

HOUSE OF ASSEMBLY

HANSARD
OF MEETING

HELD ON 18 DECEMBER 1973

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Ninth Meeting of the First Session of the Second House of Assembly held in the Assembly Chamber on Tuesday the 18th December 1973, at the hour of 10.30 o'clock in the forenoon.

PRESENT:

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

GOVERNMENT:

The Hon Sir Joshua Hassan, CBE MVO QC JP, Chief Minister.
The Hon A W Serfaty, OBE JP, Minister for Tourism, Trade and Economic Development.
The Hon A P Montegriffo, OBE, Minister for Medical and Health Services.
The Hon M K Featherstone, Minister for Education.
The Hon A J Canepa, Minister for Labour and Social Security.
The Hon I Abecasis, Minister for Housing.
The Hon Lt Col J L Hoare, Minister for Public Works and Municipal Services.
The Hon H J Zammit, Minister for Information and Sport.
The Hon J K Havers, OBE QC, Attorney General.
The Hon A Mackay, CMG, Financial and Development Secretary.

OPPOSITION:

The Hon M Xiberras, Leader of the Opposition.
The Hon Major R J Peliza
The Hon P J Isola OBE
The Hon W M Isola
The Hon J Bossano
The Hon J Caruana
The Hon L Devincenzi

IN ATTENDANCE:

J L Ballantine, Esq., Clerk to the House of Assembly (Ag)

PRAYER.

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES.

The Minutes of the Meeting held on the 6th November 1973, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID.

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

- (1) The Elderly Persons (Non-Contributory) Pensions Regulations 1973.
- (2) The Employment Injuries (Benefit)(Amendment)(No.2) Regulations 1973.
- (3) The Employment Insurance (Claims and Payments)(Amendment)(No.2) Regulations 1973.
- (4) The Social Insurance (Overlapping Benefits)(Amendment)(No.2) Regulations 1973.

Ordered to lie.

The Hon the Attorney General laid on the table the following documents:

- (1) The Hijacking Act 1971 (Overseas Territories)(Amendment) Order 1973.
- (2) The Indictments (Amendment) Rules 1973.

Ordered to lie.

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

- (1) The Stamp Vendors (Commission)(Amendment)(No.2) Rules 1973.
- (2) The Motor Vehicles (Temporary Importation)(Her Majesty's Forces)(Amendment) Regulations 1973.
- (3) The Carriage by Air (Sterling Equivalents)(Amendment) Order 1973.

Ordered to lie.

ANSWERS TO QUESTIONS

STATEMENT BY THE MINISTER FOR EDUCATION

Sir, I would like to take this opportunity to report to the House that I intend to move the first and second readings of the New Education Ordinance early in the year.

The Ordinance has been published and I am sure that Hon Members have already looked at it carefully.

I have also sent copies to members of the Board of Education and to other interested parties, and I have asked them to let me have any comments with a view to possible amendments. As this is a most important piece of legislation - setting the pattern of the future of education for several years to come - I feel that the widest opportunities should be given for general comment prior to the Bill coming before the House. To this end I am publishing an official notice to remind the public at large that the Bill was published on the 19th October 1973, and requesting interested persons to send any comments on the Bill and/or suggestions for amendment with a view to improving the Bill to my department as soon as possible. A final date before which any such comments should be received will be stated in the notice.

I know that this Bill has been eagerly awaited especially by persons whose particular interest is education and I am happy to be able to give this opportunity to the public to comment on the Bill prior to its actual presentation in the House.

HON L DEVINCENZI:

Mr Speaker, I welcome the Minister's statement and as he says it is a long awaited bill, probably a very controversial one. Could the Minister specify when in the new year he proposes to bring this bill before the House?

HON M K FEATHERSTONE:

Well, the Hon Member obviously will accept that one cannot be categorical. I hope it will be in the first meeting in the new year, but if we were to get a tremendous number of comments meaning considerable work on the bill, then it might be delayed a little. But I do hope it may be the first meeting. First or second at least, Sir.

HON P J ISOLA:

Is the Minister suggesting that if there are comments on the Bill the Bill will be altered prior to presentation to this House? Hasn't the Minister got the constitutional position a bit mixed up? Does he not consider that it might have been better to have brought the Bill to the House for first and second reading and then allow 2 or 3 months for the public and associations to make their comments after they have heard what their elected representatives had to say? Or is it the intention of the Government to amend the Bill and present the House with a fait accompli?

HON M K FEATHERSTONE:

Sir, the presentation of a fait accompli if such were desirable can always be done since we have a majority. What we are doing here, Sir, is simply trying to make things smoother by giving interested parties the opportunity to put

forward any viewpoints before the first and second reading and then there would be time before the Committee Stage for any further comments to come along which I think is quite reasonable and I think this is not anything unconstitutional or not of the ordinary method, Sir. I believe that the origins of this Bill did start with a committee set up by - I am not sure it was even the other side or even before - to look into this. This is just a continuation of that process.

HON P J ISOLA:

Of course it is perfectly in order to set up a committee and to get recommendations and I would have thought it the job of the Minister and the duty of the Government to obtain opinion on his bill before presenting it to the House. But has the Minister considered the confused position that can arise if he were to amend the Bill which he has already published before bringing it to this House? Surely the purpose of delay between the Second Reading and Committee Stage is precisely to allow changes to be made to the Bill both by comments from the public and by the Opposition who after all do represent - small as the numbers are in the opinion of the Chief Minister - quite a substantial number of the population.

HON M K FEATHERSTONE:

Sir, the Bill as published will not be amended before it comes to the House but between the Second Reading and Committee Stage amendments can, of course, be produced from not only the comments made by the public at the present juncture but also any further comments that might come along following the actual presentation here. This is quite reasonable.

MR SPEAKER:

We will now recess until 4 o'clock this afternoon.

HON M XIBERRAS:

Sir, I understand there must be a reason for adjournment till 4.00 pm instead of the usual 3.00 pm. I understand that this is a personal reason affecting an individual member and may I say that we cannot agree that this should be the case. There should be elasticity

MR SPEAKER:

No, I am exercising my right to recess. I take into consideration the wishes of people who speak to me if they are fair and clear, be they from Government or Opposition. It is my prerogative to recess and we will recess now until 4.00 pm this afternoon.

The House recessed at 12.50 pm.

The House resumed at 4.06 pm.

BILLS

FIRST AND SECOND READINGS

1. THE PRICE CONTROL (AMENDMENT) ORDINANCE, 1973

HON A J CANEPA:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Price Control Ordinance (Cap. 177) 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 A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. At present, Sir, when a complaint is received at the Price Control Office from a buyer who may feel that he has been overcharged for some article which is not price controlled, the practice is for the Price Control Inspectors to approach the seller with a view to enquiring about the complaint received and it does often happen that as a result of this approach on the part of the Price Control Inspectors the buyer is sometimes reimbursed in the amount by which he may have been overcharged, if that should have been due to, say, a genuine mistake on the part of the seller. Sir, the Bill which is now before the House is one which arises directly from one of the recommendations of the Ackroyd Report, and it seeks to strengthen the powers under the Price Control Ordinance by incorporating a provision that enables the price to be fixed for a specific article as opposed to a species of article, such as sugar or potatoes as has been the case heretofore. Once this Bill becomes law, Sir, then, following a complaint, a Consumer Protection Inspector will be empowered to examine the documents of a trader and the maximum price at which that particular item may be sold can then be fixed by the consumer protection officer if he has reason to think that the margin of profit that was previously being made was exorbitant. However, Sir, under subsection 5 of the new section 3(a), the seller will not be bound to sell such an article for which a price has been fixed even though he receives an offer for it. Now, Sir, it is right and proper to make it an offence to withhold price controlled goods, particularly as these are invariably essentials and the price has been fixed so as to apply to all such goods sold in Gibraltar. However, Sir, in so far as specific goods are concerned, the case may arise where, for instance, a customer may see an article in the shop of a particular retailer - we will call him (A) - and he wishes to purchase that particular article but he considers that the price is exorbitant. Well, he complains to the Consumer Protection Officer and as a result of proceedings under the new section, an order is made by the Consumer Protection Officer to the seller for the price to be reduced. However, unknown to anybody there is another retailer, whom we shall call (B), who is also offering the same article and, in fact, he may be offering it at an even higher price but because no one has made any complaint about it an order has not been served upon him to lower his price. It would be unfair in such a case for retailer (A) to be bound to sell the article at a reduced price whereas (B) can sell it at whatever price he likes because no complaint has been received and

and no order has been served upon him. In practice, Sir, what will probably happen in such a case will be that after an order has been made to a particular seller that he should only sell a particular article at say a certain margin above his cost price, then that order will also have to be directed to all sellers of that article, and for that purpose, of course, the existing provisions of the Ordinance can be invoked. Sir, the Government considers that, at the very least, that strengthening of our powers under this Ordinance which is to be effected by the proposed amendment will act as a strong deterrent to any unscrupulous trader who might wish to profiteer. Moreover, since it will also lie within the power of the Consumer Protection Officer to bring all such articles within the ambit of price control, it is to be hoped that, to avoid this, the honest traders - and one does not doubt that in Gibraltar they are in the majority - will prevail upon any wandering sheep to toe the line. Sir, I commend the Bill to the House.

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

HON J BOSSANO:

Mr Speaker, an extension of the framework within which price control legislation operates is something that we can support because we are in agreement with the objective which is to ensure fair treatment of consumer interests. Our function, therefore, in looking at this particular part of the relevant legislation is to satisfy ourselves on this side of the House that the objective which we all want is being tackled in the way that we think is the most apt way. Clearly it is the way the Government thinks it is most apt since they are responsible for bringing it to the House. And, therefore, as far as the intention of the Government is concerned, we associate ourselves with it. The intention of ensuring that there is no exploitation of a particular advantageous position for example an individual situation which is exercised to the detriment of the customer, to the detriment of the consumer. The fact that there is a wide discretion in the use of this power in dealing with individual problems brings up a principle which we as an opposition have often highlighted in respect of many other pieces of legislation. It is our obligation to ensure that the law in Gibraltar is exercised with impartiality and that we as the body of citizens that are responsible for establishing the law, provide a framework in which this happens consistently, and our concern here is to see what safeguards can be introduced to ensure that it cannot operate that this law which is intended for the benefit of the consumer and which will need obviously to be exercised in a discriminatory manner in the sense that it will discriminate against the people who abuse the freedom to establish their own prices it is the freedom the community gives to individual trader and the trader who abuses that freedom will need to be discriminated against. We must also ensure that any discrimination that occurs is only of this nature and we must look and consider whether it is possible to introduce any safeguards that limits the freedom, the discrimination, that is available in the legislation to that sort of instance and to no other. This, Mr Speaker, must be seen as one more element in the whole framework of consumer protection which Gibraltar clearly is in need of as the Dame Elizabeth Ackroyd Report shows. And we trust that the fact that there is this Ordinance before the House and that there already exists other powers in the original Price Control Ordinance, will not be considered to be the end of the matter. This was a small

part of the same principle, a commitment on the part of the Government to ensure that consumer interests which are the interests of everybody in the community because, after all, the trader, the person who sells one commodity, is himself a consumer in respect of other commodities and what we are concerned about protecting consumers we are not concerned about protecting waffles as the Honourable and Learned the Chief Minister might think, we are not concerned about protecting the people who buy waffles or any individual commodity but with the community as a whole, or the people who sell waffles or the people who attribute waffles to anybody else. We are concerned about a commitment to ensure that the needs of the citizens of Gibraltar are put above the needs of sectarian interests. To the extent that this Ordinance aims in that direction we can associate ourselves with it. That it is necessary at this particular point in time is our view because we feel that the Government may well find itself in the very near future with a need to take determined action if Gibraltar is not going to be faced with a price explosion which may be attributed to some extent to international events but which can be greater than is really justified by the events and where certain unscrupulous persons can make this use of world shortages and can make use of international events to attempt to justify what cannot in conscience and in reason be justified. To prevent that from happening the Government will need to take determined action. To take determined action it must have the powers. To the extent that this Bill is a move to obtain those powers we think it is right that the powers should be taken and our concern must be to ensure that it is taken in a spirit which puts the welfare of the community, the welfare of the majority, first and foremost and that there is no loophole which will enable discriminatory treatment to be meted out unless it is deserved.

MR SPEAKER:

Does the mover wish to reply or does any other Honourable Member wish to contribute to the debate?

HON M XIBERRAS:

Sir, I have very little to add to what my Honourable Colleague, Mr Bossano, has said. Perhaps I might say a few words to emphasise the thought with which he ended his speech. My Party has in the public communique issued a warning that in our view the Ackroyd Report, good though it was, may prove to be a paper hat in the rain. It is very likely that Gibraltar, along with other communities, will be faced with what my Honourable Colleague called a price explosion and experience in the past, for instance, following upon the withdrawal of Spanish labour has shown that these crisis tend to be magnified when it comes to increases in prices in Gibraltar. I urge the Government to consider wider and more general legislation and to have it in readiness against such an eventuality. I do not for a moment wish to derogate from the merits of this piece of legislation but I do warn that the situation with which we could be faced here in Gibraltar is not going to be influenced, is not going to be checked that effectively by legislation of this kind which was conceived in different circumstances to those which are likely to come on us in perhaps a month or so from now. Sir, I hope that when we are considering another Bill which the Government is bringing to the House in respect of the general fuel situation, seeking powers in certain respects, the thought that my Honourable colleague, Mr Bossano, has expressed and which I have emphasized now, will be

taken in that context of this other legislation. I do not think the Government should for a moment pretend that this piece of legislation is going to meet our very likely need arising out of the fuel situation. But perhaps when we discuss this special powers Bill which the Government is bringing to the House, it may be in order, Sir, to develop a bit further on this theme.

HON A J CANEPA:

Sir, as I said this morning in answer to a question when I referred to this particular piece of legislation, the Bill was already being prepared. In fact a month ago at a meeting that I was invited to address, I referred to the fact that the Honourable the Attorney-General was drafting the legislation for consideration by the Government. But it is rather timely nonetheless, in spite of the fears expressed by the Honourable Leader of the Opposition, and really the test will be in the application of this particular piece of legislation. Sir, ~~but~~ on consumer protection generally, I would like to say that this is not one isolated piece of legislation. There is a definite commitment on the part of the Government, which the Chief Minister at the last meeting of the House, in a statement went into at very great length. Appointments have been made already, Sir, to the Consumer Protection Unit. It is a physical reality in The Haven today and there is a further programme of legislation and subsidiary legislation, such as food labelling regulations and so on, that will follow and will all be part and parcel of the whole framework that will be required and which is necessary to protect consumers generally. This, of course, is directed more at the question of prices, but consumer protection goes beyond prices merely. It also goes into the whole question of the quality of goods, and getting value for money and so on. ~~So~~ There is a definite commitment on the part of the Government and I assure Honourable Members of the House that they will see further legislation to follow. *will*

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

HON A J CANEPA:

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

THE LABOUR FROM ABROAD (ACCOMMODATION) (AMENDMENT) ORDINANCE, 1973.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Labour from Abroad (Accommodation) Ordinance 1971 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:

Mr Speaker, Sir, I have the honour to move that this Bill be now read a second time. When the principal ordinance was enacted there was a provision in the Control of Employment Ordinance that every workman other than a Gibraltarian or British Subject employed in the service of the Crown required a permit in order to work in Gibraltar. For this reason when passing the principal Ordinance it was only necessary to provide that its provisions should apply to all persons who required a work permit under the Control of Employment Ordinance as there was so it was considered, no need to control accommodation for Gibraltarians or for British Subjects in the service of the Crown, and I say in the service of the Crown ~~either Crown in the Government of Gibraltar or in one of the Service Departments~~. However, with the advent of the European Economic Community, and with Gibraltar's going into Europe as Hon Members will be aware, workers, nationals from community countries have a right to work in Gibraltar without a permit except if they work for the Crown - they have to have a permit in those circumstances. Now, this being so, the Labour from Abroad (Accommodation) Ordinance ceased to apply to such people by virtue of the fact that they were not included within the permit category of the Control of Employment Ordinance. There is, however, no reason why the Labour from Abroad (Accommodation) Ordinance should not apply to nationals of community countries. We think it should. And for that reason clause 2 of the present Bill amends the definition of "workmen" so that now the Ordinance will apply to everybody, except Gibraltarians and persons employed by the Crown. Now we come to perhaps the main clause of the present Bill. When the Ordinance was originally enacted there was a provision enabling rules to be made classifying accommodation occupied by workmen and there was a further power for rules to be made specifying the charges which could be levied for the different classes of accommodation. There are so many permutations, number of beds per room, whether there is a bath or a wash basin in the room, that it just cannot be done. I have ~~had an attempt to draft~~ rules, but even fairly lengthy rules were found to be impractical by those who have to administer ~~them~~. For this reason we have now adopted a different approach, that is, we give the power to the Director of Medical and Health Services when he registers premises where workmen are accommodated - and no person can be accommodated unless the Director has registered the premises - he looks at the premises and on an ad hoc basis he fixes the maximum charge which can be levied for accommodation in those premises. He will look at the facilities provided and the state of the premises generally and I should add that there is power to fix different prices in different parts of the premises if the amenities happen to be different in different parts. There is a provision that an owner of premises if he is dissatisfied with the maximum amount fixed by the Director, he can appeal to the Accommodation Appeals Board and for the first time we have ~~made~~ a provision that a workman who considers he is overcharged can himself appeal to the Accommodation Appeals Board. In order, however, to cut down unnecessary appeals, there is a provision that once there has been an appeal in respect of particular premises there cannot be another appeal for at least a year unless in that time the standard has dropped and the owner cannot appeal ~~again~~ more than once in 12 months to have his price raised unless he has, in fact, lifted the standard. We include in this Bill for the first time a provision that if a Court convicts the owner of premises of overcharging in addition to imposing any penalty, it can order

I mean both the Crown in its right as the Government of Gibraltar and in its right as the Government of the United Kingdom, i.e. one of the service Departments.

the keeper of the premises to refund to the workmen who has been overcharged the amount of the overcharge. It is not much comfort to a workman who has had to pay shall we say £2.10 a week instead of only £2 to see the owner convicted. The workman is still out of pocket. But now by virtue of this provision the Court can order the refund of the amount overcharged. The last provision I should mention as members will see is that section 14 of the principal ordinance is repealed. That section is a procedural matter, really, for the purposes of proceedings under which if there are proceedings, the certificate of the Director of Labour and Social Security that a particular man is a workman under the Control of Employment Ordinance is *prima facie* proof of that fact. As now, in fact, the question of whether a man has a permit or not is immaterial, there is no point in retaining section 14 and so we will repeal it from the Ordinance. Mr Speaker, Sir, I commend the bill to the House.

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

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

The Bill was read a second time.

HON ATTORNEY GENERAL:

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

(3) THE GIBRALTAR REGIMENT ORDINANCE 1973.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to repeal and replace the Gibraltar Regiment Ordinance (Cap. 69) 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:

Mr Speaker, Sir, I have the honour to move that this bill be now read a second time. When the present Gibraltar Regiment Ordinance was enacted in 1958 there was, as members of this Hon House will be aware, compulsory military service in Gibraltar. Persons who had undergone their compulsory military training were, when they finished their training, posted to various reserves and were liable to undergo a certain number of drills each year and, of course, an annual training camp and were liable to be called up in the case of an emergency. Throughout the Ordinance as it stands at present, there are references to the various reserves.

When compulsory military training was abolished, the Ordinance was amended to provide that the regular that is the full-time force, should consist of a permanent cadre whereas before it had consisted of the permanent cadre and those persons undergoing their compulsory military training, but no amendment was made to remove from the Ordinance all the reference to the reserves. Nor was there any provision for what exists at the present time, that is the part-time element the voluntary element who do at the present time a certain number of drills each year and go to an annual camp. It was considered preferable to repeal the existing Ordinance and replace it with a new Ordinance rather than amend quite extensively the existing Ordinance to give effect to what is the exact position at the present time, and this is what has been done. Members, if they care to compare the proposed Bill with the existing Ordinance, will find that we have followed very closely indeed the provisions of the existing Ordinance. All that we are doing in this particular bill is what you might call a tidying-up operation - the Hon and Gallant Major Peliza would call it a mopping-up operation I think that is the military term. That is what we are trying to do in this particular case. Mr Speaker, I commend the Bill to this Hon House.

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

HON M XIBERRAS:

Sir, if I may say a few words on the Bill which anybody who was associated with ending conscription in Gibraltar cannot but welcome since this is one of the consequences of the decision. Sir, I am not so much concerned with the detail of this Bill except that I would like to say something about the effectiveness of the Gibraltar Regiment which this Bill would set up. Sir, I think there can be no doubt at all, that the Regiment is doing well, as well as anybody could have expected it to do. There are, however, one or two matters which I gather on the grapevine are not well with the Regiment and I think they should be of concern to Hon Members of this House. I refer particularly to the pay conditions of the permanent cadre which this Ordinance is setting up and I gather that there have been people here to look at the conditions of the permanent cadre and by extension those of the volunteers who make up the Force. I understand that for some reason some time ago, the permanent cadre was not given as much of an increase as they thought certainly they could legitimately expect and as a result, since the volunteer element have their allowances, their pay, computed on a percentage of what the officers and men of the permanent cadre get, the volunteer element itself is suffering and it should be of concern to this House - and we are talking about the Gibraltar Regiment Ordinance - that conditions in the Gibraltar Regiment should be as attractive as we can reasonably make them. There is, Sir, this generalised feeling too that it is in some way the Government of Gibraltar that cannot see its way to agreeing with increases which the men and the officers think reasonable. The money, I believe, is available but comparisons are being drawn between the pay in the army and in the Gibraltar Regiment and pay in the administration. All this, Sir, I gather on the grapevine. I am very grateful for the indulgence Mr Speaker has shown in allowing me to speak about these matters but I do think that if this is the bones of the Gibraltar Regiment, it is not amiss to talk also a bit about

the flesh. And I think that Hon Members will take the remarks that I have made to heart and perhaps by a joint effort of both sides of the House it may be possible to influence events so that the Regiment is as attractive as possible since it relies on voluntary support in large measure.

HON CHIEF MINISTER:

Sir, in respect of the items raised by the Hon Leader of the Opposition which do not deal with the merits of the Bill - which presumably are not unacceptable if we are going to continue to have a Regiment - I would like to say that the question of conditions of pay of the permanent cadre is certainly not part of the responsibility of the Gibraltar Government and I can certainly say that as far as I am concerned, I am not aware of any restriction on the part of the Gibraltar Government to any proposed increases that were on the way. Very much the opposite. I do not remember because I haven't got the facts at hand, but I do recall that there was a special visit of somebody concerned with that about 7 or 8 months ago who came to look into this matter and as far as I was concerned and the meetings I had with him, informal though they were, I took the opportunity of making the point that if he wanted the enthusiastic support for the Regiment on the part of volunteers to continue and to improve the conditions of the Officers had to be improved and had to have more realisation to present-day facts in Gibraltar. So insofar as that part of the remarks of the Hon Leader of the Opposition is concerned (a) we have not been on the way for any improvement which I hope are as good as possible, and (b) we have positively advocated for the best possible improvement to the Officers.

HON XIBERRAS:

If the Hon Member will give way for a moment. I think I am right in saying that there is a team here at present in Gibraltar looking at the matter again, and I think that if he looks at what happened several months back or so, he will discover that there is something like 15% which was expected by the men in line with increases that had taken place in civvy street and their own position was looked at after the increases had taken place as I say in civvy street and yet when the pay of the officers and men of the permanent cadre was looked at this 15% was not made up so I would urge - and I am not for a moment saying it is the Chief Minister who is objecting to this I accept entirely what he has said - but perhaps this opportunity might be taken of acquainting these gentlemen who are here with the view the Chief Minister has just expressed and that is that on his side or on this side there is no objection to making up this 15% or whatever it is.

HON CHIEF MINISTER:

I didn't know that there was a team at present here at all. In fact I was thinking of that one as being the ultimate result of whatever was going to happen. I don't know whether there has been any question of finding out what Government Officers' pay are and how they have been revised in that respect. It may well have been as it happens in these cases that they may have wanted

to see what the position is in - I wouldn't call it civvy street in this case - in the Government as one of the official employers but I will certainly find out and certainly we could never expect them to pay less than we are paying our people for equivalent work, let us put it that way. And what is equivalent work, or equivalent rank is, of course, another matter. I wouldn't like to classify officers in the Government as captains or majors or lieutenants or corporals - that would be difficult, there may be too many generals around - but I will certainly look into that aspect of the matter.

HON P J ISOLA:

Mr Speaker, whilst still on the Gibraltar Regiment Ordinance and the recommendations of the Select Committee which we talked about and which brought about the present set-up and eventually this ordinance, one of the things that was said at the time was that it was important for the Government to keep a very close eye on the ability of people to do their service with the Regiment, weekends and during camp, 14 days or whatever the time they have to do during the year, and certainly my information on this is that this is not working very well indeed and that the Government as an employer is not perhaps giving the lead in these matters and that, in fact, people who are in the Regiment are really being called upon to make sacrifices in order to remain in the Regiment insofar as leave entitlement and pay and promotion are concerned. Not so much promotion in the Government service, of course, but with private employers. And certainly, whilst agreeing with the Bill and agreeing with the new Ordinance, I think it is fair to ask the Government to keep a very close watch on the situation of people doing camps while they are working, and how it affects leave entitlement and so forth, because unless people in the Gibraltar Regiment get the feeling that they are being dealt with fairly, not just by the principal employers but also by private employers, I think one could get the situation of the Regiment falling by the wayside. And I think that that is something that should be watched very closely. My information is that it is now becoming more and more difficult to remain a member of the Gibraltar Regiment insofar as the other part of the force is concerned, insofar as the Reserve is concerned.

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

HON ATTORNEY GENERAL:

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

(4) THE PUBLIC HEALTH (AMENDMENT) ORDINANCE 1973

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance be read a first time.

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

The Bill was read a first time.

SECOND READING:

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that this Bill be now read a second time. The provisions of the Public Health Ordinance as they stand at the moment, make it an offence to drop litter on any beach, seashore or street. Now although "street" is reasonably widely defined in the Ordinance, there are many places to which the public have access in the open air which are not included in such definition. Thus, for example it is not much good making it an offence to throw down rubbish outside the Tourist Office in the street if it is not also an offence to throw it down in that small playground just in front of the Tourist Office. At the moment you can chuck down as much dirt and litter there as you like and however much inconvenience and annoyance you cause to the decent citizen there is nothing that can be done about it. Also there has risen a practice of dumping rubbish in open places which are probably not streets but which is not only unsightly as far not only as those of us who live in Gibraltar are concerned, but also the tourists coming to Gibraltar, but it is also extremely inconvenient. For this reason clause 2 of the Bill widens the definition of the places in which it is an offence to chuck down litter or rubbish. The clause, in fact, follows the United Kingdom's Litter Act of, I think, 1960. Coming now to clause 4 of the Bill, there is no provision under the Public Health Ordinance or indeed any other Ordinance, which enables quick preventive action to be taken if there is material on premises which are considered hazardous from the point of view of causing a fire. I think particularly in the circumstances of Gibraltar where we live close together, the risk of fire is perhaps one which we must guard against even more carefully than other places. And so it is proposed to give to the Chief Fire Officer the power to take quick action when he comes to know that there is material on premises which is hazardous. He can serve a notice straight away on the owner and if no action is taken then he, the Chief Fire Officer, can take such action as he deems necessary to remove that hazard. I have used the expression, "hazardous material." I haven't attempted to define what is hazardous material. And I hope Members will bear with me on this. I discussed the question with the Chief Fire Officer who said that as far as fires are concerned it is just quite impossible to say what is or is not hazardous. And he mentioned, in fact, that the disastrous fire which recently occurred in the Isle of Man, in which I think some 50 people lost their lives, was due to a material which certainly couldn't be classed as hazardous. Equally you get a pile of leaves in an open space which get dry in the course of the summer, there is a broken glass perhaps on top of them and the sun coming through can set it on fire. Those leaves themselves could be hazardous. So we have left to the Chief Fire Officer the discretion of deciding what is or is not likely to cause a fire. Lastly, clause 3 of the Bill brings up-to-date the section which deals with the areas of Gibraltar for which our Fire Brigade is responsible and those areas for which the Service Fire Brigades are responsible. Mr Speaker, Sir, I commend the Bill to this Honourable House.

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

HON W M ISOLA:

Mr Speaker, just a few words, I was not going to speak. I think this side of the House very much welcomes the widening of the section enabling a person to commit an offence by dropping litter in places which otherwise before was not an offence. However, and I feel since this section now covers a much wider area that the Public Works Department could also help the public by having more litter bins in places which hitherto they did not have and which at present is now an offence. I think, Mr Speaker, that in a small community as we are and in the confined place that we live in it is very important that each member of the public should become aware and conscious of the fact that we must keep Gibraltar clean. But at the same time, we also have a duty, or the Government has a duty to provide members of the public with litter bins so there can be no excuse whatsoever if anyone is brought under this particular section to Court that there was no place in which to deposit litter and as far as we are concerned we do welcome this section as I have said before it is of the utmost importance that we try and make Gibraltar a much cleaner and tidier place. But before that we must have the cooperation of the public and at the same time we must also have the cooperation of the Public Works Department in providing more litter bins in places where there are none at present.

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

HON ATTORNEY GENERAL:

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

(5) THE SUPPLIES (PROTECTION OF THE COMMUNITIES) BILL 1973.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move the suspension of Standing Order No 30 in respect of The Supplies (Protection of the Community) Bill 1973.

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

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to enable the Control and Regulation of supplies essential to the community be read a first time.

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

The Bill was read a first time.

SECOND READING

HON ATTORNEY GENERAL:

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

As members of this Hon House will be aware from newspapers, wirelesses, the supplies of oil to Gibraltar are liable to be reduced quite substantially. This, of course, as members will be aware is a matter over which we have little control, and as I am sure everybody has appreciated - indeed publicity has been given to this - it may be, I stress, it may be necessary to ration petrol in order to ensure that all members of the community have a fair share of such petrol that we have at our disposal. Now, strictly speaking, there is no need for this Bill to be brought to the House. Power exists at the moment, under the Emergency Powers Order-in-Council, whereby if a proclamation of emergency is made, then regulations can be made for a very wide variety of purposes. In fact, as members will be aware, there has been a proclamation of emergency in the United Kingdom. They chose to adopt that approach. There are already regulations made under the proclamation restricting use of lighting, etc, although as I understand it as yet there is no rationing of petrol. However, we have chosen in Gibraltar to bring before this House a bill which will enable regulations to be made controlling, regulating, the supply of what I think can fairly be called essentials. Petrol, oil, fuel, food, light. One hopes - I think it must be the hope of all of us - that there will be no need to, in fact, make regulations but it would be foolish in the extreme if we were not to have ready at our disposal the means of controlling and regulating supplies if it becomes necessary to do so. And so clause 2 of the bill gives power for the Governor-in-Council to give notice in the Gazette that regulations can be made for purposes set out in clause 3. If I can perhaps jump the gun at this stage, I have given notice - I think it has been circulated to members of the House - that I am proposing to introduce an amendment at the Committee Stage, and that is that any notice given under clause 2 will expire within 60 days unless it is replaced before or at the expiry of that time. So it means you are not going to have a notice and people sitting back and doing nothing about it. It has got to be kept under constant review. I have followed in drafting this bill the provisions of the similar UK Act. Quite obviously there must be a certain amount of flexibility as to the matters which the regulations can cover. But if I could just read the words to this House I think that Hon Members will appreciate what we are doing is really no more than it is our duty to do." Regulations may be made for securing the essentials of life to the community and such regulations may provide for securing and regulating the supply and distribution of food, water, fuel, light and other necessities and for any other purposes essential to the safety and life of the community." It is unfortunate that it is necessary to bring legislation of this kind. It has been forced on us against our will largely arising out of a sad conflict in which we had no part, in which most of the rest of the world had no part. But this is, if I may say so, "Hobson's choice." We must be prepared. Mr Speaker I commend this Bill to this Hon House.

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

HON M XIDERRAS:

May I venture a comment, Sir. The Hon and Learned the Chief Minister told me when he notified me of certain matters connected with fuel that he intended to make a statement in the House at this meeting and that he would review the position at the beginning of the year. On this side we would like the benefit of hearing what he has to say before commenting.

HON CHIEF MINISTER:

Mr Speaker, I said that before I saw the questions and the matters which I proposed to give in a statement. In fact I considered whether I would do that or I would reply to the question which was put down and which I answered regarding the provisions of fuel and so on and I think that answered the point I made to the Leader to the Opposition about the matter. I answered all the supplementaries and if there are any other matters in connection with that that arise in the course of the intervention of members opposite, I shall be happy to deal with it when I speak.

HON J BOSSANO:

Mr Speaker, the bill which is before the House contains extensive powers which we have been told by the Hon and Learned Attorney General the Government is reluctant to ask for but is forced to ask for because of the fuel crisis. Furthermore it doesn't need to ask for those powers we have been told because it already has the powers under the Emergency Powers Order-in-Council. This as a preliminary introduction to a bill that goes to the basis of the democratic right in a community, this introduction would, Mr Speaker, I suggest cause at least some confusion in the minds of members of the House as to why we are being asked to support the Bill at all. The second point, Mr Speaker, that I think requires clarification is that the Hon and Learned Attorney General has told us that this is closely parallel to what has been done in the United Kingdom to deal with the fuel crisis in the United Kingdom, which fuel crisis is composed of several elements as the Hon and Learned Attorney General no doubt is aware. The powers in the United Kingdom on which this legislation apparently is modelled have been taken by the Conservative government of the United Kingdom to deal with a crisis caused by a shortage of oil, an industrial dispute involving the mine workers, an industrial dispute involving railway workers and an industrial dispute involving electricity workers. Now, it is a combination of these four factors which have created the problem in the United Kingdom which has led to the three-day working week and the other measures which have had to be introduced to a reduction of public expenditure and so on. The fuel crisis which affected the United Kingdom and Gibraltar and the EEC have not produced in the EEC measures of the severity of those introduced in the United Kingdom because the other elements, the industrial dispute elements, are absent in the EEC as they are in Gibraltar. If it is the intention of the Government to take powers which will enable them to deal with industrial disputes in Gibraltar in a manner similar to the powers that Mr Heath finds necessary to use to deal with industrial disputes in England then, Mr Speaker, the Government should have the

courage to come under that particular banner to the House and not under the fuel crisis. The other point, Mr Speaker, that must concern us is that in the United Kingdom there has been a proclamation of a state of emergency which has a limited period of time and has to be renewed. Whereas in Gibraltar although under the proposed amendments, the regulations will last 60 days, the Bill will be a permanent feature of the Statute Book and it is the Bill that is modelled on the declaration of a state of emergency. So in Gibraltar we are proposing to have in our Statute Book a permanent state of emergency. And a permanent state of emergency, Mr Speaker, which gives discretion, it gives discretion to the Governor if it appears to the Governor that there may be interference with the normal supplies of water. Now I would ask the Honourable and Learned the Attorney General or the Honourable and Learned the Chief Minister who finds the situation so amusing, what sort of hypothetical situation does he think could occur in the water supply where it might appear to the Governor that there might be interference with the supply. Does he think that people involved in the waterworks might cause interference with the supply. Would the Chief Minister then consider, Mr Speaker, ensuring that these fears that I am raising are completely allayed by drafting the Bill in such a way that industrial disputes in Gibraltar which give rise to disruption with the normal supply and distribution of food, fuel, water and light will not give rise to the use of the powers in this Bill. Since it is only the fuel that can cause a disruption or interference in the supply will the Chief Minister make sure that when the Governor decides that there may be a disruption he is limited in what he can consider to be a disruption by defining in the law that a disruption for the purposes of this Bill is a disruption caused by events outside Gibraltar and not by industrial action of people involved in work in the distribution and supply of any of these commodities in Gibraltar. And the importance, Mr Speaker, of this distinction is although none of us like any of these basic essential commodities to be interfered with because we all depend on them, none of us like it, nevertheless we cannot put the workers who are involved in the provision of these essentials at a disadvantage in respect of other workers. If other workers are given in our Constitution the right to join a Union and to take whatever action they think necessary to defend their interest, then we must give the same right to people who are involved in the distribution in the supply of food, water, fuel and light. It would be wrong to put people in those areas which are so important; people who are doing a very valuable piece of work for the community, to put them at a disadvantage vis-a-vis other workers. If this Bill is intended to deal exclusively with the international fuel situation then, Mr Speaker, I would suggest that the fears that I have expressed would be unjustified and to put my mind at rest and the minds of other people like myself who are concerned about this possibility, two things could be done either a more strict definition removing the wide discretion of interpretation there is in the present Bill or else a limitation giving this Bill not regulations but the Bill itself a limited life of say six months or nine months and if towards the end of that period the fuel crisis still continues, there is nothing to stop the law being extended as has been done for example with the Trade Licensing Ordinance.

MR SPEAKER:

Does the mover wish to reply? Is there any other contributor?

HON CHIEF MINISTER:

I thought perhaps I might hear another member opposite before I speak.

MR SPEAKER:

I am afraid the Hon the Chief Minister has had his say.

HON CHIEF MINISTER:

No, I am sorry. This was an explanation made at the beginning to the Leader of the Opposition and I was not speaking in support of the Bill. In fact my short intervention was by way of an explanation.

MR SPEAKER:

No, no, the Hon the Chief Minister has intervened in this debate.

HON CHIEF MINISTER:

No, Mr Speaker, it was the Attorney General who proposed it and the Honourable Mr Bossano has spoken.

MR SPEAKER:

I beg your pardon.

HON CHIEF MINISTER:

I don't mind but then if things are left unsaid let it not be that I have not wanted to answer any particular point that may have been raised. This is a matter of wide importance in which I have to answer generally on any of the particulars. But I am not asking the Hon the Leader of the Opposition to speak at all although it would be preferable if I could hear him first.

HON M XIBERRAS:

Sir, the comment which I made was that we expected a statement to be made. I expected the Chief Minister to make a statement as he had intimated to me that he would some time back and I am sure the Chief Minister has not intervened in this debate and we look forward to hear what he has to say.

HON CHIEF MINISTER:

Perhaps if I want to say something else the Honourable member will be benevolent enough to give way when he intervenes if there is any particular point in which I would like to intervene. Now, in the first place Mr Speaker, there are two or three points I want to make clear. The Honourable mover has not

perhaps covered what I consider to be the political side of the options we had in order to have the necessary powers to carry out whatever rationing may be required as a result of the fuel crisis. If only we wanted to ration petrol we would require a proclamation under the Emergency Powers Ordinance and from then on regulations could be made on anything. And I would like to say here that the regulations under the Emergency Powers Order-in-Council unlike the regulations made in England under the Emergency Powers Act have no limit to their validity so long as the proclamation exists. In England it has a period and then the Emergency State must be renewed by a resolution. Here regulations made under the Emergency Powers Order-in-Council are not limited in time so long as the emergency continues. So in that respect the amendment which is being brought by the Hon and Learned Attorney General does go one better in so far as the duration of an emergency may arise. The other point is that a state of emergency - I think this was reflected clearly in the national press when the matter had not escalated to the extent that it has escalated now - that you declare a state of emergency and everything carries on more or less the same, except that there may be regulations here and there and that in the state of the international position of Gibraltar having regard to the interpretation given by other countries to a state of emergency which is something similar to military law or what have you, would give a completely wrong impression to what was being done in Gibraltar in respect of any rationing that may be required as a result of the fuel crisis. Another point is that when I initially informed the Hon the Leader of the Opposition of the voluntary request that was being made for people to limit their consumption of electricity and so on, he asked me whether if we were going to declare a state of emergency or proclamation of emergency for the purpose of rationing, I would have a meeting of the House before doing so or have a meeting for it to be discussed. I have a perfect recollection that he said if there is going to be any state of emergency or any proclamation I hope we will have a meeting and my reply was ...

HON XIBERRAS:

If the Hon Member will give way, the word I used was "legislation" not "state of emergency".

HON CHIEF MINISTER:

I am perfectly clear in my own mind that I preferred to the need then of a Proclamation. You say "any measures" fair enough, let us put them in a neutral way so that we perhaps were talking about different things thinking of the same. One thing is quite clear that what I had in mind and what is in the mind of both of us when we were talking is that this could be done without a meeting of the House of Assembly and what he requested was that there should be a meeting of the House of Assembly to consider the matter. So that was of course in my mind - I am glad he agrees - that it was not necessary, not necessary, for the purpose of acquiring these powers to have a meeting but a meeting was being requested in order to discuss them. And what I said was in any case - at that stage we had not decided how the matter was going to be dealt with - at that

stage I said "In any case, as I do not expect that there will be any rationing before the end of the year and we have to have a meeting in December that will be discussed then". And that is precisely what we are doing now. Now, given the fact that there are powers under the Emergency Powers Order-in-Council, given the fact that there may be need for rationing - and I hope that the appeal that I make has results - I do not think the situation is as rosy as it is explained in the "Chronicle" this morning about the fact that sales of petrol have gone down considerably. I wish it were true. Anyhow, be that as it may I did say that we would consider the matter at the end of the year and until the end of the year figures are available, it will not be possible to gauge the situation, and in any case earlier on in these proceedings, I did say that despite the situation we were alright for a little time, unless of course the matter deteriorates much more. So I have said that I have complied so far with the undertaking I gave that this matter would be discussed thoroughly. I do not question the concern and the sincerity of the Hon Mr Bossano in this matter because it is a natural one to have in any circumstances and if I were in his position, I would ask the same questions and raise the same matters. I feel and I have always felt perhaps because of my calling that governing by decree is the worst situation that one can come to in a democracy. I share his feelings on these matters and I regret the reasons that this has happened. I would like to say that it is not - and I would like to stress it very strongly - it is not the intention or the idea of having this Bill in order to be able to deal with industrial action and perhaps when we come to the Committee Stage, we might consider some kind of safeguards about the life of the Bill or something like that to indicate the sincerity of what I am stating. A delegation of The Transport and General Workers Union, who have looked at the bill and were concerned about it, called on me yesterday to express the kind of concern that has been expressed by the Hon Mr Bossano in the course of his intervention in this matter, and at the end of the meeting they requested a minute of the meeting. I have not provided them with it because I was only supplied at midday with a draft prepared by the Administrative Secretary who was present, as was present the Attorney General. So, subject to anything that may be raised by those who receive the minutes who were at the meeting - and not giving this as a categorical agreed minutes of the meeting - I would like to reiterate here what I said to the members of the delegation who visited me yesterday, as I say insofar as what they said subject to their correction because, we have not had time to send it to them for their approval, insofar as what I said, whether I said it here or I didn't and it is said here that I said it I will say it here so it doesn't matter. "He said that the Union was very concerned about the provisions of the Supplies (Protection of the Community) Bill which had been published recently; The Chief Minister said that it might be helpful, if before discussing the matter further, he were to explain the background to and the objects of the Bill. The first point he wished to make clear was that the Government would not be acquiring any powers under the proposed ordinance which it did not already possess except that under the Emergency Powers Order-in-Council, it was necessary to declare

a state of emergency before the powers could be exercised. While in democratic countries the declaration of a state of emergency simply meant that regulations could be made and laid before Parliament, in other countries such a declaration often involved the imposition of martial law or wide powers in respect of public security. The Government was anxious to avoid any such implication particularly because of the way it could be interpreted abroad. It was for this reason that it had been thought preferable to introduce a bill which would be fully discussed in the legislature and which would provide the powers which could at present be exercised under the Order-in-Council. The Chief Minister went on to say that the Government intended to propose an amendment to the Bill during Committee Stage in order to make it even less objectionable than it already was. This amendment would provide that no notice issued by the Governor for the purpose of making regulations would be in force for more than 60 days. This followed the pattern of the Emergency Powers Act in the United Kingdom under which no regulation made under the Act had a limited validity. There was no such limitation in the validity of regulations made in pursuance of the declaration of the state of emergency under the Order-in-Council. The effect of the amendment would be to introduce such a limitation and to enable the House of Assembly to discuss any renewal of the notice by the Governor which might become necessary. The Chief Minister said that both as a lawyer and as a citizen he was very conscious of the need not to legislate by decree. This was one of the reasons why he had felt it preferable to appeal for voluntary restraint in the consumption of fuel generally. The position at present was that there was no need for any compulsory measures to reduce the consumption of electricity and similarly there was no immediate urgency for controlling petrol. The matter would be reviewed at the end of the year. Mr Rocca said that the Union accepted that the need for rationing could arise. What disturbed them about the bill was the reference to disruption or interference with the normal supply..."

HON M XIBERRAS:

If the Hon Member will give way. We are delighted to hear the minutes of the meeting of the Chief Minister and the Transport and General Workers Union, but I do feel if the Hon Member were to address the House directly and inform them of his views and his assessment of the matter to Hon Members it would be much better.

HON CHIEF MINISTER:

I will decide how I address the House and I will use the minutes to the extent that I consider it convenient and taking into account the suggestions of the Leader of the Opposition which I will not follow.

HON M XIBERRAS:

Perhaps the Hon Member might also supply copies of the minutes from which he is quoting.

HON CHIEF MINISTER:

No, I have not got them because I have not supplied them to the others. I will come back after I read the minutes but unfortunately this time it will be members opposite who will have to bear the brunt of a long speech. But it has been made necessary by the remarks that have been made before. Anyhow, proceeding as I was, I said that one of the members accepted that the need for rationing could arise and what disturbed him in the Bill was the reference to disruption or interference with the normal supply of distribution of food. You see, Mr Speaker, it is not only convenient but absolutely necessary that I should read this for the simple reason that the main onslaught on the Bill made by the Hon Mr Bossano, which I respect, was precisely this question of the use of the law in industrial action and it is therefore of the utmost relevancy that the assurances that I have given the Union should be made known to the House and repeated here separately but this happened before the onslaught came from the other side and I want to show that our thinking is consistent. Anyhow I will continue quoting: "The unions feared that the powers under the Bill might be used in strike situations e.g. a strike by transport workers. The Chief Minister said that he could give a solemn assurance that there was no intention to use these powers to counter industrial action. If industrial action were ever to reach the proportions of an emergency then the action to be taken would have to be considered by the Government in the light of the situation prevailing at the time irrespective of the powers contained in the Bill. It was in any event relevant to bear in mind, as he has said, that the powers sought under the Bill were already available under the Order-in-Council. Mr Sacramento said that workers had a right to strike and the Union was worried that the powers sought under the bill might be used to impair or frustrate that right. Mr Rocca said that he accepted that it was not the Government's intention to use the powers in order to curb industrial action but the powers would be there and another administration in the future might attempt to use them in this way." - I don't know what he had in mind, - "He asked whether the bill would empower the Governor to declare a strike illegal. The Chief Minister said that this would not be done as it would be constitutionally repugnant. He invited the Attorney General to comment. The Attorney General confirmed that no strike would be declared illegal by regulations made under the Bill. The Chief Minister went on to say that whether a situation of emergency arose from the fuel shortage or from industrial action, the Government of the day obviously had a duty to take steps in order e.g., to ensure the distribution of essential supplies of foodstuffs to the extent necessary in the public interest. He pointed out that there was a real distinction between the right to strike and the taking of steps to reduce real hardship suffered by the public as a result of industrial action. The Attorney General pointed out that although there was a state of emergency in Britain, the Government had not exercised any emergency powers in connection with the present railways and miners' dispute. Mr Rocca said that it was accepted that certain essential supplies for certain categories might be distributed in an emergency but not generally to the extent of nullifying the effects of a strike. The Chief Minister said that any Government would have to take a sensible attitude in such situation. To sum up what he said

he could give a general assurance that it was in no way intended to thwart, curtail, or in any way interfere with the right of workers to strike. As he had said the Government already had all the powers which were contained in the Bill but it was considered politically imprudent because e.g., such a situation might be represented in the United Nations to declare the state of emergency. The bill would have the effect of removing any such stigma and the amendments proposed would have the effect of limiting the duration and the validity of any regulations made under the Bill." The thinking which was explained there is exactly the thinking that we have now. There is no doubt - let us put it this way at the very lowest - there is no doubt that we need powers to control certain supplies arising out of the fuel shortage. Several remarks have been made in the course of the day's proceedings from the other side much more pessimistic than have come from this side about what is going to happen in many respects. In respect of cost of living and other matters in which urgent steps will have to be taken if we are to remedy the situation. We hope that the matter does not reach a very serious stage but I accept that it is changing daily, that situations are altering in various parts of the world and whereas one could hope for a betterment and a relaxation of the difficulties, one could also not unreasonably expect the situation to deteriorate. The regulations will be made and will be laid before the House at a meeting. Members opposite will have the opportunity when these regulations are made and laid to discuss them in the course of the debate. Insofar as the duration of the ordinance is concerned so long as we have a general understanding that should the situation arise it would continue, we might consider between now and the Committee Stage on some safeguards to be able to do that. We have - and I would like to say that it was done generally and readily accepted but at my instance - put in the amendment limiting the notice in order that the notice which is made by the Governor-in-Council, whereas the proclamation is made by the Governor alone though he would probably take advice constitutionally, the notice making this necessary requires the Governor to take advice in Council. So that I can well understand and any parliament that would not look with suspicion at any measure of legislation which the executive wants to ascribe to itself powers to do by regulation which would normally do by legislation, is very natural that it should be looked at with suspicion and I think it is the function not only of the Opposition, but the function of those who are taking over the power to explain them in a certain amount of detail. We have no ulterior motives in this matter. This is not a political bill in the local sense. I can give that assurance and I can demonstrate that in the actual practice by later on perhaps bringing in by agreement, if necessary, an amendment in which perhaps the legislation would come to an end at the end of a reasonable period of a year unless it is renewed by a resolution of the House of Assembly or something like that. That is really the way. We have thought that it is better to do it in this way for the reasons explained by both the Attorney General and by myself. We may not convince members opposite but I am sure that the public at large will understand the reasons. In England one would have expected regrets about rationing whereas in fact the Government is being urged all round to introduce rationing which it has not done yet. And in those circumstances the Government comes with clean hands to this House and with a definite and clear intention of safeguarding the community from evils which are not of our making.

HON M XIBERRAS:

Sir, in inviting the Hon and Learned the Chief Minister to address the House after the Bill was moved by the Hon and Learned the Attorney General, I was expecting him to acquaint us in this House generally with the situation that we are facing. The Hon and Learned the Chief Minister did give me some facts orally, I should say, some facts and figures about the reserves and so on which I did not take down and which he rattled off at great speed and I expected him at some stage to address the people of Gibraltar and tell them more or less what the situation was, and was likely to be, immediately a month or two from now and longer term. A parallel has been drawn with the situation in the United Kingdom and there the Government is being very severely criticised because it is not putting all the facts before the people. And I did not catch in the Chief Minister's intervention one phrase about what the situation is even now. Or perhaps only a phrase which was something like "that may be as it may be". But we don't know what effect his appeal for voluntary savings has been. We do not know what the situation is as regards our share of fuel from international sources. The Hon and Learned the Attorney General has said that there would be limitations and reductions. "Reduced considerably" was the phrase used. We in this House do not know what that means, and the people of Gibraltar don't know what that means. We have not had assurances of any sort that this House can rightly expect. For instance, Sir, that the limitations will be to a minimum; that there would be equitable applications of any measures that need to be taken; that there would be recognition of the special circumstances of Gibraltar. And there has been debate about this in the press that Gibraltar's own position not using all that much fuel compared to highly industrialised communities.....

MR SPEAKER:

We are speaking on the general principles of the Bill before the House, whether emergency powers should be introduced or not, not whether there is a crisis or not or whether we are going to get a share of the fuel.

HON M XIBERRAS:

Thank you for your guidance, Sir, but powers of the kind which this Bill purports to give to the Government must be justified and should be justified against the background of a crisis and for no other reason. But if the Government comes to this House and does not give either the necessary assurances or even explains what the situation is or may be, then how could this side of the House possibly just on the strength of that alone support such a measure. Sir, has there been any hoarding of fuel? What about the Dockyard and the big industries in Gibraltar such as we have? Are they going to be affected? Have they been affected? What about jobs? What about overtime? What about prices? All these things, Sir, the Government view, the Chief Minister's view on these things are necessary. Because not even his voluntary restrictions, voluntary savings, are going to have any effect if people are not informed of what the situation is or is likely to be and I am not making impossible demands or unreasonable demands on the Chief Minister because this as he very well knows has been what the Opposition has had to say in the United Kingdom. And the United Kingdom Government has had very much more to say than the Hon and Learned the Chief Minister.

And here is an opportunity to acquaint Gibraltar with the situation and he remains in his seat. I tried to get him out of it to try to get him to explain what the situation was but one appearance on television in which he tells the people of Gibraltar not to use their cars at weekends and makes a number of suggestions the need for which is not at all demonstrated to people, is surely not enough. Therefore, Sir, this bill if even for that reason alone cannot be supported by the Opposition. It is the stiffest medicine that this House has been asked to swallow. It is the greatest limitation of power since all Members of this House were ministers. This side can certainly not support such a measure until we have, as I say, the background to it and the need for it. We are not children and we do not want pious phrases of how dreadful it would have been if this had been done by proclamation as in the United Kingdom. The Bill is essentially the same as the proclamation. Of course I am grateful that the matter has been brought to the House, but it in no way alters the substance of this bill. And I think to go into great lengths to show how nasty the situation could have been had the Chief Minister not had the kind thought of bringing it to the House to my mind is quite irrelevant. It is the merits of this particular bits of legislation that had to be explained and had to be argued. And the Chief Minister has said nothing to convince this side of it. The Hon and Learned the Attorney General has said more than he has. At least he used the phrase "reduced considerably" and "there might be rationing". Are those phrases which would support the weight of the bill? What does the Bill actually say? It is a very short Bill. Clause 3 says "When a notice under Section 2 has been given so long as such notice remains in force the Governor-in-Council may make regulations for securing the essentials of life to the community and such regulations may provide for securing and regulating the supply and distribution of food, water, fuel, light and other necessities and any other purposes essential for the safety and life of the community and for any matter as may appear to the Governor-in-Council to be necessarily incidental thereto." This is a state of emergency, Sir. It is a state of emergency whether it is done by proclamation or it is done by legislation. And a state of emergency, why? What arguments has the Chief Minister given this House to come forward with a state of emergency? Surely, he does not hold us in such low regard that he can bring this legislation to this House and not even explain the need for it, simply say; "look across the way in England there is trouble or there is trouble in Japan." People want to know what is happening here and they want to know from the Chief Minister. But a lead has not been given in this. A lead has not been given and information has not been given. No wonder that the voluntary saving has not gone as far as I can judge particularly well and the Chief Minister might at least have come to the House or to the people of Gibraltar and said; "look we are not going so well or we need to do it a bit better because the situation is this or that". But given us actual figures of consumption which are easily available. And he must have figures; Sir, my Honourable Friend, Mr Bossano has explained the difference between the two situations Gibraltar and Britain. There are also similarities. On the strength of what the Chief Minister might say this side of the House would have supported a good number of measures unpopular as they may have been. We were willing to go for specific measures if a need had been shown for them. But in a very highhanded manner and with no explanation at all we are presented with this Bill which practically means that the House of Assembly can go home until the next regulation is laid. We are not prepared to give the Government a blank cheque. We are prepared to support any reasonable measure which is shown to be necessary but this is a blank cheque for the Government of the day. The Honourable and Learned the Chief Minister and the Honourable and Learned the Attorney General know that it is very stiff legislation.

They have both said so. So why they have not explained what the situation is is a mystery. How could they possibly expect us to vote for the principles of this Bill. Do we use our intuition? Do we use our general judgement? Sir, the Honourable Mr Bossano said that there was trouble, labour trouble, in the United Kingdom. The Honourable Mr Bossano, may I say, discussed the matter with the Union before the Union people went to see the Honourable and Learned the Chief Minister and I am glad to say that the result of all this has been that an important amendment has been introduced.

HON CHIEF MINISTER:

If the Honourable member will give way. It is not as a result of that because I informed the meeting yesterday before they had even asked for it. I told them at the meeting that I was introducing this Notice was given long before even the interview was asked for. So matters must be put in their proper perspective.

HON M XIBERRAS:

Very well Sir. May I say that I was at least surprised to see so severe Bill with no time limit on it. And that, I think, is quite undeniable. As printed the Bill does not contain a time limit. But there has been an amendment, a Government amendment, which we would have suggested to Government may I say but, whichever way it has been done, at least it has been done. But the situation here in Gibraltar is not comparable to that in the United Kingdom. We do not have industrial trouble - at least I haven't heard the Chief Minister say so - of the kind that they have in Britain and therefore the Chief Minister's good intentions about the Bill in the Committee Stage, the possibility of introducing amendments, we take very much to heart. But when dealing with powers of this nature, we would like to see at this stage amendments already circulated as has been done with the amendment putting a time limit on the Bill. It may be that it would require another meeting with the Transport and General Workers Union to get amendments through. But surely it must be known to the Chief Minister, that such type of blanket legislation would be a subject of criticism in this House. He himself said that any Parliament would look at it with suspicion and this particular suspicion is well founded when one reads the text. I listened carefully to what he had to say about the Transport and General Workers Union. I think that it would be most unwise of the Chief Minister to have had those thoughts in his mind. I am glad to hear him say that he has never had those thoughts in his mind. But surely he must have been aware from the parallel in the United Kingdom that this would have been one of the things that the Opposition would have picked on as making the Bill not worthy of support. Sir, the Opposition issued a communique to try and elicit some sort of statement from the Government in which we put several points. This was on the 13th of December. We spoke about having a fair share of fuel from international sources. We asked that Her Majesty's Government good offices should be sought in this connection. I may add here, if necessary but we do not know what the situation is there. The second point in the communique was bearing in mind the special circumstances in which we are living, the curtailment of sporting activities in the evenings is of special importance. Here we are alluding to the general situation of Gibraltar.

Here, too, we expected a lead from the Government whereby the position of Gibraltar as a whole would be clearly expressed. In other words we are we going to do as much as Britain has done to save fuel? Is it necessary for us to do it? Is it desirable for us to do it? Do we have to take every step that is done in Britain? Sir, we spoke about the low stocks of butane. We also said there should be fair and equitable application of any measures that the Government deems it necessary to take. Not a word from the Government on this. We asked what are the medium term effects likely to be. We spoke about prices.

MR SPEAKER:

We are departing from the point at issue. We are not deciding what reply the Government has given to the communique from the Opposition. We are talking about the legislation now before the House.

HON M XIBERRAS:

Sir, what I am trying to say is that if we had received answers to those questions and those answers led us to believe that these powers which are being sought today were necessary, then we would have had no hesitation in voting for the Bill. But we cannot because we haven't got the information and a lead has not been given on these things. Therefore, Sir, we are not going to follow the practice of the past. We are not going to put amendments to the Government which are going to be thrown out one after another. We are recording our strong views about this. And to emphasise how serious our disapproval is for this Bill in the present circumstances and with no information available to us or to the people of Gibraltar, we intend to vote against the measure in the second reading. I hope that even at this late stage the Chief Minister is able to make a statement to the people of Gibraltar which says what the situation is. He will receive the full support of the Opposition in anything which is explained. What we cannot give him is a blank cheque. We would give no Government a blank cheque. We would not expect a blank cheque to be given to us. May I just for a moment, Sir, draw a parallel with the withdrawal of Spanish Labour which was a large crisis which faced the previous administration. May I say that emergency powers were not then seized by the Government of that day and in fact restrictive legislation such as that which prevented people from changing jobs was allowed to lapse as early as possible. We want to know and the people of Gibraltar have a right to know what the general approach of the Government is going to be to the problem that will face them. We have the right to know what the judgement of the Chief Minister is of the situation. And we should be told. But not to know what the disease is likely to be and to be given very, very strong medicine, an amputation of the powers of the House of Assembly without being told why, it is surely more than any opposition can stomach.

HON A P MONTEGRIFFO:

Mr Speaker, listening to the Hon Leader of the Opposition talking about the fuel crisis I thought he was in ~~office~~ in another planet. I would have thought that everybody is fully aware that the whole world is involved in this fuel crisis and that though at the present moment many countries have stock including Gibraltar to last a number of weeks,

nevertheless the regular supply of such fuel as we need may be cut at a moment's notice. We were accused a few days ago by the Opposition that we were caught with our pants down with regard to butane. And perhaps we were. But this shows the reality of the situation. That at any given moment the regular supply that is flowing into Gibraltar may be cut off or there may be a cut back and consequently unless we have got the powers to enable us to do a fair distribution which is precisely what the Hon Leader of the Opposition has been saying we should have, we must have the powers in order to ensure that essential commodities are fairly distributed. Of course arising out of any shortage of fuel, food, water, and light is involved. I think a lot of emphasis is placed on food and water in order to give it a flavour to the whole approach to the Bill that what we are trying to do is to have powers to ensure that the fuel crisis affects to the minimum the people of Gibraltar. The accusation is being levied that we are trying to use this in order to put down strikes or to prevent industrial action or to interfere with industrial action. Of course food can be affected. If there is a shortage of fuel and we must ration fuel we must ration it in a way that we make sure that the transport is working efficiently so that the food gets around the town to be distributed properly. But there is no sinister motive as has been said by the Chief Minister. But furthermore, Sir, I think it is pertinent to point out that a communique was issued by the Services, arising out of the appeal by the Chief Minister, and they notified the public how they are going to cut on fuel. It is well known that Government issued instructions to their own undertakings to cut on fuel as much as possible and on heating where this is possible and necessary. Given the Christmas lighting of other years which started on the 8th is only going to be on for four or five days. I think people are fully aware and conscious we have a fuel crisis in our hands. We haven't yet had the full impact of the crisis on our hands because we have stocks available. Of course we have. And as the Chief Minister has very clearly stated we cannot have a proper and clear picture of the whole situation until the end of December, but I think it is wise, as wise as the urging by the other side that we should have legislation about other things arising out of the fuel crisis. If they themselves admit that the fuel crisis might bring about other repercussions, why close their eyes and play the ostrich game and take the position that we have got no fuel crisis in Gibraltar because no figures are available. We have got a fuel crisis in Gibraltar and within the Common Market many countries have already started restrictions on Sunday motoring, not on a voluntary appeal. And the fact remains and let it be said that after the appeal on that very Sunday, after the Chief Minister appealed more petrol was sold that week than ever before. It may well be that we may not need to implement the powers that we are asking for but I think it is only wise and it is only proper that we should have these powers with the safe-guards and with the very valid point raised by the Opposition that in order not to give the interpretation to the general public that this Bill is meant other than for the fuel crisis and not anything to do with strikes, that we should put a limit of 60 days or a year or whatever may be agreed. But I think it is only wise and proper and having a little bit of foresight in asking for these powers in order to see that if the crisis comes and the impact is felt the people of Gibraltar should have an equitable and fair share of what is available.

HON MAJOR R J PELIZA:

Sir, I am very sorry that the Honourable Member accused the Leader of the Opposition of being in orbit in another planet. In fact the way I see it that he is very much in Gibraltar where he wants to know the facts of the crisis rather than in England or any other territory in the world. We are discussing in this House the situation in Gibraltar not the world fuel crisis over which we have no control. We are discussing the crisis as it affects us and it is in this connection that we, of course, are very concerned. It is not fair to suggest that the Opposition is objecting to any kind of precautions to ensure that the crisis is minimised as far as it is possible. That is not the case. What the Opposition is objecting to, and I think very rightly too, is the introduction of legislation which clearly when read gave no indication that this piece of repugnant legislation was being introduced for an emergency but to become part of the Statute Book of Gibraltar. This is the main objection and this is the reason why, obviously, the Transport and General Workers Union were very alarmed to see that here was a piece of legislation when no crisis as such in detail had been announced by the Chief Minister giving an explanation for the need to it, and which virtually did away with Trade Union rights in Gibraltar, and indeed all civil rights in Gibraltar, practically. I think in fact that the very fact that the Opposition has brought the matter to this House and objected to it in the way that we are doing that we now find the Chief Minister suggesting that it should have a time limit. What we are objecting to is to the Ordinance having unlimited time. And I understood from the Chief Minister that he was prepared to consider a time limit to the Ordinance, unless I heard wrongly and if so perhaps the Chief Minister could change his mind and clear the point, because that is what I understood. But the fact obviously that this very powerful bit of legislation, very autocratic form of legislation, should have been introduced here by the Chief Minister without taking into account the question of the time limit before, is obviously, reason enough why 'this side' of the House will vote against the Bill for as long as it is in the form that it is now. And of course we cannot accept in these circumstances even a suggestion that perhaps at the Committee Stage, an amendment will be introduced to limit the duration of the Ordinance. So I think it would be unfair to suggest that the Opposition in voting against this Bill is acting irresponsibly particularly when the executive have power by proclamation to declare a state of emergency if that arose. It has been in our book for a long time and if this is objectionable then it is the duty of this House to do away with that instrument. It is the duty of this House to go against that instrument but not to produce a duplication of legislation, which in many ways is even more autocratic than the one that the Chief Minister objects to use in the circumstances. I cannot see how you can remedy something by producing something which in our view is even worse. I think that as the legislation stands today, not only in time limit but in its wide ranging powers, undertakings given by any individual no matter how many times it is repeated, no matter where this may be recorded, unless the limitations are inscribed in the Bill itself, it has little or no significance and naturally the people concerned cannot be satisfied. However, I think we are all agreed and no one is disputing that it is possible that the crisis which is now world wide may in time approach us and affect us very directly and it is fair that there should be some form of preparedness to meet the situation if it arises,

and I hope it does not but if it does arise that we are prepared to meet it. The crisis may be close. The crisis has not been explained as being with us today therefore under the present circumstances and looking at the Bill as it is today, I certainly cannot be a party to it.

HON. M. K. FEATHERSTONE:

Sir, as the last Speaker has rightly said, emergency powers could have been invoked at any time. Had that been the method that the Government had decided upon the Opposition would be decrying it as dictatorial, demanding a meeting of the House etc. The Government, perhaps too good, was willing to give the opportunity to bring it to the House first and again they are decried. Now, Sir, the Honourable Leader of the Opposition when I made a remark to him of Integration said it was the first sensible thing that I had said, for which I am very grateful. He, Sir, however, speaks more than the rest of the House put together and he has not said anything sensible at all. He says "If there were facts to show that we needed this, then we would support it". I believe, Sir, he has been a student. I wonder if he has ever read the fables of Aesop I think there is one of the grasshopper and the ant. He might read it. You only have to pick up any piece of informative material today, newspapers, magazines, etc, and read what is the impending situation throughout the world and you can see that it is more than likely that Gibraltar is going to suffer severe restrictions through no fault of our own and something that we are not going to be able on our own to solve. Perhaps, Sir, the Honourable Mohammed ben Xiberras might be able to do a deal with the Arabs, I do not know. He may get all the oil required. But there are a few pointers, Sir, that surely we must take note of. It is accepted that part of the situation in Britain is because of industrial dispute. But even if that were solved tomorrow they would still be facing a critical fuel situation. They could still be facing a critical balance of payments situation and anything that happens to British balance of payments, any weakening of sterling affects Gibraltar. There are possibilities of certain food items becoming difficult to obtain. I understand already world markets for sugar are becoming difficult. One reads that ships are unable to sail because they do not have the oil fuel. When one knows all these things surely in a place like Gibraltar where we are liable to suffer a single restriction which can cripple us because one tanker of fuel not coming to Gibraltar can put us back three months. Therefore, Sir, knowing that these possibilities lie ahead simply to say because we have no facts today that there is a crisis we need not prepare, let us wait, let us hope like the grasshopper that the winter will never come, is to me one of the most foolish things to state not only publicly but more so in a responsible place like this House. And this, Sir, is what the Honourable Leader of the Opposition has put to us. Because there are no specific facts today that we are not going to suffer any shortage of fuel or any great shortage; because today you can see people ignoring the appeal of the Chief Minister and still driving round far more than is necessary, then we must continue to live in this fool's paradise; we must make no preparations and then when the bad day comes of course everybody will be extremely sorry and the Honourable Leader of the Opposition will turn round and say: "Why didn't the Government

foresee this? Why didn't they prepare?" Once again, of course, the Government is to blame for everything. Sir, let us at least follow the ant. Let us at least be ready for an emergency which I sincerely hope may not come but which it is quite on the cards will come and may hit us with devastating force. We have already seen that the butane situation could have become critical not in two months or three months' time, almost overnight. This could happen with many other things and surely to be prepared is far from a thing to be decried. It should be praised. I urge the Opposition once again to reconsider their opposition to this Bill which is basically to be prepared and I hope that the words that I may have uttered like a Cassandra to some extent will not ring true that we will not have a severe emergency, but should we have such an emergency this Bill will have been vital towards meeting the difficulties we would have to face.

HON W M ISOLA:

Mr Speaker, the Honourable Minister for Education has just stated that we are a responsible House and it is because we are a responsible Opposition that we are opposing this Bill. Listening to the Minister for Education a few moments ago he talks about the very severe crisis; that we could be crippled; about the severe restrictions; about the critical fuel situation. Listening to him, Mr Speaker, not only would we support this Bill which has come before the House but even more restrictions to help Gibraltar. Mr Speaker, we are in Gibraltar, I think, a very responsible community which always rises to the occasion when the time comes. What have we at present in Gibraltar? We have a fuel crisis not a severe fuel crisis, not an emergency. I mean, we still allow the Victoria Stadium to be floodlit on special occasions as the Minister for Sport said. We are allowing the lights at Christmas to go on for 48 hours. Does this mean that we have a severe crisis or severe emergency? Now, Mr Speaker, in the explanatory note the Honourable and Learned Attorney-General said that this Bill is based on a similar measure as that passed in the United Kingdom. But, Mr Speaker, let us not forget that in the United Kingdom not only do they have a fuel crisis, they have an industrial crisis; they have a miners crisis: they have a railway crisis. Those, together, make a Bill or an Act to be passed in Parliament giving certain powers which would have not otherwise have been given to the administration. But come back to little Gibraltar and all we have been told is that because this measure is being passed in the United Kingdom it should therefore be passed in Gibraltar. Let us examine the words used in this Ordinance. "If at any time it appears to the Governor-in-Council there may be disruption or interference with the normal distribution of food, water, fuel or light of such an extent as is likely to deprive the community or any substantial portion of the community of the essentials of life, the Governor-in-Council may, by notice in the Gazette, declare that such regulations may be made under the provisions of section 3." These are enormous wide powers which this House is being asked to give to the Governor-in-Council when at this particular moment of time in Gibraltar there is just a fuel crisis as there is in other parts of the world and which may not last as long as people think. Now, let us assume, Mr Speaker,

that such a crisis were to appear. Surely we would know beforehand that there would be a crisis of food or of water and because we are a responsible Opposition we would not object to give powers to the Governor-in-Council which would be deserving at that particular time. But to give such enormous powers or be asked to give such enormous powers

at this moment of time and especially being asked of Gibraltar which has always risen to an occasion which I find that the people in Gibraltar are very understanding and rise to the occasion, to deny us or take away in one brief moment by this Ordinance such terrific powers I think it is not on and furthermore, Mr Speaker, apart from the Minister for Medical and Health Services who has said that perhaps this Ordinance should have a time limit no one else in the Government benches has said that this should have a definite date in which it would die. Now, Mr Speaker, this situation might be somewhat different if they were to say to us that this Bill would cease to be operative in 40 days' time or 50 days' time. Then, surely, if the crisis exists in 40 or 50 days' time when we have the next meeting it could be prolonged. But not only is the Government asking us to vote on a Bill with such sweeping powers which in my humble submission I do not think it is necessary at this particular moment of time, but they are asking us to put this Bill into the Statute Book without any date in which it would lapse. And it is because, to quote the Minister for Education who said that we are a responsible House I say, because we are a responsible Opposition, that we are voting against this Bill.

HON A J CANEPA:

Having heard the last speaker now I know why he actually went to the Virgin Islands. He had a high level "pow-wow" there with the Arab Ministers who have assured him that the thing is not really going to be all that bad and things will soon return to normal. ~~so~~ Our wandering Foreign Secretary there has brought very good news indeed. Sir, ^{an} no democratically elected Government ~~obviously~~ likes to have to take emergency powers and hence the reason why the Chief Minister made the appeal on television to the people to exercise care over consumption of fuel. An appeal, Sir, which whatever the response may have been to it - and this we shall know at the end of this month as the Chief Minister said - ~~an appeal which undoubtedly would have had a much greater impact~~ had the gentlemen of the Opposition associated themselves with it. Instead, Mr Speaker, they came out with the ^{to} communicate which the Leader of the Opposition has referred ^{to} and which really did not help the situation at all. Sir, when answering Question No. 179 the Chief Minister had further additional information in anticipation of supplementary questions which he would have made available to the Opposition had they probed rather more deeply as they very often do on questions which are perhaps not as important as this particular one. He did say, however, in the main answer that like other countries we must accept a cutback in supplies as unavoidable, but so far Gibraltar is receiving at least its fair share of supplies. And I am really surprised Sir, that, if the Opposition were that concerned, ~~why~~ they did not put in further questions, not as direct supplementaries to that one but other questions. They always like to boast how many

about

questions they bring to the House. They could have had plenty of opportunity for other questions instead of some of the inane questions which we had this morning. So, because they did not probe him, ~~undoubtedly~~, Sir, the approach which the Chief Minister adopted when speaking on the general principles of the Bill was purely a general approach and he particularly wanted to answer the points that had been brought concerning industrial action by the Honourable Mr Bossano. I am sure that the Chief Minister never imagined that the Opposition wanted further information, figures on consumption, and what have you, ~~when~~ this morning, when they had the opportunity to do so they did not probe him any further. Sir, the position as we know is a fluid one in respect of fuel supplies, in every sense of the word, ~~Mr Speaker~~. On the one hand we hear ~~that~~ the Arab countries cutting output by 10% and a few days later we hear that there is going to be a further cut of 5% ~~or what have you~~. And yet, Sir, they assure the countries of the European Economic Community, and Britain in particular, that ~~if~~ they ~~may~~ behave as good boys, if they make all the right noises with respect to the Arab/Israel conflict then, of course, everything will be alright and the supplies will be restored. It is a changing situation, Sir. If we find that there has been no response to the appeal which we have made for voluntary restraint, then what was the alternative to be? Do we call a special meeting of the House early in the new year in January purely to pass this measure of legislation, ~~when~~ we have the opportunity here and now to do so and to prepare ourselves against the future. This has been the sensible approach which the Government has adopted. If the Opposition do not wish to associate themselves with this measure of legislation, the Government, Sir, is more than willing to take on the responsibility which it has to protect the Community. We will vote it through and we shall answer to the people for the measure of legislation that we are voting through. We do not need any appeal ~~from~~ them but, let it be said, Sir, that if there has been no response from the public; if the motorist has ~~topped up~~ ^{continued to top up} - we do know that the initial impact was that in anticipation of rationing they were topping up - ~~but~~ if the motorist is foolish, as apparently they are being in the United Kingdom, then certainly it is ~~not any~~ thanks to the Opposition. We do know, ~~however~~, that consumption of electricity is showing signs of a response from the public ~~for~~ ^{It} seems to be ~~kept~~ ^{kept} at an acceptable level. But, as I said before, Sir, the Government is more than willing to discharge its responsibilities to the Community by introducing this measure of legislation. We will vote it through. We will answer to the people but so will the Opposition have to answer.

HON P J ISOLA:

It was very interesting to hear the Minister for Labour address the House. I agree with him. I agree with him completely that my Honourable Friend and Brother obviously could not have met an Arab potentate in the Virgin Islands when he was recently there. Obviously, these gentlemen are visiting European countries and getting Heads of Government to agree with them there, engage in this sort of work especially countries such as Spain. Perhaps the Minister for Labour is speaking from experience here when he tells the fuel situation may get worse. Perhaps he has the ear

of one of these Arab potentates. Mr Speaker, we have still not heard from any Honourable Minister on the other side of the House reasons for the need for this legislation. And we have heard for the Government an unusual number of contributions to this debate. In fact, if I remember rightly, every principal Minister in the Government with the notable exception of the three gentlemen sitting on the right, have made their contribution and have told us the reasons, or rather they have seemed to have examined the world situation and how it is going to affect Gibraltar. Mr Speaker, there is power - as I think one of my Honourable Friends, I think it was the Honourable and Gallant Major Peliza told the House - there is already power to declare a state of emergency if an emergency arises or exists. And, admittedly, if a state of emergency exists or existed then, of course, this particular Ordinance might be a way of doing it but what is the reluctance to rely on a state of emergency? The state of emergency would give the Governor the same powers which he is going to get under this Bill. This Bill is only three clauses. One tells you the name of the Bill; the other one tells you that if the Governor thinks there is going to be disruption - the Governor-in-Council - a notice is published in the Gazette and then they go straight into regulations. What is the difference between that and an emergency? A national emergency is declared and the Governor makes the regulations advised by his advisers in Gibraltar Council. But, as I think it was my Honourable Friend, Mr Bossano, who said when he spoke on this Bill, what this Bill does is that it gives permanence to the right of the Governor-in-Council to do these things once they say there can be disruption, not there is disruption but there can be, he comes into full force and then, Mr Speaker, regretfully, you are without a job and regretfully too, members on this side of the House may have little opportunity to express opinions on the matter. We will be faced with fait accompli regulations laid in this House after they had been made by the Governor-in-Council. And so, before we give those powers to a Government, to any Government, obviously they have got to be justified as my Honourable Friend the Leader of the Opposition said. They have got to be justified to the House. Not because there is a shortage in the United Kingdom which I can assure the Honourable Member of the House is quite clearly being caused not necessarily by the position of the supply of oil but by the other factors that are taking place in the United Kingdom at this moment which are curtailing supplies from alternative sources; which are stopping the movement of supplies from the power stations from different parts of the country. It is these factors in the United Kingdom that have caused the crisis that exists there. At the moment in Gibraltar that sort of situation does not affect us. There is no reason to believe that we are at the edge of shortages because of that sort of situation. And in the United Kingdom the Government has had to take measures and has had to take emergency measures not because of the Arab/Israeli conflict alone, not at all. It is because the railway men are working to rule; supplies are not being moved from one part of the country to the power stations. It is because coal is not being produced - there has been a drop of $2\frac{1}{2}$ million tons of production of coal in about a fortnight. These are the factors that are causing a real crisis in the United Kingdom today. They do not apply

to Gibraltar if they did apply to Gibraltar of course emergency measures would be justified. All the Opposition is saying at this stage is there is no actual state of emergency in Gibraltar so why do you want to give yourselves the powers to deal with it now and give yourselves the very wide powers that you give because it gives the power to the Governor-in-Council not to declare a state of emergency when there actually is one but if they think there may be one, there may be disruption, then they come into play straightaway. I know the Transport and General Workers union have had a meeting with the Honourable and Learned the Chief Minister. It was very interesting to hear this long minute - not an agreed minute - to hear it before they have done. But still it was very interesting for the House to hear this and to hear what weight the Honourable Chief Minister gives to this sort of representations. But, Mr Speaker, what we are here concerned with is not with assurances that the Honourable the Chief Minister may give today. These are assurances that are given in a certain situation like for example when you say we will not talk with Spain, they are given in a certain situation and then some time later we say we will talk in Spain but with our reservations. This is what I mean that once it is down in the law that is the position. And assurances that are given, although obviously they count and of course obviously one expects the person who gives them to stand by them, Governments change, Governors change; but the law is there. And therefore I do not think the Government can object if the Opposition say we will not have the law there as far as we are concerned. As far as the Minister for Labour is concerned, he says he will take the responsibility. Of course he will take the responsibility. They are the Government, they are the Ministers. They have no choice. But do not let them think that we are going to come running along and say: "The Government is right, you know, because of the Arab-Israel war and the fuel situation and we had better say amen as well and get on the bandwagon." We will not agree to a piece of legislation which the Government has made no attempt to justify in this House, but has only sought to justify by references to events outside, not by any analysis of those events in any shape or form but just by reference that there has been banning of Sunday motoring here and in Holland - of course they are not getting any at all - and banning somewhere else and in the United Kingdom, no lighting in the shop windows and so forth. But different situations exist in all these countries and all these countries have taken measures to deal with those situations. In Gibraltar, mercifully and luckily, from the assurances that have been given or the statements that have been made during the inane questioning this morning, we have been told the situation in Gibraltar is reasonably under control and that there is no immediate cause for alarm. Well, Mr Speaker, there is no immediate cause for alarm, if the situation is under control, why does the Government seek these permanent powers? Why does the Government seek these permanent rights to be put in our Statute Book when they have open to them the emergency powers. If an emergency comes without warning, if an emergency comes before the House is due to meet, this Bill could be kept and brought as soon as we have real reason to believe there is an emergency. At the present moment the Government really, Mr Speaker, has not justified it. And because he has not justified it the Opposition is not going to vote in favour, and that is that.

HON A W SERFATY:

Mr Speaker, there is something that the Honourable and Learned Mr Isola has said which cannot remain unanswered. Mr Isola has said - over

simplifying the problem - that it is solely the fuel crisis that affects Gibraltar. This is not so. The three day week in industry in the United Kingdom will affect Gibraltar. The devaluation of the pound; the difficulties with the railways; all that will affect Gibraltar. We already know that some firms are informing importers in Gibraltar that supplies will have to be curtailed by 50% and that goods will have to be rationed to importers here in Gibraltar. So let us not over simplify the problem. We are in it as much as the United Kingdom is in it. And everything that happens in the United Kingdom affects Gibraltar. That is why I have no qualms in agreeing to this Bill.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, having listened to the Opposition, I am very tempted to reply in the words of the great conductor Richter to the second flute at Covent Garden. He said "Your damned nonsense will I put up with one time, yes; two times, perhaps, but sometimes always, by God, never." If, as the memorandum to this Bill, says, it is based on a similar measure in the United Kingdom - it is. If I were a betting man I would wager that there is not one member of the Opposition with the possible exception of my Friend, Mr Peter Isola, can tell me how long this measure has been on the Statute Book in the United Kingdom. Fifty three years. And it is there permanently unless and until a Parliament should choose to revoke it. There have been in the course of that 53 years Conservative Governments, Labour Governments

HON J BOSSANO:

Is the Honourable and Learned the Attorney-General saying that in the United Kingdom it is possible to take emergency powers without declaring a state of emergency?

HON ATTORNEY-GENERAL:

I am not saying that, I am saying that there is on the Statute Book this Act which enables a state of emergency to be declared just as there will be on our Statute Book an Ordinance which will enable a notice to be given and thereafter regulations to be made. We are not going as far as we can under the Emergency Powers Order-in-Council. We are taking more restrictive powers. The powers under that Emergency Powers Order-in-Council are very, very wide indeed, far wider than the powers under this. Now, merely because this Ordinance is passed does not mean that there will be automatically regulations in an emergency. There has to be the equivalent here as there is in England. In England there must be a proclamation, here there will be a notice. In England as the proclamation just lasts for a specific period, so with the amendment I am proposing to move at the Committee Stage, the notice here will only last for 60 days and then lapse unless it is renewed just as it can be renewed in the United Kingdom. These draconian measures which we are accused of taking. Gentlemen, they have been on the Statute Book. They must be there for any Government to take if it needs to do so, and that is all that is being done. This is no new measure. It is of long standing and a necessity. If we pass this Bill as I say it does not mean that the Government or the Governor-in-Council will have to give a notice and regulations will be made. It will be available if necessary and it is prudence and prudence alone which demands that we have this.

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

The Hon Sir Joshua Hassan

The Hon A W Serfaty

The Hon A P Montegriffo

The Hon M K Featherstone

The Hon A J Canepa

The Hon I Abecasis

The Hon Lt Col J L Hoare

The Hon H J Zammit

The Hon J K Havers

The Hon A Mackay

The following Honourable Members voted against:

The Hon Major R J Peliza

The Hon M Xiberras

The Hon P J Isola

The Hon W M Isola

The Hon J Bossano

The Hon J Caruana

The Hon L Devincenzi

The motion was accordingly carried and the Bill was read a second time.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to move that the Committee Stage and Third Reading of the Bill be taken at a later stage of this meeting.

This was agreed to.

The House adjourned at 6.45 pm.

WEDNESDAY THE 19TH DAY OF DECEMBER, 1973.

The House resumed at 4.00 pm.

COMMITTEE STAGE AND THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I beg to move that this House should resolve itself into Committee to consider the following Bills clause by clause:-

- (1) The Miscellaneous Amendments (No 2) Bill, 1973.
- (2) The 1972-73 Supplementary Appropriation Bill, 1973.
- (3) The Supplementary Appropriation (1973-74) Bill, 1973.
- (4) The Criminal Offences (Amendment) Bill, 1973.
- (5) The Limitation (Amendment) Bill, 1973.
- (6) The Public Utility Undertakings (Amendment) Bill, 1973.
- (7) The Supplies (Protection of the Community) Bill, 1973.

This was agreed to and the House went into Committee.

HON CHIEF MINISTER:

I beg to move that the House resolve that the Traffic (Amendment) Bill, 1973, be left to a subsequent meeting. We have had one aspect of it which is new from the last time it was read. When it was read a second time it was put in as an amendment and sufficient notice was given for the purpose of bringing it to the notice of those affected. We have received representations and I think it would be fair to consider those representations without hurrying and in those circumstances I shall propose that the Bill be left for another day.

MR SPEAKER:

Now is the proper time to do this.

HON CHIEF MINISTER:

Well, I now propose that the Agenda be changed by deleting the item.

MR SPEAKER:

No, I think the way one must do it is that the person who was introducing the Bill should ask for leave to withdraw.

HON ATTORNEY-GENERAL:

Mr Speaker, would you wish me to ask the leave of the House at this stage?

MR SPEAKER:

To ask for leave exclusively.

HON ATTORNEY-GENERAL:

Mr Speaker, then I would ask for leave that the Traffic (Amendment) Bill, 1973, which was due to be considered in Committee at this meeting be taken at a subsequent meeting of this House.

MR SPEAKER:

Is this agreed?

HON M XIBERRAS:

Sir, the Honourable and Learned the Chief Minister informed me just now that he proposed to make the statement which he has just made. We on this side have no objection to the Bill being put off for another day because the new clause introduced by the Government seems to us to be quite distinct from the original purpose of the amendment to the Bill which was the parking ticket issued whereas the new one referred to the

question of part-time taxi drivers. As Mr Speaker is aware I had sought clarification of procedure from him and I would ask the Government that in future if there is a Bill which is not quite germane to the subject matter of the previous Bill before the House, that this should be done as a completely separate exercise rather than put in at the Committee Stage. So for this side of the House we welcome the statement made by the Chief Minister and by the Honourable and Learned the Attorney-General.

HON CHIEF MINISTER:

Sir, I will certainly do my best to comply with that wish and it would have perhaps been my desire this time. I was advised that it could be done that way and in fact that the Standing Orders would have allowed proper discussion on the second reading the nature on the amendment itself. But I have no objection, unless there are good grounds which I would explain, I certainly have no objection to doing that. As it happened when the amendment was approved to be submitted I was advised that this was the way of doing it, but in fact it was for that reason that we made it a point of putting out an official notice which I think perhaps got even more publicity than having been a Bill in the usual way but I take the point and in fact I do not feel strongly about it.

THE MISCELLANEOUS AMENDMENTS (NO 2) BILL, 1973.

Clauses 1 to 5 were agreed to and stood part of the Bill.

New Clause 6.

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that there be added to the Bill immediately after clause 5 a new clause as follows:-

"Amendment 6. Section 2 of the Commissioners for Oaths Ordinance is of Cap 28. amended by the addition thereto of a new subsection as follows:-

"(3) The Superintendent of the Prison shall be an ex officio Commissioner for Oaths in respect only of oaths sworn by prisoners in prison."

Mr Chairman, Sir, under the Commissioners of Oaths Ordinance there are at the moment two types of commissioner, the ex-officio commissioner, the Magistrate, or Justice of the Peace and other persons who are appointed by the Governor to be Commissioners. Now there are various legal documents both in civil and criminal proceedings which have to be sworn in front of a Commissioner. Normally it is the case of Mohammed going to the mountain. If anybody wants a document sworn he goes before the Commissioner and the Commissioner administers the oath. This cannot be done in the case of a man in prison. He cannot be brought out of prison purely for the purpose of swearing an oath, so that it means in cases like that if there is perhaps an application for bail if he is remanded without bail and he has applied for bail or if there are papers in connection with the appeal, a Commissioner has to go up to the prison which is quite a considerable problem for the legal practitioner representing the man in prison. What we would propose to do by this amendment, Sir, is to give to the Superintendent of the Prison the right to administer oaths to persons in prison. It is as simple as that and it is only for that purpose.

Mr Speaker proposed the amendment in the terms moved by the Honourable the Attorney-General.

HON W M ISOLA:

Mr Speaker, there is one small point I would like to ask the Honourable and Learned the Attorney-General. The idea sounds a very good one. There are normal matters that any prisoner wishing to make a statutory declaration should be able to do it in front of Superintendent of Prison, and therefore, avoid the necessity of having to have a Justice of the Peace. However, is this the normal practice in the United Kingdom? I have the greatest admiration for the present Superintendent of Prison but what would happen if a prisoner wanted to make a statutory declaration and would not like the Superintendent of Prison to know about his private affairs. Would the Superintendent of Prison tell the prisoner that he had to make the statutory declaration before him or not at all? That is the point I want to make quite clear. Or would the prisoner have the choice of saying that he wanted a Justice of the Peace, or a Commissioner for Oaths to come. If that point is quite clear then of course I do welcome this because I do feel that on many occasions the Superintendent of Prison should be able to administer an oath but there are cases when a prisoner may want for personal reasons, call it what you wish, a Justice of the Peace to administer the oath and he may not want the Superintendent of Prison to know about it. What would be the position?

HON ATTORNEY-GENERAL:

Mr Chairman, there is in the Prison Ordinance and the Rules, provision that a prisoner is entitled to see his legal adviser, not merely on criminal matters but on any civil matters with which he might be concerned during the period he is incarcerated. It follows from that that he is entitled to deal with and make legal any documents that have to be sworn. This being so his legal adviser would be entitled to bring with him to the prison a Commissioner of Oaths if that was necessary. There is no question whatsoever of it being Hobson's choice - the Superintendent of Prison, or nobody. This is purely a matter of convenience, and if the prisoner does not want the Superintendent to know for any reason - he might be litigating against the Superintendent, possibly - then he would be perfectly entitled to have his own legal adviser bring a Commissioner from outside the prison. I admit I do not know what the position is in the United Kingdom as to whether the Superintendents of the various prisons are or are not entitled to take the oaths of prisoners, I apologise to this Honourable House but I have no idea at all of the position there.

HON W M ISOLA:

I am very grateful to the Honourable Attorney-General for this. Now that he has made the point quite clear this side of the House of course welcomes this because it is a matter of convenience to the majority of prisoners.

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

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

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

THE 1972-73 SUPPLEMENTARY APPROPRIATION BILL, 1973.

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

Clause 2.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I beg to move that clause 2 of the Bill be amended by the deletion of the words "six hundred and eight thousand seven hundred and sixty nine" appearing therein and by the substitution thereof of the words "five hundred and sixty thousand eight hundred and twenty four". Sir, the explanation of the amendment is this: The figures shown against heads of expenditure in the Bill as originally presented to the House were the total amounts of supplementary expenditure which had been approved by the House on those heads and items of recurrent expenditure which were included in the final Supplementary Estimates No 5 schedule which was taken at the last meeting of the House. The total of £608,769 was, in fact, the sum total of the figures in the last column - the extreme right hand column - of the schedule. Sir, what however we should have presented in this Supplementary Appropriation Bill are the amounts by which actual expenditure head by head exceeded - with, of course, the prior approval of this House as there had been - the sums contained in the Appropriation Ordinance which followed the 1972-73 Budget. This we have now done in the amendment, and what the House is being asked to approve is as I have said the amounts of expenditure under each head by which the 1972-73 Appropriation Ordinance was exceeded. Sir, I regret this mistake. It was a pure mistake, something done in a hurry which I may now say fortunately we discovered in time for me to bring the necessary amendment to the House. There is no purpose in comparing the two sets of figures - those which appeared in the first presentation of the Bill and those which I now submit - though as a matter of fact they will differ in so far as the first set did not take account of savings or underspending on the approved provision under any head or of additional expenditure under supplementary authorisations during the year on heads and items other than those which were shown in the fifth schedule for supplementary estimates for 1972-73. Sir, the net effect of the amendment is to reduce by £47,945 the total sum for which supplementary appropriation authority is required - reduced from £608,769 to £560,824. Now, Sir, had the earlier higher figures been allowed to stand then, indeed, we should have been overstating the amount of expenditure in 1972-73. So we have been charged on other occasions and other connections with doing and we have resisted and denied the charge. In this case, Sir, we have been able to correct ourselves in time. May I add this, Sir, that had I been so minded I understand that I might have withdrawn the earlier Bill and brought to the House a new one. That is not in my character, I think I am like my Honourable Friend, Mr Bossano, on the other side who says in the last meeting as I have discovered that he will say face to face to anyone on this side what the position is and that I have chosen to do on this occasion. I ask for the indulgence for the House in this matter.

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

HON M XIBERRAS:

Sir, may I say that the fact that we are dealing with the subject matter of a whole Bill in an amendment to one of the clauses - and no indication has yet been given by the mover of this amendment of the changes that are to come in the schedule - illustrate the point which the Opposition would like to make despite the comments made by the Honourable the Financial and Development Secretary that it would have been preferable to have a completely new Bill on this one. I appreciate very much what the Honourable the Financial and Development Secretary has had to say. He has been candid about the matter. But nonetheless it is a question of, I imagine, principle that if the whole content of a Bill is to be changed - then this side of the House would prefer the withdrawal of the Bill and the introduction of a completely new Bill. As the House is aware, there is a similar amendment before the House in respect of another Bill for the year 1973-74, and I believe that there are amendments perhaps there as well. Now, Sir, if I may be permitted a comment on this. What is important is that we should get straight in the House what the general aim of the Financial Procedures Bill which governs at least one of these two measures which I have mentioned, the 1973-74 one, and I imagine has influenced the thinking in respect of the 1972-73 measure, that we should get the provisions of this third Bill, the Financial Procedures Bill, straight. What does the Financial Procedures Bill require, and also - I am grateful for the consultation I have had with the Honourable and Learned the Attorney-General on this. Also on sections 64 and 65 of the Constitution. And there appear, I believe, to be two ideas which might have led to the confusion on this. The first was that we had to have a Bill for every set of supplementary estimates that come before the House but this eventually gets converted into a Bill such as the one we are discussing now. Or, as appears to have been done in the first case in respect of 1972-73, that we only put into the Bill those items in the different head where there is going to be excess expenditure, over and above what we said we would spend at Budget time. Now, I believe I am right - and I would welcome further clarification from the Honourable Attorney-General - and I believe I am right in saying that for the year 1973-74 all items of supplementary estimates will be included by heads in Bills such as the ones we will be discussing in a minute. And we will not have just those sums by which the original estimates have been exceeded. If that is the case then the question which I have already put to the Honourable and Learned the Attorney-General, but I welcome confirmation of this, will there be an adjusting Bill at the end of the year? I believe the answer to this is no, but I think it is good for the House to hear this. In other words if for the year following year we are going to put in all the items of supplementary estimates the totals according to how the estimates arise during the year, then because it is in the nature of things that the Government does not spend all the money that it is entitled to spend at the end of the year, is there going to be an adjusting Bill and, if not, how will the position be made clear? Will it be in the closing of the books, the statement of the Honourable Financial and Development Secretary, or where? Some of these are questions which are rhetorical but I think it is good for the House to know. And the final one is that I would also welcome confirmation from the Government bench that this amendment for the year 1972-73 in no way alters the financial position as stated by the Honourable Financial and Development Secretary a little while back in respect of the 1972-73, namely, that there was a surplus for that year and this is amendment we are now considering in no way alters that position.

HON FINANCIAL & DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I would like first to give a complete and direct answer to the last part of the question by the Honourable Leader of the Opposition that it is exactly so. That this has no effect on the real revenue and expenditure figures which will emerge in the accounts for the year 1972-73. What we are doing here is seeking from the House the appropriation authority for funds which have already been authorised for expenditure by the Government in supplementary estimates so there is, Sir, no effect at all on the revenue and expenditure out turn as they will appear. Mr Chairman, Sir, on the rest of the question perhaps I may start but I wish my Honourable Friend the Attorney-General to add to what I say. Hitherto we have gone along very happily on the system that we had at the Budget, the presentation of the estimates of expenditure for the on coming year, approved estimates by the House followed then by an Appropriation Bill and an Appropriation Ordinance to formalise the authorities for this expenditure. In the course of the year the Government has come to the House with schedules for supplementary expenditure and when these have been approved by the House expenditure under the supplementary estimates could go ahead. After the end of the year, when the balance was struck and the accounts were closed, the Government has come to the House with a supplementary appropriation order for the relevant year in which we have sought the formal appropriation authority for excesses head by head in actual expenditure in the year over the approved provision head by head in the approved estimate and the Appropriation Ordinance where the figures are identical. Now, Sir, these arrangements went ahead by an interpretation of the Gibraltar Constitution Sections 64 and 65, and I must say that they appear to be in line and in accord also with a section of Colonial Regulations No 224 which said that if the supplementary expenditure and supplementary estimate causes an excess on a head, such excess should ultimately be covered by a Supplementary Appropriation law. That explains the system we have adopted hitherto. However now, Sir, following on and in our consideration of the Financial Procedures Ordinance which was passed during the past year, we have, belatedly perhaps, established the Consolidated Fund that is provided for in the Gibraltar Constitution, but which we had not previously had before it was set up in the Financial Procedures Ordinance and we come again to look closely at the wording of the Constitution, and we find there that monies may not be drawn from the Consolidated Fund without the cover of an appropriation law. And this leads us, as my Honourable Friend will explain, to think that we ought following each set of Supplementary Estimates approved by the House in the course of the year forthwith thereafter to have a Supplementary Appropriation Bill. It will be evident that no more than we can take account of possible savings when the main Appropriation Bill and Ordinance follows hard upon the approved estimates. Equally, we shall not be able to take account, when we have an Appropriation Bill following a set of Supplementary Estimates, we shall have to use the same figures. We shall not be able to take account of any savings, otherwise we would not be asking for authority to expend. And, therefore, Sir, I will understand and I think I understand right that Honourable Members opposite will wish to be assured that after the completion of the year, there will as hitherto be made clear and brought to the House a statement of by how much money the actual expenditure for the year exceeded the appropriation authorised at the beginning of the year. Now that information, Sir, will be available in the accounts which of course are brought to the House, but they will not be before that. This is something, Sir, which I am sure we would wish to consider.

HON ATTORNEY-GENERAL:

Mr Chairman, I think Members will bear with me. I will be as brief as possible. I am not sure that the House is a good forum for advancing legal argument, but I think it is only fair that in this case I shall do what I can. Section 64 of the Constitution is, in my opinion, quite clear. No monies shall be withdrawn from the consolidated fund except (a) which we are not concerned with here and (b) where the issue of those monies has been authorised by an Appropriation law, or in such manner and subject to such condition as may be prescribed in pursuance of section 66 of this Constitution. If I can dispose of section 66 while I am here, this is the one where the Appropriation law has not been passed before the beginning of the year and the Financial and Development Secretary is given authority to draw certain monies pending the passing of the Appropriation law, but it is quite clear that no money should be withdrawn unless authorised by an Appropriation law. This being so the mere approval of a supplementary estimate does not, in my opinion, authorise the monies to be withdrawn from the Consolidated Fund. There must be the law before you can withdraw. Now, as members will also recall we made provision in the Financial Procedures Ordinance for setting up what we call the Contingencies Fund. It is a fund which is mentioned in the Constitution and we have now provided for it. If, therefore, in your old original estimate a certain sum is approved and appears in the first Appropriation law of the year, if you are going to exceed that you cannot draw from the Consolidated Fund until a Supplementary Appropriation law is passed. All you can do is take the money out of your Contingencies Fund and then, in due course, pay back into the Contingencies Fund from out of the Consolidated Fund the money which you could have drawn from the Consolidated Fund if there had been an Appropriation law before the drawing took place. Now there is - and I am prepared to admit - there is one part of section 65 of the Constitution which does seem to me to cause a problem. It does seem to conflict and that is section 65(3) which reads that if in any financial year as is found (a) that the amount appropriated by the Appropriation law for the purposes included in any head of expenditure is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by the Appropriation law, or, then we come on (b) that any monies that have been expended on any head of expenditure in excess of the amount appropriated. This seems to imply that there may have been monies withdrawn from the Consolidated Fund before, in fact, those monies had been voted, but I am quite satisfied that all this is in fact doing is to ensure that where this particular thing has happened, where there has been a withdrawal which has not been authorised, it must subsequently be authorised as soon as possible. But to me section 64 is quite clear. No withdrawal of the Consolidated Fund, unless and until you have your Appropriation law authorising such withdrawal.

HON J BOSSANO:

Mr Speaker, I am afraid I do not find the explanation of the Honourable and Learned the Attorney-General satisfying in that there seems to be an implication that we have already exceeded the expenditure on the heads in what he has been saying. Because the section in the Constitution refers to heads, but I would prefer to ask for further clarification on this point when we come to the 1973-74 Appropriation Bill which is, in fact, the one where this argument is relevant. It is not relevant to the one before us really, Mr Speaker, and in respect of the one before us the thing that puzzles me is where the sum in the original, the total of the original schedule came from. I believe the Honourable the Financial and

Development Secretary referred to Supplementary Estimates No 5 of 1972-73. Now the total does not refer exclusively to the sums voted just in that supplementary. Because the sums voted in that supplementary alone came to £439,982. So that is not the figure. Mr Speaker, I am talking about the total figure not the individual items, which is the figure that is being amended now.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, if we are looking at the same thing, 1972-73 Estimates, final Supplementary Estimates No 5 of 1972-73. As I said the figures that were first submitted to the House were the total shown in the extreme right hand column of figures, under the heading: "Total supplementary provision" and there is no total struck, but the total should be struck at the foot of page 15, because page 16 deals with the Improvement and Development Fund and we are only concerned at the recurrent expenditure and where the Honourable Member says the figure of £439,982 occurs that is the column headed supplementary provision now required, but to the right of that column there is another column: "Total Supplementary Provision", which takes into account the provision that was being asked for at the time and other supplementary provision which had gone earlier.

HON J BOSSANO:

Well, I have got the other four here, Mr Speaker, and I have just done a rough calculation and it seems to me the total of all five come to something like £900,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, may I ask the Honourable Member what that figure is. Is it larger or smaller than mine?

HON J BOSSANO:

Mr Speaker, the figure is £300,000 larger, yes. Perhaps I can help. In some of the previous estimates that we had for last year, we have got summaries. For example in No 4 we have the summary of the total supplementary expenditure and this is then divided into revenue and Improvement and Development Fund and there, for example, the revenue for No 4 came to £56,000. And for No 3 it came to £113,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Will the Honourable Member repeat that figure. I am sorry.

HON J BOSSANO:

Yes. No 4 is £56,230 and No 3 is £113,495 and No 2 I make £65,000 because No 2 was before the practice was adopted of dividing the figures. But I have made it £65,769 but that is my own calculation. And No 1, again there is no breakdown of the figure, but I make it £249,786.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, would there be an opportunity to do these sums outside. I haven't got all these figures here.

MR SPEAKER:

Unless we postpone the second reading of the Bill to another time I cannot see how.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well, Mr Speaker, Sir, I must stand by my statement.

HON J BOSSANO:

I must stand by the figures that the House has got before it and the figures do not tie up.

Mr Speaker then put the question in the terms of the amendment moved by the Honourable Financial and Development Secretary and on a vote being taken the following Honourable Members voted in favour:-

The Hon Sir Joshua Hassan
The Hon A W Serfaty
The Hon A P Montegriffo
The Hon M K Featherstone
The Hon A J Canepa
The Hon I Abecasis
The Hon Lt Col J L Hoare
The Hon H J Zarnitt
The Hon J K Havers
The Hon L Haddad

The following Honourable Members abstained:

The Hon Major R J Peliza
The Hon M Kiberras
The Hon P J Isola
The Hon W M Isola
The Hon J Bossano
The Hon J Caruana
The Hon L Devincenzi

The motion was accordingly carried and clause 2 as amended stood part of the Bill.

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, Sir, I have the honour to move that clause 3 of the Bill be amended by the deletion of the words six hundred and eight thousand seven hundred and sixty nine appearing therein and by the substitution therefor of the words "five hundred and sixty thousand eight hundred and twenty four".

MR SPEAKER:

The mover can speak in favour of the motion now but I presume that it is a consequential amendment.

Mr Speaker then put the question in the terms of the Honourable Financial and Development Secretary's amendment and on a vote being taken the following Honourable Members voted in favour:-

The Hon Sir Joshua Hassan	The Hon I Abecasis
The Hon A W Serfaty	The Hon Lt Col J L Hoare
The Hon A P Montegriffo	The Hon H J Zammitt
The Hon M K Featherstone	The Hon J K Havers
The Hon A J Canepa	The Hon A Mackay

The following Hon Members abstained:-

The Hon M Xiberras	The Hon J Bossano
The Hon Major R J Peliza	The Hon J Caruana
The Hon P J Isola	The Hon L Devincenzi
The Hon W M Isola	

The motion was accordingly carried and clause 3 as amended stood part of the Bill.

THE SCHEDULE

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, I have the honour to move that the Schedule to the Bill be deleted and replaced by a new schedule as follows:-

SCHEDULE

Head	Amount
IV. Education	£ 31,051
VI. Fire Service	14,191
IX. Labour and Social Security	57,608
X. Public Works	48,163
XI. Public Works - Annually Recurrent	74,726
XII. Public Works - Non-Recurrent	5,638
XIII. Law Officers	1,645
XIV. House of Assembly	3,125
XV. Medical and Public Health	86,136
XVI. Miscellaneous Services	107,399
XVII. Pensions	39,299
XVIII. Police	45,719
XX. Post Office and Savings Bank	2,451
XXI. Prison	1,809
XXIII. Revenue	23,624
XXIV. Secretariat	2,938
XXV. Telephone Service	14,275
XXVI. Tourist Office	1,027
	<u>£560,824</u>

Mr Chairman, Sir, if it is appropriate for me I would like to say at this point that I shall be very pleased to discuss with the Honourable Mr Bossano the details of these figures as soon as we have an opportunity together.

MR SPEAKER:

I now propose the question which is that the Schedule be amended as moved by the Honourable the Financial and Development Secretary.

HON J BOSSANO:

I would just like to place on record my thanks to the Honourable the Financial and Development Secretary for his offer. If perhaps the thing has not come so unexpectedly we might have had a chance to look into it before it came to the House.

Mr Speaker then put the question on the terms of the Honourable the Financial and Development Secretary's amendment and on a vote being taken the following Honourable Members voted in favour:-

The Hon Sir Joshua Hassan
The Hon A W Serfaty
The Hon A P Montegriffo
The Hon M K Featherstone
The Hon A J Canepa
The Hon I Abecasis
The Hon Lt Col J L Hoare
The Hon H J Zammit
The Hon J K Havers
The Hon A Mackay

The following Honourable Members abstained:-

The Hon M Xiberras
The Hon Major R J Peliza
The Hon P J Isola
The Hon W M Isola
The Hon J Bossano
The Hon J Caruana
The Hon L Devincenzi

The Schedule as amended stood part of the Bill.

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

A BILL FOR AN ORDINANCE TO APPLY FURTHER SUMS OF MONEY TO THE SERVICE OF THE YEAR ENDING ON THE 31ST MARCH, 1974.

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I beg to move that clause 2 of the Bill be amended by the deletion of the words "one hundred and eighty three thousand six hundred and sixty three" appearing therein and by the substitution therefor of the words "one hundred and seventy six thousand one hundred and sixty three". Sir, this amendment means that the sums to be covered by the present Appropriation Bill is reduced by £7,500 pounds. The explanation, I believe, was given at the last meeting of the House by the Acting Financial and Development Secretary in my absence

but if I may I will repeat it. When Supplementary Estimates No 1 of 1973-74 were prepared for presentation to this House at the last meeting, it was proposed to convert old quarters at Tank Ramp where previously the Assistant Foreman of the Waterworks had lived, into a home for deprived and delinquent girls and to build a new quarter within the Waterworks for the Assistant Foreman there. Provision was accordingly made in the supplementary estimates under Item 12 Public Works Non-Recurrent for a sum of £12,500 for these two purposes combined. Similar provision was made in the Bill for the Supplementary Appropriation 1973-74 Ordinance, 1973, when it came up for first and second reading last ~~time~~. Sir, subsequently, however, the Sisters' Quarters adjacent to King George V Hospital became available and this was then decided to be used at little or no cost for the home for deprived and delinquent girls. Provision in the Supplementary Estimates was accordingly reduced to £5,000 which is the estimated cost of the work which will be done during the current financial year on the new quarters in the waterworks for the Assistant Foreman. Likewise, there will be provision in the Appropriation Bill for this to be reduced as was done in the Supplementary Estimates Schedule.

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

HON J BOSSANO:

Mr Speaker, I think perhaps we can now take up the question of the new procedure that is being introduced which covers this appropriation for the year 1973/74 and my reservation expressed earlier with regard to the explanation the Honourable and Learned Attorney-General had given I think can be illustrated by making use precisely of this amendment, because in the original estimates of expenditure for 1973-74 we have got a sum of £162,910 under Public Works Non-Recurrent. Now, in the first supplementary for the year, the House was presented with a requirement of an additional £71,400 which is now being reduced, and we have just had the explanation for the reduction, but nevertheless at this point in time the original amount of money appropriated to that head cannot possibly have been exceeded, that is, it is not that we have already spent the whole of the original £162,000. And since the Constitution, and the section in the Constitution to which the Honourable and Learned the Attorney-General referred, specifically mentions heads of expenditure it seems to me that provided the head of expenditure is not exceeded, there is authority to spend the money within that one head even if by assuming that all the money on all the subheads was being spent at one time would be a theoretical excess. But because in practice this is not the case, that is, the expenditure is a gradual disbursement of public funds throughout the year and not taking place at the time the House approves the estimate at Budget time, I cannot see where there is a conflict between the process that was used before to which the Honourable the Financial and Development Secretary referred, and the requirements of the Constitution which was, of course, in force then as it is now.

HON ATTORNEY-GENERAL:

Like the Honourable Mr Bossano's friend ^{whom} ~~and~~ he admires, Sir Alec Douglas Home, I am pretty bad on figures and I think he once said in the House of Commons he had to work these things out with matchsticks. I think the

position is this. I have explained the legal position that if we have a supplementary estimate then there must be a supplementary appropriation law. I do not think it is anywhere laid down that you have got to expend every thing in your head before you come to the House with the supplementary. Now, if like the good housekeeper and the prudent Scot that he is, my honourable friend, the Financial and Development Secretary, reckons that he has got all his estimates as to how he is going to expend the money on a particular head & throughout the year money will be applied from that head withdrawn from the Consolidated Fund for that head. Now, in the course of the year, early on in the year, it becomes apparent that there is going to be probably an over expenditure. An item comes up for which provision has not been made as it had not been foreseen. It is perfectly within his prerogative to say: "Let me at this stage ask the House for approval of the supplementary estimates. I think in due course I shall have to come to the House. Let me do it now so that by the time the money comes to me which is actually needed, I shall have the authority to withdraw from the Consolidated Fund." I do not think there is anywhere a requirement that everything has got to be done before the new expenditure takes place. If you look at the section; "If in any financial year it is found that the amount appropriated by the Appropriation law for the purpose included in any head of expenditure is insufficient, or that a need has arisen for expenditure for a purpose to which no amount has been appropriated...." In those cases it is a question of a certain amount of foresight. It does not mean that it has been insufficient but it may be insufficient in the future.

CHIEF MINISTER:

Sir, I would just like to say a word on perhaps the political side of this matter. I must accept the advice of the Honourable and Learned Attorney-General on his interpretation of the Constitution and the financial provisions. But I have expressed to the Honourable the Financial and Development Secretary my concern about the fact that at least in some form or other before the last Supplementary Appropriation Bill of any one year, there should be before the House an indication of the savings of the particular heads so that it is not a question of mounting up on heads without knowing what the position is generally. This is, I think, only fair for everybody. Not only for members opposite but for ourselves that we know exactly how we go along. I accept that you do not know until the end of the year what you will save or what you will not save and that anything that is not provided in the original estimates must be covered by a supplementary vote and as set out in the Constitution by a Supplementary Appropriation Bill, but at some stage when the last one is met, either by that or by a separate statement it is no use, if I may say so with respect, saying that they will appear in the final account because by the time the final accounts come it is too late. And therefore from that side I am anxious to find out some way in which all members will be made aware of the savings when the final Supplementary Appropriation Bill comes. I am sure that whatever the Constitution says that information in one form or another is an authoritative way it can be brought before the House so that the House knows how the various votes stand, but it is quite clear that if it is not provided in the estimates however much money there may be there it must be covered by a supplementary vote as has always been the case. But in so far as the legal side of the question is concerned I am bound by the advice of the Honourable and Learned the Attorney-General with which I do not disagree and it does not matter whether I agree or not. It does not really arise because that is the advice that the Attorney-General gives

to the Government and I do not dispute it in any way. But I do say that it is of interest that we should know at some stage what the savings are whilst we keep on passing Supplementary Appropriation Bills.

HON M XIBERRAS:

Sir, I had a few remarks to pass in connection with this Bill when we were discussing the other one. It seems to me that the misgivings, which I had also shared by the Honourable and Learned the Chief Minister as to the usefulness of this procedure and how clear it would make matters for the House. The actual state of the finances is a matter which has been discussed at great length in connection with the previous year and I do not think quite honestly that this new procedure is going to throw any light on the matter. It is simply going to confuse the issue. That is why when we were talking earlier of the other Bill 1972/73, I mentioned an adjusting Bill. One which somehow would give a truer picture of what the actual financial situation was than these Supplementary Appropriation Bills which we are going to have every time we have a schedule of supplementary estimates. So that means we are going to have a white piece of paper containing all the items of supplementary expenditure which will in turn be followed by a green piece of paper which will contain all the items of supplementary expenditure which will be followed by a white piece of paper printed by the Gibraltar Chronicle Works which says that it is an Ordinance. And then we are going to have a statement which is going to correct all those pieces of paper all the way down the road. And then we are going to have the accounts. And then I do not know what we are going to have next. And it seems to me that what the Honourable and Learned the Financial and Development Secretary has to say about foresight is more like the "Forsyth Saga" - it is going to go on a really long time - And I do not think the Honourable and Learned the Attorney-General has presented all that compelling legal argument even to a layman - but we are learning - like myself. The Honourable and Learned the Attorney-General does see things very clearly but we are not gifted with the same insight into these matters as he is. And it seems to me that if one section of the Constitution - as the good Mr Tony Rushford, I believe, drafted - indicates there is a possibility that supplementary estimates may have been voted without there having been a law - that is a green piece of paper and a white piece of paper - it seems to me that at least there was some room for time to time a simpler and more practical way out than the one that was actually been found. And it seems to me that we are just going to add to the confusion and add to the unproductive business of this House. No doubt the Opposition will make frequent use of these items - these Bills. I was going to mention the Gibraltar Broadcasting Corporation. This gives us in the Opposition an excellent lever, of course, to be able to discuss matters again and again and again. And really as an Opposition we should not be objecting. But I think the business of the House would go by much more quickly if some other suitable method in conformity with the Constitution could be found. It appears to me also - and I believe my Honourable Friend, Mr Bossano, mentioned the point - that the Financial Procedures Bill has nothing at all to do with this new procedure. So we have a Financial Procedures Bill which does not really tell us anything about this. There is no part of the Financial Procedures Bill which tells us we must do this.

And it is a constitutional responsibility as interpreted by the Honourable and Learned the Attorney-General. Well, on his head be it, the responsibility for this as it was for a good number of things on which he seemed very clear in the past when he referred to EEC legislation on which he was quite unshakable. We admire his faith in his own interpretation of the Constitution and the EEC regulations and we obviously have to accept it and thank him for the opportunity of being able to bring up things again and again and again.

HON J CARUANA:

I would like to say one or two very small things which I find rather confusing. Does it mean by this new procedure that when the Government brings forward further supplementary estimates this year they are required by the Constitution to come again with another Appropriation Bill to the House for our approval every time? Is this the case? The other point, looking briefly at the Constitution, is that whilst we agree with the opinion of the Honourable and Learned the Attorney-General on this, what we do not see very clearly in that opinion is in fact that it is required to be done at this early stage in the financial year when another quarter of the year is still before us. And there is nothing in the Constitution that says we have to do it so early.

HON J CARULANA:

Perhaps the supplementary vote when it comes to the House will come in the form of the Supplementary Appropriation Bill combined and then the House might save time. That is food for thought.

HON CHIEF MINISTER:

I would like to clear one matter which should not be missed because I think the Hon Leader of the Opposition mentioned something which I don't think is relevant. It does not mean that the monies cannot be spent until a Supplementary Appropriation Bill is made. It means that the monies are not properly authorised but in fact in the meantime there is executive authority to draw on the Contingency Fund. But I think this has been helpful in a way that we must try and see how we can reconcile the Constitution to the practicabilities of the procedures in this House. And this is what we shall put our heads together to do before another Supplementary Appropriation Bill is brought before the House.

Mr Speaker then put the question in the terms of the amendment proposed by the Hon Financial and Development Secretary which was resolved in the affirmative.

The motion was accordingly carried and clause 2, as amended, stood part of the Bill.

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, Sir, consequentially I beg to move that clause 3 be amended by the deletion of the words one hundred and eighty three thousand six hundred and sixty three appearing therein and by the substitution therefor of the words one hundred and seventy six thousand one hundred and sixty three.

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

HON J BOSSANO:

Mr Speaker, since this Appropriation Bill is the counterpart of Supplementary Estimates No. 1 it follows logically that since nothing has happened since the last meeting of the House to change our views on the matter, the expenditure that we objected to in the original Supplementary Estimates we still object to in respect of the Appropriation Bill.

MR SPEAKER:

Are you saying that you are abstaining?

HON J BOSSANO:

Well, we are not associating ourselves, Mr Speaker, with the approval of items of expenditure which are covered by this head and which were covered by individual subheads in the estimates.

MR SPEAKER:

Well, I am putting a question and you have got a choice as I have said on other occasions. Either to vote for or against, or abstain. I said those in favour? Those against? Could we have an indication as to how the Opposition are voting?

On a vote being taken the following Hon Members voted in favour:-

The Hon Sir Joshua Hassan,
The Hon A W Serfaty,
The Hon A P Montegriffo,
The Hon M K Featherstone,
The Hon A J Canepa,
The Hon I Abecasis,
The Hon Lt Col J L Mare,
The Hon H J Zammit,
The Hon J K Havers,
The Hon A Mackay,

The following Hon Members abstained:

The Hon M Xiberras,
The Hon Major R J Peliza.
The Hon P J Isola
The Hon W M Isola.
The Hon J Bossano.
The Hon J Caruana.
The Hon L Devincenzi.

The motion was accordingly carried and clause 3, as amended, stood part of the Bill.

THE SCHEDULE

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, consequentially upon the approved amendment to clause 2, I beg to move that the Schedule to the Bill be amended by the deletion in relation to Item 12 Public Works ~~Non-recurrent~~ of the figures £71,400 and by the substitution therefor of the figures £63,900 and by the consequential substitution for the figures £183,663 in the total of the figures £176,163.

Mr Speaker then put the question in the terms of the Financial and Development Secretary's amendment and on a vote being taken the following Hon Members voted in favour:-

The Hon Sir Joshua Hassar
The Hon A W Serfaty
The Hon A P Montegriffo,
The Hon M K Featherstone,
The Hon A J Canepa,
The Hon I Abecasis,
The Hon Lt Col J L H.
The Hon H J Zammitt,
The Hon J K Havers,
The Hon A Mackay, CMG,

The following Hon Members abstained:

The Hon M Xiberras,
 The Hon Major R J Peliza.
 The Hon P J Isola
 The Hon W M Isola.
 The Hon J Bossano.
 The Hon J Caruana.
 The Hon L Devincenzi.

The Schedule, as amended, stood part of the Bill.

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

(4) THE CRIMINAL OFFENCES (AMENDMENT) BILL 1973.

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

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

(5) THE LIMITATION (AMENDMENT) BILL 1973.

Clauses 1 to 5 were agreed to and stood part of the Bill.

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

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

(6) THE PUBLIC UTILITY UNDERTAKINGS (AMENDMENT) BILL 1973.

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

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

(7) THE SUPPLIES (PROTECTION OF THE COMMUNITY) BILL 1973.

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

Clause 2

HON ATTORNEY GENERAL:

Mr Chairman, I beg to move that clause 2 of the Bill be renumbered as sub-clause (1) and that the following new clause be added thereto:

"(2) No notice under subsection (1) shall be in force for more than 60 days, without prejudice to the giving of another notice at or before the end of that period."

Mr Chairman, Sir, I did explain yesterday that the purpose of this amendment was so that the matter could be under constant review by this House. I do not think that there is anything which I can add usefully to what I said yesterday.

Mr Speaker proposed the question in the terms of the amendment moved by the Hon the Attorney General.

HON M XIBERRAS:

Sir, I have made clear the Opposition's view on this bill as a whole and it was our hope that the Government could have borne in mind some of the points that we have mentioned. This amendment, as the House is aware, was circulated yesterday and even though it introduces a feature within the general framework of the law which is in itself unacceptable for the reasons that the Opposition have stated, this is an improvement. But in the absence of any other Government amendments, it is quite impossible for the Opposition to form a judgement of this present amendment. I should stress, Sir, even at this stage that the Opposition view on the Bill has been based on three considerations. The first was the absence of information about the actual situation in Gibraltar, about the Government's appraisal of the situation as it affected us and, secondly, the nature of the legislation being passed and, thirdly, deriving from these two points, the need for such legislation. We believe that the closer the Government can get to diluting this Bill and to explaining the position to the people of Gibraltar, the more satisfactory will be the situation as far as the people of Gibraltar are concerned. But we are not likely to accept amendments which do not alter fundamentally either the Government's attitude through the whole introduction of this Bill to the House of Assembly or the Bill itself. And before any further amendments, if any, are proposed I should like to make these points clear. It is a matter of great principle for the Opposition...

MR SPEAKER:

I must remind the Leader of the Opposition that we have now gone through the second reading, where we debated the principles of the Bill. We are now considering a particular amendment.

HON M XIBERRAS:

I am grateful for your guidance, Mr Chairman, but I thought that these preliminary remarks would help in consideration of this and any other amendment that may come before the House.

HON CHIEF MINISTER:

Sir, in the course of the debate yesterday I think we thrashed out the matter amply. It may well be that Members opposite do not think that we have made a case for obtaining powers to deal with a situation which would appear to be clear to anyone in respect of what could happen. In fact references at question time and their omens of things to come would give a clear indication that, in fact, we are likely - whether we have the crisis with us at this moment or not - we are likely as I think my Hon Friend, Mr Serfaty, made clear to be affected one way or another. But, in the course of the debate I did say that it was not the intention of the Government to keep this as a permanent feature of legislation. We thought that in view of the fact that there are these wider powers of the Order-in-Council, this would have been obvious as it would not be invoked except by a Notice in the Gazette. But since, in fact, it is only a provision to meet a situation which we hope will not be everlasting, I am moving at a later stage, at the appropriate time, an amendment which will say that the validity of this Ordinance will come to an end on the 31st of December 1974, unless the life of it is extended by a Resolution of the House of Assembly. So that if, in fact, towards the end of 1974, or if it is quite clear that there are no prospects of this we would do it. I would have thought that the way in which we presented this matter would have made it clear but in order to remove any doubt certainly insofar as other implications

were concerned. Whether Hon Members opposite think that there is a crisis or not if I may say so does not, in my view, alter the position but insofar as a feature of permanent legislation is concerned, since if a situation such as this or worse were to be in existence at this time next year we would have no hesitation of coming here and moving a Resolution for the further extension of the Ordinance. But in order to allay the anxiety that was expressed, and because there are no intentions behind the bill other than to meet a situation on which we may differ as to whether we have it at our doorstep, or inside, or very far away, that is what I propose to do and I think this would help in the rest of the other two clauses. But I shall move that when we come to it.

Mr Speaker then put the question in the terms of the amendment moved by the Hon the Attorney General and on a division being taken the following Hon Members voted in favour:-

The Hon Sir Joshua Hassan,
The Hon A W Serfaty,
The Hon A P Montegriffo,
The Hon M K Featherstone
The Hon A J Canepa,
The Hon I Abecasis,
The Hon Lt Col J D Hoare,
The Hon H J Zammit,
The Hon J K Havers, OBE QC,
The Hon A Mackay, CMG,

The following Hon Members voted against:-

The Hon M Xiberras
The Hon Major R J Peliza.
The Hon P J Isola OBE
The Hon W M Isola.
The Hon J Bossano.
The Hon J Caruana.T
The Hon L Devincenzi.

The amendment was accordingly carried and Clause 2, as amended, stood part of the Bill.

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

New Clause 4

HON CHIEF MINISTER:

Mr Speaker, Sir, I have given you notice of a proposed amendment. The amendment is a new clause 4 which will read:

"This ordinance shall expire on the 31st of December 1974, unless the validity thereof is extended by a Resolution of the House of Assembly."

I have already explained my reason for introducing this.

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

HON M XIBERRAS:

Sir, I think the House has got used to these major amendments brought at the Committee Stage by the Government and I would like to repeat what I said in a different context and that is that the Opposition is voting against this Bill because, first of all, there is a need for the Government to explain and to give a lead on the situation on Gibraltar. We are not at all so blind as not to see that the fuel crisis will affect us in some ways. But we have a Chief Minister and we have a Government and we have Ministers, and they have if they wish to get the unanimous support of this House for powers such as those which they are seeking now, they have and it is their duty to explain to this House and to the people of Gibraltar what the situation is and how it affects Gibraltar. In the second reading of this Bill we had widely diverging interpretations of views on the situation as it would arise in Gibraltar. We had the Minister for Education painting a pretty dismal picture. We had, I believe, the Minister for Medical Services saying that it would not affect us so much. We all appreciate that no Government would like to use the powers, the very considerable powers, which this Bill would give the Governor-in-Council, excluding if I may say so even certain members of the Government. We all appreciate that these would not be popular in their use for any Government and we all appreciate that in other parts of the world the crisis has been a serious one. But if the Government wishes to get the support of the Opposition, it would have to consult genuinely with the Opposition and in an open forum but we are not led blindly by the Government so we are able to give our assent to any given situation. Appeals to loyalty - certainly, the Minister for Labour made an appeal to the loyalty of the Opposition. He said the voluntary measures might very well have gone better if the Opposition had supported this. Well, perhaps, the Minister for Labour could treat this House as an adult assembly and explain what the situation will be in respect of his department in his judgment.

MR SPEAKER:

Not now.

HON M XIBERRAS:

I agree entirely with you, Mr Chairman, the stage is a bit late and this is the whole point that I am making. It is a bit late to come forward with amendments of this kind. Sir, this amendment - again (I am glad to see that the Government has listened to what the Opposition has had to say in a certain respect. I am glad that the Bill will be less unpalatable for the general public, but that does not mean that the old Hassan trick of giving them 30% and then go to the people and say: "Ah, they were absurdly intransigent because they wanted the whole 100%", is going to work on this occasion. The attitude of the Opposition is quite clear. Unless we are consulted on the situation clearly and the situation is explained to us and an appeal to our reason is made, we are not willing to give the Government a blank cheque. I said this in the clearest terms. This curtailment of the powers of the Bill is welcome, but in consonance with the principle that I have stated on behalf of the Opposition, we will vote also against it. And I hope that this will show the Government that there is a need, there is a need for the Opposition to be acquainted with the facts. We do not want these appeals to common loyalty and nothing

is said. I do not want a whole list of figures, facts and figures given to me and not an actual appraisal of the situation. This is not what the House of Assembly is for. We all rise to the occasion if we are treated as an adult assembly but not otherwise.

HON CHIEF MINISTER:

Well, having been scolded by the teacher, I would now like to say that I did not expect any cooperation from the Opposition because they are really masterpieces at non-cooperation. And, in fact, this is clearly shown when I asked the Leader of the Opposition, I told him of the voluntary appeal that I was going to make, I gave him advance notice, I sent him a text of what I was going to say long before I said it on television and I asked him for his cooperation generally to the voluntary part of my appeal having regard to the figures which I gave him, not in a hurry, not just read because they were asked and not given but simply said: "We have so many weeks stocks of this, so many weeks stocks of that, but the situation may become worse; I am going on TV and making an appeal; I hope that if the appeal succeeds we will not need any powers." Did that generate any cooperation from the Opposition? What they did was to publish two days after a silly, ridiculous, childish communique talking about a paper cover or paper hat or something silly like that which was generally condemned as being petty. This is really the packet that they cannot swallow and that is what they will have to bear with for the next two and a half years, God willing, and for many more years after that. So that cooperation from people who want to govern from that side? Nonsense, all they want is affect to the gallery according to the number of the people standing at the particular time in the gallery as to what they have to say. So I do not expect anything else and it is typical of their thinking that they are going to vote against this amendment. And I ask for a count on it.

HON M XIBERRAS:

Sir, on a point of explanation, may I just remind the Chief Minister and for the benefit of the gallery which he is fond of associating with us, that the notice that he gave me for which I was grateful such as it was, was in fact something like 6 hours of the speech that was received, I believe, on the Monday at about four o'clock and he went on television I believe at half past 9, five or six hours. The meeting took place in his office as he knows in the morning and hardly a place to discuss the matter. I am sorry that he cannot take this opposition genuine, but what we are not prepared to have is a little meeting in which the Chief Minister or anybody else says: "I am sorry this is what the situation is (a), (b) and (c), and I shall be doing that, and that is consultation. Perhaps the Chief Minister would have preferred that I had told him in his chambers; "Well, that is the end of that. You've told him but we will have to consider the position", and finish. There was no intention at all to go against the voluntary campaign. Our points have to be made. Whether the Chief Minister likes them or not we shall continue to make them in whichever manner we think fit. If the Chief Minister considers them silly, he is perfectly entitled to consider them silly. We believe that the points made in that communique are very important. We are very glad that he has taken note of some such as the price control one, and the Chief Minister can be absolutely certain that

for as long as he is Chief Minister he will have to put up with us. He will have to put up with our criticisms and he will get no blank cheque on the basis of little meetings in his chambers or elsewhere.

MR SPEAKER:

Well, I have now allowed both the Chief Minister and the Leader of the Opposition to reply on matters which are completely and utterly irrelevant to the question before the House. We will come down to earth again. If any contributor wishes to speak on the particular amendment which is the addition of the new clause, he is welcome to do so. Otherwise I will put the question.

HON I ABECASIS:

Mr Speaker, I would like to speak. Of course, I run the risk of talking about the principles of the Bill.

MR SPEAKER:

Then I would suggest you don't.

HON I ABECASIS:

As I say I do not know whether I will.

MR SPEAKER:

You can try.

HON I ABECASIS:

There may be a possibility, Sir. There is an amendment now which brings the Bill that the Opposition does not want to accept to an end by the 31st December next year. And that is a further safeguard of the position as I understand it. The Leader of the Opposition has been talking all the time about a blank cheque and obviously I cannot understand what he means by a blank cheque. There are all sorts of guarantees here. Furthermore, the Chief Minister had a meeting with the Trade Union and it was clear beyond doubt that the Bill was not intended to restrict the freedom of the Union. If there had been any indication of that nature then at least I would not have been a party to that Bill. The explanatory note makes it quite clear that there be rationing if there is a need. Obviously if our shops are full of vegetables and bread and sugar and butter there would be no need to ration. Obviously, the Government is not going to use the powers if there is nothing to ration. But we have to take precautions. Say, for example, Mr Speaker, that there is an outbreak of Cholera in Morocco. Do we wait as the Leader of the Opposition was suggesting until we know how many people died this morning and how many people are dying and then we take the emergency precautions? Surely, if there is the slightest possibility of contamination in Gibraltar, then the Government who is in power will have to make sure to be ready to face the emergency as and when it arrives.

HON MAJOR R J PELIZA:

Mr Speaker, I am really a bit confused now. It looks to me as if this Bill is not to meet the fuel or coal emergency in the United Kingdom, but even to meet any threats of Cholera from our neighbouring country. I thought that that came under the Public Health Ordinance. And if it doesn't then, of course, I am a bit confused. But I am going to vote against this, not because I do not want to see proper administration of whatever supplies and fuel we may have in Gibraltar, but because I feel that notwithstanding this is an improvement in the sense that of course, the powers are limited to 12 months or so, it still doesn't make sense to me that there should be a new law introduced in Gibraltar when power exist already which have been accepted by all sides in Gibraltar without any questioning, without any suspicion and which can become operative as soon as there is an emergency. This is the importance. And the way to declare this emergency is through a Proclamation from His Excellency the Governor, a method that has been tested during the years and it seems to me that everybody has accepted it because it has not been abused. Therefore, I think it is proper and right that everybody should question, why if there is a law which exists today, which is perfectly all right and which is there to meet the emergency, the unknown and unquantifiable emergency - because the quantity of the emergency and the extent of the emergency has not been quantified in this House - why, therefore, introduce this law. It is wrong to suggest for a moment, therefore, that the Opposition is acting irresponsibly because they are not accepting the law. It is not irresponsible; it is acting cautiously; it is acting properly; it is trying to defend civil rights while at the same time maintaining all the powers that exist to meet the emergency. That is not irresponsible. That is safeguarding the right of the people of Gibraltar. Therefore, I, however disloyal certain members of the Government may think I am acting, I think I am acting as a watchdog for the civil rights of the people of Gibraltar which is one of the reasons why I was elected to this House. And I very much resent that such an imputation should have been made to members of this side of this House which are completely unjustified. So, therefore, Mr Speaker, notwithstanding, I am glad that on first thoughts, not on second thoughts, because the Bill was introduced without any safeguards of any nature. Then at the second stage through pressure or through impending pressure from another body, the limitation of 60 days was introduced and then through pressure in this House it is being now cut down to one year in the Ordinance itself. So I am afraid that whilst I welcome.....

MR SPEAKER:

We are now departing from the issue.

HON MAJOR PELIZA:

I beg your pardon, Mr Speaker. Coming back then. Whilst I welcome, I very much welcome that there is a time limit to the Ordinance, I still cannot accept it as being necessary in the circumstances. If the Government had come down specifying exactly what they wanted the Ordinance for, specified exactly what powers they were going to use within the Ordinance, such as we are going to ration bread; we are going to ration fuel; this is what we want those powers for. If they were to specify exactly what they were going to do or they might think of doing, then, of course their powers would be limited, unless they went against their own word, as to what they were going to use the Ordinance for. And that would have been in my view the responsible

way of introducing this bill in this House. But not in the fashion it has been done with first, second and third thoughts.

HON A P MONTEGRIFFO:

Mr Speaker, I would like to be very brief, but there has been a great contradiction in the approach of the Hon Member opposite who has last spoken. The fact that he is assuming and I am going to assume, too, that as a result of pressures all the amendments have been brought about from the Government benches, prove the wisdom of producing a Bill that could be debated in this House; that would have public pressure; that could be properly explained and that could be amended according to the views expressed in this House. That is assuming that the pressures have come from the other side and we have brought the amendment as a result of that pressure. But it does prove that it is much better to bring ^{seeing} into a bill to this House the powers that the Government ^{wants} is seeking ^{to} rather than, however well tested it must have been to have done it, ^{to} through a Proclamation as we have been urged by the other side who are talking about civil rights. *in the past,*

MR SPEAKER:

We will not go any further. I will allow the irrelevancies to be balanced by allowing one more speaker on this side. But after that I will not allow anyone to speak unless they are going to speak on the particular amendment.

HON P J ISOLA:

Mr Speaker, the new proposed clause which has not been brought forward as a result of pressure from the Opposition or the Opposition objecting, of course alters completely the whole concept of the Bill as was put forward by the Hon and Learned the Attorney General in closing on the Second Reading of the Bill and by the Government when they introduced it, which was that emergency powers should emanate from the House of Assembly and not from the Proclamation by the Governor. But now this particular clause tells the public that emergency powers will emanate from the House for only a year, not 53 years like they have had it in England so far, but just for a year and then we will get rid of it. That puts a very different light, Mr Speaker, on the bill, because, as we already know, the Governor-in-Council could have made their Proclamation under the Emergency Powers Order-in-Council and had the emergency. And the responsibility of making the Proclamation would have rested squarely on the Government. Now, what this amendment leads me to think is that what the Government really wants to do is to bring the Opposition into their state of emergency. In other words, to bring a bill in here and say, "well, let's bring it in; let the Opposition vote in favour, and then when we do rationing we will say that this had the blessing of the Opposition, it was passed through the House of Assembly." Having met, Mr Speaker, with opposition on their theory the Government has said; "Well, let's do the next best thing. Let's forget the idea that this was to give the question of emergency to shift it from the Emergency Powers Order-in-Council, to shift it to the House of Assembly by bringing the Bill here which was obviously the intention. And the Hon Attorney General told us that in England they've had it for 53 years so it is nothing particularly new. Instead of that having met with this opposition they say; "Let us at least try and get it for one year." And that seems to be the purpose of the amendment; to enable the Government a blank cheque or whatever one likes to call it, to give them freedom of movement for the period of one year with the

consent of the House of Assembly. And the reason why we must oppose this amendment - not that we don't welcome that it is being limited at least to 1 year - but the reason we must oppose it, is because it might even be worse than the Bill itself. Because by agreeing to it we do appear to be giving the Government powers to do things for a limited period of time of one year when no case has been made out as has been explained ad nauseam, Mr Speaker. And I can't explain any further. I am glad the Hon and Learned Chief Minister agrees with me for once. As has been explained ad nauseam we have given all the reasons for it and, accordingly, as we have said before what this particular amendment does is to seek to get the approval of the House for the antics of the Government in dealing with this particular situation and without making the slightest attempt to make a case for its need. Mr Speaker, this particular amendment introduced is an admission by the Government that the legislation is not really needed at all, because they are agreeing to limit it for one year. The idea is not to make this a permanent feature of the Statute Book as it appears to be in England. The idea is in this particular occasion in relation to the fuel crisis such as it exists, to give themselves these powers. But in any other event after a year if any other national emergencies arise, it will be done by the Governor-in-Council by an emergency Proclamation. Accordingly, Mr Speaker, the logic of the Government can be questioned here and, of course, the reasons for the introduction of the whole bill have already been questioned and have found to be wanting and accordingly we oppose this particular amendment.

Mr Speaker then put the question in the terms of the Chief Minister's amendment and on a division being taken the following Hon Members voted in favour:-

The Hon Sir Joshua Hassan.
 The Hon A W Serfaty.
 The Hon A P Montegriffo.
 The Hon M K Featherstone.
 The Hon A J Canepa.
 The Hon I Abecasis.
 The Hon Lt Col J L Hoare.
 The Hon H J Zammitt.
 The Hon J K Havers.
 The Hon A Mackay.

The following Hon Members voted against:-

The Hon M Xiberras.
 The Hon Major R J Peliza.
 The Hon P J Isola.
 The Hon W M Isola.
 The Hon J Bossano.
 The Hon J Caruana.
 The Hon L Devincenzi.

The amendment was accordingly carried and Now Clause 4 stood part of the Bill.

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

THIRD READING:

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to report that the following Bills have been considered in Committee and agreed to:

The Miscellaneous Amendments (No. 2) Bill, 1973, with amendments; the 1972-73 Supplementary Appropriation Bill, 1973, with amendment; the Supplementary Appropriation (1973-74) Bill, 1973, with amendment; the Criminal Offences (Amendment) Bill, 1973, without amendment; the Limitation (Amendment) Bill, 1973, without amendment; the Public Utility Undertakings Amendment Bill, 1973, without amendment; and the Supplies (Protection of the Community) Bill, 1973, with amendment, and I move that they now be read a third time and passed.

Mr Speaker put the question in the terms of the Hon the Attorney General's motion.

HON M XIBERRAS:

Sir, could we have a division on the last of those bills.

MR SPEAKER:

Yes. Well I will not read the whole question again, I am going to put the question up to the first six Bills ending with the Public Utility Undertakings (Amendment) Bill, 1973. Those in favour? Those against? Carried.

The Bills were read a third time and passed.

MR SPEAKER:

I will now put the question which is that the Supplies (Protection of the Community) Bill, 1973, as amended, be read a third time and passed.

On a division being taken the following Hon Members voted in favour:

The Hon Sir Joshua Hassan.
 The Hon A W Serfaty.
 The Hon A P Montegriffo.
 The Hon M K Featherstone.
 The Hon A J Canepa.
 The Hon I Abecasis.
 The Hon Lt Col J L Hoare.
 The Hon H J Zammitt.
 The Hon J K Havers.
 The Hon A Mackay.

The following Hon Members voted against:

The Hon M Xiberras.
 The Hon Major R J Peliza.
 The Hon P J Isola.
 The Hon W M Isola.
 The Hon J Bossano.
 The Hon J Caruana.
 The Hon L Devincenzi.

The Bill was accordingly read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

On that happy and cordial note, Mr Speaker, I would like to move the adjournment of the House sine die and I am sure both sides will agree in wishing you a Happy Christmas and New Year.

HON M XIBERRAS:

May I, Sir, with the individual voice of the Opposition, as established by the happy note in which the Hon and Learned the Chief Minister has referred, associate myself entirely and giving free assent to the proposition which he has expressed, may I wish yourself, Sir, Mr Speaker, Members of this House and Hon Members opposite, of course, a very Happy Christmas and a prosperous New Year.

MR SPEAKER:

I will now propose the question and in so doing may I reciprocate the greetings for the Christmas and New Year, and may I also wish a Happy Christmas and New Year to the Acting Clerk, and I now put the question which is that this House do now adjourn sine die.

This House adjourned sine die.

The adjournment of the House was taken at 5.55 pm on Wednesday the 19th December 1973.