despondency, any cries of unconstitutionality, any cries of any kind. Well Sir, we may be doing justice in only ten cases, quick justice, not shot-gun justice at all. We are doing quick justice of the kind the public will learn to respect. I have come to the House and I have told the House that already in my experience, the vast majority of applicants support this measures. There has been no outcry comparable to those comments that were made in relation with the Statistics Bill in this House. There has been general approval to this bill, and there has been nonetheless an openness on the part of the Government to accept in this complicated subject, any amendments which the Opposition would wish to have considered. Honestly, I cannot explain the attitude of the Opposition. They show cooperation on one hand by requesting or suggesting a Select Committee and also they agree to the general idea, intention and principal behind the bill, but in the House where both things could be perfectly

married, where the intention of the Bill and the actual wording could be combined into something which is pleasing to the Opposition by means of amendments which they have done in the past, they refuse to do this but say "We wish to have a Select Committee." I don't think Sir, that this Bill is of so complicated, complex a nature to warrant a Select Committee. I think that most of the argument has been about clause four of the Bill and I feel that between now and the Committee Stage of the bill, the suggestion of the Opposition could be made loud and clearly to this House, or in advance to the Minister, therefore I doubt that the purpose of the Opposition in voting against this Bill could be all that well-intentioned. I think it can be made quite clear and it can be made right now what the disagreement of the Opposition is with this Bill. Sir, I think that this lack of directness in opposing the Bill is highlighted by the points which the Honourable and Learned Leader of the Opposition made in relation to the schedule, the offending schedule, the offending third schedule in the present bill, where he ridiculed at great length, the conditions the petty things that the Government had put into the schedule. May I take the liberty to read from the third schedule of the present agreement not just with any landlord but with the Government.

"The tenant shall not paint, colour wash, or otherwise vary the decorative scheme of the building, alter the walls of the premises, for any cause allow any box parcel, refuse, rubbish to be left in the passage or landing outside the premises..." I will not give way to the Hon Mr Featherstone because I think it is apposite, at this stage I should not give way in view of the fact that at this particular stage the Honourable and Learned Leader of the Opposition did not give way. If the Hon Mr Featherstone feels as annoyed as I do at this kind of ridicule then he can consult the Honourable and Learned Leader of the Opposition..Sir, what a pity that the liberty of the individual should be restricted in this way. Please Opposition, will you please suggest a way so that we can free all the poor Government tenants of these constraints? No, say the Opposition, we must take to a Select Committee first, and therefore the people of Gibraltar are doomed not to be able to hang their washing from their balconies.(Mr Xiberras carried on reading from the Third Schedule.) There is a whole of a second schedule also there which the Honourable and Learned Leader of the Opposition must be aware of. Perhaps

he did not pay much attention to them, perhaps he was not concerned with the things that were not being done. Well we want to be realistic. Let us all suggest how it can be put right. Sir, I don't think I really need spend much more time on the general arguments about the protection of the freedom of the individual. It is important Sir, and the way to defend it is by doing things properly for the majority as well as for the minority and concerning ourselves generally with the problem rather than coming here from time to time, that the Government is trying to do something and putting up the usual arguments. Sir, there was a substantial point and that is what happens to people when the head of a family who is supposed to be the tenant of the house moves over to another land and leaves his family behind. It might be that he dies. Well, I think that to throw out this bill on the grounds that the Government might be thinking of taking possession of the house immediately the head of the house dies is a bit ludicrous. It is too ludicrous for words and if Hon Members opposite think that this is the case, then do please intervene now and prevent the Government from committing such an atrocity, do not leave it to a Select Committee. I think Sir it is quite clear that bona fide absentees would include even those who pass on to the next world, those who die. That is a most bona fide case. That is indisputable subject to no court, the executive or to this House. I would say Sir that it is absolutely ludicrous to suppose that we are going to raid the house as soon as the body is cold. Equally ludicrous Sir is to think that as soon as a man takes ship to the United Kingdom or ship to other parts, that we are going to move in on his poor defenceless family that has been abandoned and take over the house. If this needs to be explicit, if there needs to be any cross reference with other ordinances, if there needs to be anything else, if there is any suggestion from the other side, certainly this is the purpose of the bill and we will consider it. But to try and undermine the bill by imputing the motive that we are intent on doing all these ludicrous things and then to do nothing about it is doubly ludicrous. Sir, there is provision for the Housing Manager to include in the tenancy agreement those people who are entitled to reside in a Government dwelling. Provision is given for family. Lately there have been quite a number of people coming from the UK and taking up accommodation, taking up residence with their families. The condition exists now. The people who are entitled to live in that house can be written down now. We

need no special powers for that. The people who are accepted as tenants of the house now would be obviously accepted as tenants of the house in the future. There is absolutely no question about this. It is possible now, it will be possible in the future. This Sir is another reason why I doubt the straightforwardness of the Opposition in attacking this Bill in the terms that it has. Sir, the appeal is to be executive and we are not taking powers from the Court. To whom does Mrs So and So go if she is not given a house by the Housing Unit and to whom did she go in the last twentyfive years, to whom does she go for redress? Is there a tribunal of any kind? Was there a Housing Allocation Committee? Did it have the powers it has now? Did the previous administration ever reveal even a glimmer of an intention to make the scheme statutory as I have done this day? They did not, they kept it all to themselves. They tucked it away and kept it away from sight. the special powers continued to be enjoyed. What we are saying is let us bring the whole matter out into the open, and I have promised the House other measures which will bring forward as laws statutory recognition to the functioning of the Housing Department, because I say and I mean this seriously, in which one exercises more power, more ministerial power than in any other department and never mind the sums of money which pass through those hands. Sir, the accusation of dictatorship of all sorts of things I hope I have inverted the argument sufficiently to show that if there is dictatorship, it is the system of allocation by one person, or two persons, which was in itself dictatorial. It is a question of submitting to the views of other people which will do away with the accusation of dictatorship. I think the public are good judges of whether things are done dictatorily and I do not think the public has reacted against this bill. I repeat Sir, that the public has reacted in favour of this bill and I have had evidence and there is more evidence which the Hon and Learned Leader of the Opposition can produce from anybody, unless he works it up between here and the Committee Stage that people have been closely offended by this bill. Yet had I not stopped him he would have called the bill unconstitutional. The Hon and Learned Leader of the Opposition came very near to calling this bill unconstitutional. I do not know who the other guardians of the constitution are but on this occasion the Hon and Learned Leader of the Opposition has been unable to

get support from them. Sir, there is no dreadful emergency. Of course there is no dreadful emergency, there is never any dreadful emergency. The only emergency is that we cannot get rid of some people who are in houses and not making use of them when everybody is applying for a house, that is not an emergency, I agree, but it is a reason for special powers. It is a reason for considering each case as important, because if we do not consider each case as important then the scheme doesn't work, then people do not accept the scheme. If you are not bothered about what happens to a house that is allotted for months upon months upon months, then people say what the hell are you doing there? What the hell is the Housing Allocation Scheme for? And if you condone this process and do not dirty your hands in the dark waters of unconstitutionality; if you are not going to do that; if you set up a sign and say "No Sir, I honour the constitution, but I will not look upon the person who is being deprived of a house." Well Sir, the Hon & Learned Leader of the Opposition may choose to laugh but this is a fact. I don't know whether I have left any points of substance out on this side. Faux pas, I did not quite get, I was not allowed to interrupt on that occasion. The Hon & Learned Member would not give way. Faux pas or something of the kind, I did not quite get it. If it was something which was reflected upon the housing unit then he should withdraw it, if he doesn't choose to withdraw it, then the record will show exactly what he said and I shall ask him to withdraw it at a later stage.

HON SIR JOSHUA HASSAN:

Mr Speaker, is he a school teacher?

HON M XIBERRAS:

A schoolteacher; at this rate, Sir, I might even become a lawyer.

HON SIR JOSHUA HASSAN:

I hope you are a better one than a teacher.

HON P J ISOLA:

Shame, shame.

HON M XIBERRAS:

Sir, would the Hon & Learned Leader of the Opposition please withdraw this insinuation against my professional capacity as a teacher.....

HON SIR JOSHUA HASSAN:

So long as he withdraws his insinuation as to my professional capacity as a lawyer, I will do so.

HON M XIBERRAS:

Sir, there has been no such an insinuation. I leave the Chair to judge. I said that at this rate I might even become a lawyer. Mr Speaker, I did not use the word better lawyer, I said that at this rate, I might even become a lawyer. Whereas the Hon and Learned Leader of the Opposition said, perhaps you will make a better lawyer than you did a school-teacher. And that is to my mind an insult to my capacity as a teacher. And would the Hon and Learned Leader of the Opposition please withdraw it?

HON SIR JOSHUA HASSAN:

Of course I withdraw. But you haven't got the idea of what you are talking about and therefore you misunderstand my words. If you have misunderstood all my arguments on the bill, I am not surprised if you misunderstand an occasional interjection.

HON M XIBERRAS:

Sir, I thank the Hon and Learned Leader of the Opposition for the withdrawal. Frankly I did not take the accusation very seriously, because he himself has reason to believe that.

HON SIR JOSHUA HASSAN:

You are a good teacher.

HON M XIBERRAS:

I thank the Hon & Learned Leader of the Opposition for that remark. I am no judge of lawyers, but he must be a very good lawyer to put up this sort of case on the evidence that he has.

MR SPEAKER:

Order.

HON M XIBERRAS:

Sir, I think we should cut this short. I am surprised to see so many speakers on the opposition bench are speaking today. I thought they wanted to leave. Perhaps their case needs strengthening Sir. Therefore Sir, if there are any imperfections in the bill, we shall try to make them good with or without

the help of the Opposition. If the Opposition does not choose to associate itself with this Bill, then let them not do so, we are sure that we are doing the right thing, we are sure the public generally supports it; we are sure that we are not doing anything unconstitutional, we are quite sure where we are heading. Now I would welcome the support of the Opposition I would welcome the comments of the Opposition, but nothing has been said on the other side which deliberately points to an amendment of one kind or another being made to improve the bill. What I have gathered from the comments of the Opposition has been solely by chance. Their cooperation has been requested, it has not been given and therefore we proceed with the Bill because it is the right thing to do.

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

The Hon Miss C Anes
 The Hon J Caruana
 The Hon L Devincenzi
 The Hon Major A J Gache
 The Hon R H Hickling
 The Hon A Mackay
 The Hon W M Isola
 The Hon P J Isola
 The Hon Major R J Feliza
 The Hon M Xiberras

The following Hon Members voted against:

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

The motion was accordingly carried.

The Bill was read a second time.

The Hon the Minister for Labour and Social Security and Housing gave notice that the Committee Stage and Third Reading of the bill should be taken at the next meeting of the House.

This was agreed to.

(2) The Criminal Law Ordinance 1972.

The Hon the Attorney General moved that a Bill for an Ordinance to amend the Law of Gibraltar by abolishing the division of crimes into felonies and misdemeanours, to make consequential amendments to such law, to do away with certain obsolete crimes, and to provide 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.

SECOND READING

HON ATTORNEY GENERAL:

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

Sir, I would now like to take Honourable Members into what I hope will be the tranquil waters of the Criminal Law. I hope this will not be too long Sir. The measure I now bring before the House is concerned with a reform of the criminal law. Most of us favour reform, in fact I did so myself earlier this evening. But the only thing that upsets us I think Sir, is being reformed by those who are no better than ourselves.

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~~Well, Sir,~~ This bill is based upon the Criminal Law Act 1967, of the United Kingdom and it has respectable pedigree, being by Parliament out of the Criminal Law Revision Committee with a little assistance from the Law Commission. Powerful intellects have been at work Sir, and we are I hope, about to garner their fruits. The Bill, Sir, is a short Bill and I will be brief in introducing it to members. Its essential purpose is to abolish the distinction between felony and misdemeanours and there may be those who ask - and fairly - what is the difference between these two? *NEW PARA -* Well, Sir, a felony is a term which in the general sense of the criminal law, covers every kind of crime which at common law entailed a forfeiture of lands and goods. As to misdemeanour, this was and still is an offence not amounting to a felony and involving at common law, a fine and imprisonment, but no forfeiture of ^{THE} lands or goods of the offender. Forfeiture went out of fashion about a 100 years ago and the distinction between felony and misdemeanour in

consequence became in large measure obsolete. But lawyers being a conservative breed, Sir, or so I am led to believe, a number of procedural differences have lingered on to this present day. Thus, in relation to a felony, you can have a principal and an accessory, whereas in relation to a misdemeanour there is no such distinction. A person who conceals a felony can be guilty of the offence of misprision of felony, but if he conceals a misdemeanour in general he commits no offence. To agree not to prosecute a felony is to compound a felony, to use the quaint old term. Whereas a similar agreement relating to a misdemeanour is no offence unless there is in fact a conspiracy to obstruct the course of justice. At common law anyone can arrest on reasonable suspicion of a felony, provided a felony has in fact been committed, which is a nice point, if one is not too well informed on the law; whereas there is no such general power of arrest on a misdemeanour without a warrant. Again, killing in the course of a felony amounts to murder, whereas in the course of a misdemeanour it is tantamount in general only to manslaughter. Now these are rather broad distinctions Sir, and I don't offer them as refined statements of the law; but I hope I have illustrated the nature of the present distinction and indicated that it need not be continued. The object of this bill, therefore, ^{is} in one broad stroke to abolish the distinction between felonies and misdemeanours and to assimilate the procedure on all matters to that relating to misdemeanours. Now this has certain consequences, for example, the power of arrest without a warrant has to be more clearly defined as Clause 4 of the Bill seeks to do. I might add Sir, that I might at the Committee Stage be proposing a brief amendment to that Clause to make the power more concise. These provisions, however, in general are all based upon the English Act, and I don't think they call for any special comment; and I think perhaps I should assure Honourable Members that I am not seeking in any way to enlarge the grounds on which persons can be arrested. Again, because the status of accessory after the fact arises from the commission only of a felony, it is necessary if we are abolishing felonies, to provide penalties for assisting offenders and for concealing offences. And this is what Clause 5 is all about. This contains two new sections which ^{is} proposed should be added to the Criminal Offences Ordinance Sections 254A and 254B. Now in this latter section 254B, Sir, a specific offence, one

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of causing wasteful employment of the police by knowingly making a false report has been added in subsection 2 on the lines again of the English Act. Now this is a useful and in my experience here, a very necessary reform in the law. The remaining provisions of the bill are ancillary to the broad object I have outlined and perhaps call for no special comment. On reading Clause 8 however, Sir, there may be those who are prepared to shed a silent tear ^{on} that the passing of such offences, as those of eavesdropping, being a common scold, or a common nightwalker. Our modern laws will know nothing of these picturesque offences, and our lives Sir, will be that much the emptier. One day when the law of privacy is codified and perhaps the ducking-stool is brought back, Sir, we will no doubt find these offences emerging once more, but in these days of sober progress we must abandon them for a while, at least, Sir. To innovate, ~~Sir~~, said the judicious Burke, is not to reform. Sir, there are no innovations in this Bill, but there is in a short compass plenty of reform. The bill seeks to cut out a great deal of the dead wood in our criminal law, and to render the administration of that law more efficient. As such I can only commend it to the House.

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

HON SIR JOSHUA HASSAN:

We support the bill.

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

The Bill was read a second time.

The Hon the Attorney General gave notice that the Committee Stage and Third Reading of the Bill should be taken at the next meeting of the House.

This was agreed to.

(3) The Criminal Justice Ordinance 1972.

The Hon the Attorney General moved that a Bill for an Ordinance to amend the law relating to the proceedings of criminal courts, including the law relating to committal proceedings, evidence, procedure and trial; and for connected purposes 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:

I rise to move that the Criminal Justice Bill be read a second time. This Bill is a formidable looking document and it is with great diffidence that I bring it before Honourable Members at this hour. In mitigation I must ~~STATE~~ ~~refer~~ at the outset that as will be noted from the explanatory memorandum the Bill is like most of our statute law derived from English legislation in this case the Criminal Justice Act of 1967. // In introducing the debate on the second reading of the Bill in the House of Commons the Home Secretary described it as the first major piece of general legislation on Criminal Justice for nearly 20 years. The English Act contained however several provisions which raised a great deal of controversy, such as the provision for majority verdicts in jury trials and the adequacy of the probation service to deal with the release of long term prisoners, matters which are already dealt with largely by our law. Further, in 1969 this House approved the Criminal Justice Administration (Amendment) Bill which incorporated in the law of Gibraltar certain provisions of the United Kingdom Act of 1967 relating to suspended sentences. // There remained outstanding however, a number of other reforms in the Act, their purposes being, to quote the Home Secretary once more, "the stream-lining of our Criminal Court procedure so as to enable all those concerned with law enforcement and certainly not least the Police, to operate within a less time-consuming framework." These provisions are incorporated in the Bill now before the House. If adopted, they will have an immediate effect on the conduct of criminal cases. Used properly, I think there is little doubt that they will save the time of the Courts and of witnesses but I think they will mean more paper work and probably require earlier preparation of a defence than at present often occurs. // Now what are these procedural provisions? They are summarised in the explanatory

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memorandum to the Bill and I don't wish to weary members with a detailed catalogue. I think, however, I must draw attention to several matters which are in my view of especial importance. First, under Part I of the Bill an accused person can be committed for trial on the evidence disclosed in the written statements of witnesses, rather than as now on oral testimony. Those statements will have to be served on the accused before the hearing, and unless he or his advisors object they may be handed in to the court at the hearing. If the accused is represented by counsel, the Magistrate will not have to consider the contents of the statements that can commit the accused for trial. However, if the accused is not represented, or if his lawyer objects that there is no case to answer, the court must consider the statements and for that purpose the statements handed in will have to be read aloud at the hearing. The actual reading of the statements will no doubt be covered by rules made under the Ordinance. It will still be possible for the prosecution to call a witness to give oral evidence, and indeed the defence will have the right to require such attendance of a witness. All these written statements will have to be taken and checked very carefully by the prosecution, since they will not be admissible under the proposed amendment unless they satisfy the requirements of the new section 25B. ~~Now~~ ^{The} supply of these statements will enable the work of preparing a defence to be commenced earlier than under the present system. At the same time the accused and his advisors, if any, will have to consider the question of publicity. This is I know a sensitive subject and in parenthesis let me add that nothing in this Bill is aimed in any way at the freedom of the press, one of the very foundations indeed of democratic Government. The restrictions here contemplated are made in pursuit of justice. No report of the evidence given at a committal may be published except under the provisions of the new section 25C. This means that no lengthy report can be published unless the accused or one of the accused requests otherwise. In most cases I would suppose the defence would prefer the lack of publicity but there may be cases where the defence will want the proceedings reported either to ~~ally~~ ^{ally} rumours or perhaps to smoke out potential witnesses for the defence or for other reasons. In such event it is up to the defence to apply for the restriction on reporting to be lifted and the Court then has no option but must make the order requested.

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All in all, these provisions should save the time of the courts and of witnesses and avoid the tedious hours often spent in Court by those concerned in committal proceedings. I must say a few words on Part II dealing with bail. The principle here laid down in relation to minor offences is that Magistrates should in the first instance be required to grant bail unless there are good reasons to the contrary, so that bail will be the rule rather than the exception. That is the broad principle of the Bill, and I think it is a good one. The granting of bail, the amount of bail, the number of sureties and whether these are sufficient, are of course matters within the discretion of the Magistrates' Court and that Court will as a matter of practice seldom give reasons for a refusal of bail, although these ^{MAY BE} evident from the course of the proceedings. If bail is refused an appeal lies to the Chief Justice in chambers, and it is then for the prosecution to show cause why the appellant should not be admitted to bail. The Bill now before the House will require bail to be given in relation to all minor offences - if one looks at the new section 26A in clause 4 of the Bill. The Bill changes existing law even further, however, by defining the grounds on which discretionary bail may operate and where bail is refused on any one of these eight grounds (that is at page 40) the Court must give an aggrieved person a written notice stating the reasons for such refusal. If that person is represented by a lawyer, however, such notice is given only on request. This procedure will not affect the right of the press to report proceedings or for that matter the reasons on which a refusal to commit a person to bail is founded when these are given in open Court. I mention this particular point, since a local editor very pertinently raised this query with me recently. // Then in Part III there are provisions dealing with written statements and proof by formal admission. The latter is an entirely new provision which brings the Criminal Law into greater uniformity with the Civil Law. The new Section 31A at page 44, deals with the admissibility of written statements, and sets out the conditions on which these can be admitted. If these are satisfied and if the other parties do not object, the statement can then be read at the trial. The rules here are in fact rather strict, in fact they are stricter than those related ^{ing} to statements admitted in committal proceedings; but

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in practice this procedure will, I suspect, probably be used only for formal evidence, and not for all evidence, as is the case on a committal. Of course, the procedure applies equally to the defence who can also serve statements on the prosecution with a view, for example, to avoiding the necessity of calling a formal witness to prove, for example, a plan or a photograph. // The new Section 31 B deals with proof by formal admission. Either party to a criminal trial may formally admit any fact of which ~~all~~ evidence could have been given and once the admission is made it is conclusive evidence against the person making it for the purpose of the proceedings, and can only be withdrawn with leave of the court. The admission can be made before or at the proceedings and once made continues to ^{APPLY} reply to subsequent proceedings. If made before the proceedings, however, it must be in writing although at the proceedings themselves it ^{CAN} be oral. An admission by counsel or a solicitor binds the accused, but one by the accused himself is not binding unless made at the proceedings themselves or unless approved by his lawyer. Obviously, therefore Sir, great care must be taken before any admission is made. The new Section 31C page 47 covers alibi evidence, ^{AND THIS} which will impose a certain amount of work on the defence. The defence of an alibi is sometimes raised, however, and this particular change in the law represents a major change and, I think (although of course my views here are coloured by the fact of being a law officer) I think they are an improvement. // Finally, and perhaps to everyone's relief Sir, I must comment on the provisions of Part IV dealing with fines. These enlarge the general powers of the Magistrates' Court and, in particular, provide in clause 10 for an increase of fines as set out in the Schedule to the Bill. I should add a few particular words on the matter of these increases in fines. These do not represent any kind of punitive policy and I feel I must emphasise this point. The laws of Canute laid down the principle "let gentle punishments be decreed for the benefit of the people". Canute went on however, to decree of an offender "That his hand be cut off or his feet or both, according as the deed may be. And if he have wrought yet greater wrong, then let his eyes be put out and his nose and his ears and his upper lip be cut off or let him be scalped, ^{THOSE} whichever of these ~~be~~ course¹ whose duty it is to counsel thereupon, so that punishment be inflicted and also the soul be preserved."

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Such, Sir, were the early English punishments and some of us indeed who served overseas have encountered instances of mutilation as a penalty under alien systems of law. However, we have gone beyond such barbarities and accept for the majority of offences a fine as sufficient penalty. An inadequate fine is however, not much of a deterrent and indeed may bring the law itself into disrepute and contempt. As members will note, the Schedule to the Bill does not deal with all our laws but only with certain very basic ones concerned with crime, traffic and the public health as set out in the Schedule. In the drafting of the Schedule we have endeavoured to give all relevant information. There is, I note, a typographical error at the foot of page 55 dealing with section 77(2) of the Public Health Ordinance, where the third and fourth columns have been inadvertently transposed. On page 51 there is a reference to section 223 which should be a reference to 232. In general Sir, I think these provisions speak for themselves and call for no special comment from me. Whether an increase in maximum fines is likely to have much more than a tonic effect on the community I do not know, but I think there is little doubt that some fines are certainly too low. Maximum fines are really aimed at the worst possible breaches of the provisions of law concerned. I would say - given an inflationary tendency in our economy - there is perhaps some merit in an occasional review. In "Vox" of 5 November last, there was a report of an observation by the Stipendiary Magistrate on the maximum fine under Section 263 of the Public Health Ordinance as being "very low" and the newspaper itself suggested an increase to £50 - on which, see page 59 of the Bill. It may be Sir, that there are unacknowledged legislators, sitting pen or pencil in hand, here in the Press Gallery of our House. I might add, of course, following a familiar theme Sir, that if any honourable members have proposals I would be delighted to receive them. Well, enough is enough, and I must apologise for the length of this speech. The changes proposed by this Bill are, I think of a major nature. If fully used I think they will work to the advantage of everyone concerned in the administration of the Criminal Law and I therefore commend them to this House, Sir.

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

HON SIR JOSHUA HASSAN:

Mr Speaker, it is too late now to make a long speech, but perhaps one thing the Attorney General has mentioned, in passing, it carried considerable controversy in the United Kingdom, we were ahead of it years and years ago and that was the question of majority verdicts which is a thing which expedites justice reasonably and avoids retrials and I think that we were in advance of that in that case.

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

The Bill was read a second time.

The Hon the Attorney General gave notice that the Committee Stage and Third Reading of the Bill should be taken at the next meeting of the House.

This was agreed to.

(4) The Family Reform Ordinance 1972.

The Hon the Attorney General moved that a Bill entitled an Ordinance to amend the law relating to the age of majority, to persons who have not attained that age and to the time when a particular age is attained; to amend the law relating to the property rights of illegitimate children and of other persons whose relationship is traced through an illegitimate link; to make provision for the use of blood tests for the purpose of determining the paternity of any person in civil proceedings; to make provision with respect to the evidence required to rebut a presumption of legitimacy and illegitimacy; to make further provision, in connection with the registration of the birth of an illegitimate child, for entering the name of the father; and for connected purposes, 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 rise to move that the Family Reform Bill be read a second time. It is my belief, Sir, that an initiative for the

adoption of this particular measure came from the Hon Mr Featherstone. At least that is my recollection of reading those entertaining pages of our reminiscences, known as Hansard. If I am correct in this, I would thank him for his interest and hope that the bill now making its appearance before the House will find favour with him, his colleagues and other Honourable Members. // This bill, I must confess, has had me worried, Sir. Some months ago in reading in the Economist a review of the book entitled "Tomorrow's World", I saw quoted a forecast to the effect that in another 50 years or so the age of puberty would be down to 12 or was it 10? I can't remember. Anyway Sir, I thought we had better get a move on with this Bill, before we are overtaken by progress. // Now the bill appears to be a rather lengthy and involved measure, Sir. It is slightly longer than the long title, I might add, but its main provision is simple enough. In brief it seeks to reduce the age of majority from 21 to 18. I cannot say that I am myself fully persuaded of the wisdom of this measure, at least in relation to the present generation which, having looked forward to attaining majority in another three years suddenly finds ~~themselves~~ ^{ITSELF} pitchforked into adulthood - so losing all the legal protections of infancy. No doubt Sir, that the fortunate members of that particular generation have already accustomed themselves to the doubtful blessings of being grown up and exercising the franchise and so on. I must reassure Honourable Members on one point, the Bill does not affect the Constitution so that if adopted, one would still need to be at least 21 years of age in order to be qualified for election to this House or appointment as Speaker. In this House, Sir, age has an affinity with wisdom, at least that is what the Constitution implies. // The other main feature of the bill deals with illegitimacy and in relation to illegitimate children and their parents, gives them the same rights to share in each other's estates on an intestacy as if the child were legitimate. A third feature of the bill is the provision on blood tests referred to in paragraph 7 of the Explanatory Memorandum to the Bill. These blood tests require, I understand, skills well beyond those of an ordinary blood grouping department, and I believe that the Director of Medical and Health Services has been in touch with Guys Hospital with a view to obtaining assistance on this matter should it be required. // Such, Sir, are the broad principles of the Bill. As will be noted from clause 1 the Bill will not ~~be~~ ^{LE} enacted, come into force until

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an appointed day and different dates may be appointed for the coming into force of different provisions should this be necessary. Sir, I 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 thank you. Even the lateness of the hour will not prevent me from just saying a few words to say that we support the bill and the importance of it generally. Not only on the reduction of the age of majority which I raised at the time when Government brought in their original bill, in respect of voting rights, and I said that it should refer to the others, but also on the rights for illegitimate children. So I wonder whether it would still be true, after this bill, to say what a child said when he was asked to write an essay on childhood and that is he thought children enjoyed childhood more than adults enjoyed adultery. But the provisions are necessary if only because we have to be guided by decisions in matters of this nature from the high court in England and it becomes somewhat difficult to be able to keep pace with modern life when the two systems which are so similar sometimes vary. We fully support the bill.

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

The Bill was read a second time.

The Hon the Attorney General gave notice that the Committee Stage and Third Reading of the Bill should be taken at the next meeting of this House.

This was agreed to.

ADJOURNMENT

HON CHIEF MINISTER:

Sir, I have the honour to move that this House do now adjourn sine die.

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

The House adjourned sine die.

The adjournment was taken at 0105 hours on 2nd March 1972.