

HOUSE OF ASSEMBLY

HANSARD
OF MEETING

HELD ON 29 MAY 1974

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

OFFICE COPY

The Twelfth meeting of the First Session of the Second House of Assembly held in the Assembly Chamber on Wednesday the 29th May, 1974, 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 P Montegriffo OBE, Minister for Medical and Health Services.
The Hon A W Serfaty OBE, JP, Minister for Tourism, Trade and Economic Development.
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 C J Gomez, CBE, Acting Financial and Development Secretary.

OPPOSITION:

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

ABSENT:

The Hon M K Featherstone, Minister for Education (away from Gibraltar on official business)
The Hon J Caruana, (attending CPA visit to Canada)

IN ATTENDANCE:

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

PRAYER:

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The minutes of the meeting held on the 12th March, 1974, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID:

The Hon the Minister for Tourism, Trade and Economic Development laid on the table the following documents:

- (1) The Port (Amendment) Rules, 1974.
- (2) The Street Traders and Pedlars (Amendment) Rules, 1974.

Ordered to lie.

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

- (1) The Industrial Training (Retail Trade) Rules, 1974.
- (2) The Prison (Amendment) Regulations, 1974.
- (3) Exchanges of despatches concerning Social Security arrangements between the United Kingdom and Gibraltar.

Ordered to lie.

The Hon the Minister for Housing laid on the table the following document:

The Postal Order (Amendment) Regulations, 1974.

Ordered to lie.

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

The Traffic (Parking and Waiting) (Amendment) (No 2) Order, 1974.

Ordered to lie.

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

- (1) The Protection of Aircraft Act, 1973 (Overseas Territories) Order, 1973.
- (2) The Legal Aid (Fees in Criminal Cases) Rules, 1974.
- (3) The Admiralty Waters (Gibraltar) (Amendment) Regulations 1974.
- (4) The Copyright (International Conventions) (Amendment) (No 5) Order, 1973.
- (5) The Trade Licensing (Appeal) Regulations, 1974.
- (6) The Co-Operative Societies (Amendment) Rules, 1974.

Ordered to lie.

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

- (1) The Local Loan (No 4) Regulations, 1974.
- (2) The Public Health (Exemption from Rates) Order, 1974.
- (3) The Gibraltar Broadcasting Corporation's Financial Statement for the year ended 31st March, 1973, together with Auditor's Report.
- (4) Annual Report by the Chairman of the Gibraltar Broadcasting Corporation for the year ended 31st March, 1973.
- (5) Supplementary Estimates No 1 of 1974/5.

(6) Supplementary Estimates Improvement and Development Fund No 1 of 1974/5.

Ordered to lie.

ANSWERS TO QUESTIONS

MR SPEAKER

The Honourable the Chief Minister has given notice that he wishes to make a statement. I now call on the Chief Minister.

HON CHIEF MINISTER:

Sir, in accordance with the now established practice, I rise to make the annual statement to the House on the affairs of the Gibraltar Regiment.

The establishment of the Volunteer Reserve is now 195 but, owing mainly to the discharge of a number of members of the Reserve who had an unsatisfactory attendance record, the present strength of the Reserve is 157.

Annual Training Camps were again held both in Gibraltar and abroad. 38 members of the Regiment drawn from the Infantry Company attended camp in August at the Mercian Depot at Lichfield while 40 members of the Light Air Defence Troop attended Camp at Manorbier in May with 12 Light Air Defence Regiment. Training Camps in Gibraltar were held in April, July, September and December. Weekend and evening training continued to be held as usual but it was a disappointment to the heavy troop that, owing to restrictions arising from the state of Penney House, the firing of the 9.2 inch guns in December had to be cancelled. A successful shoot of these guns took place in April 1973.

The Regiment conducted its own recall exercise and participated successfully in those run by Fortress Headquarters. It also took part in a number of command post exercises.

5. One regular member of the Regiment and 8 volunteers successfully attended courses in the United Kingdom. Second Lieutenant Guerrero is to be congratulated on having won a special award for his outstanding performance at Sandhurst. Lieutenant Hooper and CQMS Reyes were commended for their results on the courses they attended. 29 members of the Infantry Company were awarded First Aid Certificates. Instruction was carried out by members of St John's Ambulance.

Among its ceremonial activities, the Regiment performed the Ceremony of the Keys in June, provided a guard for the departure of Admiral of the Fleet Sir Varyl Begg and the arrival of Marshal of the Royal Air Force Sir John Grandy, and a ground holding party for the enthronement of Bishop Rapallo in October. A Regimental parade was held in September. The salute was taken by the Acting Governor, the Hon E H Davis, who officially named the Artillery Battery as Thomson's Battery in honour of the late Sir William Thomson.

Among the administrative matters dealt with during the year were the provision of administrative assistance to various T & A V R units visiting Gibraltar, an increase in the establishment to include 6 volunteer cooks, and the grant of authority for No 6 Dress. It is understood that the DP Combat Suit will be issued soon. Authority has also been granted for the formation of a Corps of Drums and training of volunteers will start shortly. The possibility of the formation of a Cadet Detachment continues to be considered, a successful demonstration having been organised for potential cadets from schools and youth clubs.

A team from the Ministry of Defence visited Gibraltar earlier this month to review pay and pensions. I am glad to be able to announce that approval has now been given for a substantial improvement in pensions and for an increase in the rates of pay for the Regiment, which will, of course, be reflected in the pay of the volunteer element. I know from previous discussions in this House that this will have the support of both sides. The increase will come into effect from the 1st March, 1974, and the new rates will be announced shortly by Fortress Headquarters.

The Gibraltar Regiment Association held 2 meetings during the year to deal with a number of matters affecting the Regiment.

I am sure that the House will join me in taking this opportunity to express our best wishes for the continued success of the Regiment.

HON M XIBERRAS

Sir, I am very glad to see that things are going reasonably well with the Regiment and because of the lateness of the hour I won't ask too many questions on this. I also say that of course, we on this side welcome the announcement that there is going to be what appears might result in a satisfactory wage review for the Regiment and for the volunteers, because Honourable members on this side of the House have raised the matter on one or two occasions. May I now turn very briefly and ask the Chief Minister about equipment for the Regiment. Is equipment which is available for training to the Regiment of the same sort of standard as one could hope to find in regular units here in Gibraltar or other T A V R units in UK?

HON CHIEF MINISTER

The answer to that is yes in respect of the last part of the question. That is to say, as good as any equipment found with T A V R units in the United Kingdom and therefore the same difference applies. But I am assured by the Colonel, too, that he is satisfied that the Regiment is not suffering from any lack of any equipment that a similar Regiment in the United Kingdom of this nature would be given.

HON M XIBERRAS:

Not necessarily as good as the regular units here which is I think a point to be borne in mind all the time. Sir, the other question which I have is on other recommendations about the Select Committee which recommended the setting up of the present volunteer force. There were a number of recommendations about sporting facilities and so on. I wonder whether the Regiment itself has given any attention to these recommendations, or whether the Government has been called in to give any attention to these recommendations at any time.

HON CHIEF MINISTER:

Certainly the Government has not been approached in respect of these matters and I am not aware of any action that we should have taken that we haven't taken. I don't know whether these are matters for the Gibraltar Regiment Association. I can certainly follow up the question but I am not aware and am not in a position to say what the subjects are. I am aware that generally speaking they don't seem to have any big grouses in respect of these matters.

HON M XIBERRAS:

I just mentioned this, Sir, because they were recommendations of the Select Committee in which members on both sides of the House were represented and I don't think that these recommendations which were more or less cleared in certain quarters should be allowed to go into oblivion.

MR SPEAKER:

May I explain that we have gone on further than the normal time because our recording system is not working properly and we can now recess until 3.30 and it will give the technicians time to put it right.

So we will now recess until 3.30 this afternoon.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, Supplementary Estimates No.1 of 1974/75 have been prepared and laid before the House in accordance with Section 65 and 67 of the Constitution. They refer (1) to sums totalling £8,866 which, although included in the revised estimates for the previous year, were not spent within that year. Their revote will not, of course, affect the balance of the Consolidated Fund as it appeared in the estimates laid before this House and appeared at the time of the budget and (2) to sums amounting to £37,900 in respect of new services for which either no provision was made in appropriation law or the amounts required are in excess of such provision. They include payments which are required to be made by law. One of £286 for compensation under the Landlord & Tenant Ordinance, and the other of £2,964 in respect of a refund of estate duty following the production of evidence that duty had also been paid in the United Kingdom on assets situate in that country.

2. Sir, it will be observed that in a number of cases the supplementary expenditure has already been met from the contingencies fund. The authority for this is contained in Section 67 of the Constitution and in Section 9 of the Financial Procedure Ordinance, 1973. The moneys are advanced from the fund in the first instance when there is no vote for a continuing service from which the expenditure can be met or when the amount involved is disproportionately large in relation to the provision in such a vote. Finally, Sir, the indications at this stage are that the supplementary expenditure required cannot be met from savings under any of the provisions made in the estimates from other services. Sir, I now have the honour to move that this House resolves itself into committee to consider Supplementary Estimates No.1 of 1974/75.

The House resolved itself into Committee.

Item 1 Head XII Public Works Non Recurrent.

HON M XIBERRAS:

I understand the Financial and Development Secretary has said that these are monies which are required to complete works and those items are labelled revotes in the supplementary estimates. As regards the Toddlers pool, is this the one mentioned this morning at question time?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That is a revote from 1973/74 in order to complete the works.

HON M XIBERRAS:

The question is, was this the one referred to at Question time this morning.

HON LT COL J L HOARE:

Yes, for which £5,500 was provided for last year to include not only the Toddlers pool but the two toilets at the Dolphin. We weren't able to complete the whole of that work by the 31st March as was reported to this House. There was £950 unspent and this work has now been completed.

HON M XIBERRAS:

And the Minister proposes to make some improvements to the bottom of the pool with this money?

HON LT COL J L HOARE:

It is not a question of improvement. It is a question of painting when the paint arrives.

HON M XIBERRAS:

The other one is New Buffadero Bluff Quarry (New). Could the Minister state what is the position in respect of Buffadero Bluff Quarry? Have the works **been** completed?

HON LT COL J L HOARE:

The amount of £5,750 was approved in Supplementary Estimates No.1 last year to do the work. We have done over £4,000 worth of work. The £1,500 is to complete the work. The work was approved by this House.

HON M XIBERRAS:

Do I take it that quarrying is to continue there?

HON LT COL J L HOARE:

Quarrying is going to continue there but whether we can find another quarry in addition is another matter.

HON M XIBERRAS:

Is there an operator for that quarry at present?

HON LT COL J L HOARE:

Negotiations are going on between the PWD and the DOE and the Master Builders Association, to come to some arrangement so that this could be worked all the time.

HON M XIBERRAS:

The Master Builders Association is representative of all users of aggregate in Gibraltar, I take it.

HON LT COL J L HOARE:

The Master Builders Association are the Master Builders Association. They represent, so far as I am concerned and the Department is concerned, all master builders in Gibraltar.

HON M XIBERRAS:

I asked, Sir, because I believe that the House is aware that the quarry with the old operators was terminated and I haven't seen any notice that this quarry is out to tender or anything of the sort?

HON LT COL J L HOARE:

The quarry is being prepared so that it can then be put out to tender and this is why the Master Builders Association has been brought into it because they are directly involved. So is the PWD so is DOE. We are going to try and make a combined effort of all interested parties to make this work once and for all.

HON P J ISOLA:

Will the Minister explain Item 133-Construction of the enclosing walls of voids at Glacis Complex. I notice this is a supplementary. It is a completely new item, is it not?

HON LT COL J L HOARE:

It is a new item completely. It is the lowest tender that we have received for enclosing the voids in Block B which is Gustavo Bacarissas House, and enclose certain voids in Ironside House Block E.

HON P J ISOLA:

Can the Minister state whether this was envisaged in the original scheme?

HON LT COL J L HOARE:

Yes, Sir.

Item 1 Head XIII Public Works Non-Recurrent was agreed to.

Item 2 Head XVI Miscellaneous Services was agreed to.

Item 3 Head XXIII Revenue was agreed to.

Item 4 Head XXIV Secretariat.

HON M XIBERRAS:

Mr Chairman, could someone venture an explanation of Item 11.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Purchase of the unexpired period of a lease in order to provide quarters particularly for officers who are coming from abroad and have got to be housed. It was found to be cheaper to do it this way than to lease a flat from somewhere else.

Item 4 Head XXIV Secretariat was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I now propose that the votes detailed in Supplementary Estimates No.1 of 1974/75 be approved.

Mr Speaker proposed the question.

HON M XIBERRAS:

Mr Speaker, there is not yet a clear indication of how costs have risen or what

the extent of supplementary expenditure is going to be, but could the Financial and Development Secretary in replying give the House a notion as to whether expenditure seems to be much heavier now even at this early stage than was forecast at budget time. Perhaps it is not totally a fair question on the basis of one set of supplementary estimates but, perhaps, even at this stage the House might be apprised of this. I seem to recall someone saying at budget time that no provision had been made for inflation as regards materials and I wonder whether the Financial and Development Secretary in replying might give an indication as to whether even in this short space of time there is already evidence that there was under provision at budget time for the works the Government intends to carry out in the coming year.

MR SPEAKER:

I will ask the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, it is rather early in the financial year to give any sort of indication of how the things are going. Until the end of the first quarter when the departments concerned particularly the PWD if it is materials and stores will be submitting their revised estimates and they will give an indication as to whether the expenditure is within their original estimate or not. At this stage the only thing we can say is that despite every effort to see whether there could be a virement from any particular vote in order not to come here for supplementaries, the answer has been in the negative.

Mr Speaker put the question which was resolved in the affirmative and Supplementary Estimates No.1 of 1974/75 were agreed to and passed.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, Section 33(3) of the Financial Procedure Ordinance, 1973, provides that where in respect of the Improvement and Development Fund it is found that the amount appropriated under any head of expenditure is insufficient or that the need has arisen for expenditure for a purpose for which no amount has been appropriated by Resolution of the House, a supplementary estimates showing the amounts required to be spent, shall be laid before the Assembly and the Assembly may by Resolution approve all or any part of such expenditure and shall by such Resolution appropriate the sums necessary to meet such approved expenditure for the purposes specified therein. Accordingly, Sir, I now move that this House resolves itself into committee to consider Supplementary Estimates Improvement and Development Fund No.1 of 1974/75.

The House resolved itself into Committee.

HON L DEVINCENZI:

The first item - Schools. We have here provisions in estimate, £6,100, and then we have supplementaries to the tune of £54,000 which is a revote to meet outstanding bills. Is this due to the fact that bills which were not expected have been presented for payment before they were expected? What is the reason for great difference, Mr Speaker?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is the other way about. Provision was made in the estimates for last year, that is why it is shown as a revote, but the bills didn't come in time before the end of the financial year and that is why they had to be met this year. I should, perhaps, explain, Sir, before we go any further that in this supplementary estimates there is only one item which has been met from local funds ie item (e). (b) and (I) are both financed from ODA funds under the grant-in-aid.

HON L DEVINCENZI:

I am grateful for that answer from the Financial and Development Secretary and I am very pleased to see that notwithstanding that at one time it was thought that the bills would come rushing in at a very late stage, this hasn't really happened.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Not for this particular one because obviously there were funds available.

HON L DEVINCENZI:

Well, the trend of things generally.

Subhead (B) Schools was agreed to.

SUBHEAD (E) OTHER DEVELOPMENTS.

HON CHIEF MINISTER:

Sir, I would like to draw attention to this item which is a further help to Sandpits Tennis Club. In order to be able to take advantage of the previous help given of the new surface in order that it can be used throughout the long summer evenings and late into darkness we have made a contribution of £2,000 and a soft loan of £2,000 and, perhaps, I might take advantage also of referring to the next item. Some matters of whether we should have gone to UK for budgetary aid was raised during the course of the estimates debate. Here is an item that was originally in the estimates because it was an absolute necessity, in fact, it had been ordered long before in order that it would come soon because the present one is in a shocking state, we went for ODM for help and we have got it. This morning the Minister for Trade, in reply to a question about the transit shed, referred to the fact that we had also put in a claim isolated like this one for this year for the air cargo shed and we are expecting a favourable reply. The two of them together make over £110,000 which is really a contribution to this year's expenditure, irrespective of any question of development aid.

HON L DEVINCENZI:

Mr Speaker, Item (E) Sandpits. I welcome this contribution from Government as a continuation of the grant given by the previous administration and I particularly welcome this move on the part of the Government because of the present arrangements whereby not only the club itself but the people of Gibraltar, generally, can benefit from any improvements made. Could I ask by way of clarification whether this loan of the additional £2,000 repayable over a period of five years with a moratorium of two years, whether any interest is being paid on this?

HON CHIEF MINISTER:

No interest is being charged. It is just the repayment of the amount loaned.

Subhead (E) Other Development was agreed to.

Subhead (L) (New) Purchase of Asphalt Plant was agreed to.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I now propose that the votes detailed in Supplementary Estimates IDF No.1 of 1974/75 be approved and the sum of £103,185 be appropriated to meet the expenditure detailed therein.

Mr Speaker proposed the question.

Mr Speaker then put the question which was resolved in the affirmative and Supplementary Estimates Improvement and Development Fund No.1 of 1974/75 were agreed to and passed and the sum of £103,185 was appropriated to meet the expenditure detailed therein.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, the accounts for electricity are rendered for the period comprised between the dates at which two successive readings of meters are effected and not on the basis of a calendar month or quarter. Hence when new charges are introduced they are applied to the period in which there occurs the date from which the new charges become operative. This practice has invariably been followed hitherto and is, in fact, embodied in the Resolution of the House approving the new charges. Accordingly, the increased charges approved at the last meeting of the House would have been applied in the normal course to electricity consumed prior to the 1st of April. However, in view of the magnitude of the increases, the Government felt that these should not be effected without adequate notice to consumer, and hence issued a Press Release in which the public were informed that the motion would be brought to this House to defer the date of implementation of the increased charges by one month. Hence, Sir, I now have the honour to move that whereas from the first of April, 1974, this House resolved that certain tariffs and prices for the supply of electricity set out in the Resolution should be applied and charged in respect of the accounting period including the 1 April, 1974, and every such period thereafter, and whereas this House considers it appropriate to amend such Resolution, now, therefore, in exercise of the powers conferred by Section 12 of the Public Utilities Undertaking Ordinance this House resolves that for the words "including the 1 April, 1974," in such resolution there shall be substituted the words "including the 1 May, 1974".

Mr Speaker proposed the question in the terms of the motion proposed by the Hon Financial and Development Secretary.

HON M XIBERRAS:

Mr Speaker, I don't think it is a good practice to come to the House and have general discussions about various matters and then to find that the Government changes its mind practically the minute it has left the House and has had to confront public opinion. I think if there is any strength in the argument that adequate notice should have been given for increases of such magnitude in electricity as the Hon and Financial Secretary has just stated, this thought

should have occurred to Honourable members opposite before they came to this House and brought a Resolution such as the one we are discussing now. I am sure that the Government in the weeks that followed the budget were giving very careful consideration as to what modifications they might bring about in the very heavy taxation which they had raised and, perhaps, this was in the least that they could do to make the measures palatable to people in Gibraltar. Now, it is not a practice that has anything at all to commend itself because after all there is nothing new in the argument that the Honourable Financial and Development Secretary has brought to this House now. It gives a distinct picture of a Government giving way in what it had stated and gives the image to the Government that it says one thing in the House of Assembly, there are various representations made, there are various re-considerations of the position and eventually the Government issues a different statement to that which it made originally. It has been a Government of much amendment, much modification and fortunately in this case it is in the direction which Hon Members on this side of the House agree if it had been done in the proper manner - and I use proper loosely - that is in the manner that one could expect of the Government. It means that there would be a respite for one month or there was respite for one month in the collection of the increased electricity charges, but the position obviously is now as it was at budget time. From time to time we have pointed out that the Government tends to alter its position with each wind of change and this is a practice which Honourable members on this side of the House are not prepared to condone.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, if the Honourable the Leader of the Opposition were to look back at the Resolution which was passed by this House it was clearly stated that month or quarter means the period comprised between the date any meter is read for the purpose of the account and the date it was read during the month or quarter immediately proceeding, so the point could have been raised by the Opposition just as well as by the Government. Meters cannot be read all at once, and it so happens that some of them are read very near the beginning of a month or quarter. Well, obviously, with these increases the consumer had no notice and therefore he could take no steps to reduce his consumption and that was the reason why Government thought that it was fair and reasonable that it should be extended for one month.

HON P J ISOLA:

Can the Financial Secretary point out to any instance when tax payers are given notice of a tax? Any single instance?

HON CHIEF MINISTER:

Is there not a question of retrospection here which is always much criticised by all legislatures?

Mr Speaker put the question in the terms of the Hon Financial and Development Secretary's motion which was resolved in the affirmative. The motion was accordingly carried.

BILLS

FIRST AND SECOND READINGS.

The Family Allowance (Amendment) (No.2) Ordinance, 1974.

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill for an Ordinance to amend the Family Allowances Ordinance (Cap. 58) to enable provision to be made for giving effect to reciprocal agreements be read a first time.

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

HON A J CANEPA:

Mr Speaker, I have the honour to move that this Bill be now read a second time. Sir, earlier on in these proceedings I had the honour to lay on the table the exchange of despatches that took place between the former Foreign Secretary of the British Government on behalf of Her Majesty's Government and His Excellency the Governor on behalf of the Gibraltar Government, giving effect to a reciprocal agreement on social security. Sir, under the present legislation, powers exist already under the Employment Injuries Insurance Ordinance and under the Social Insurance Ordinance to give effect to such agreements. However, the scope of the agreement goes beyond these two aspects, it also includes family allowances and powers do not exist at present under the Family Allowances Ordinance for effect to be given to such an agreement. Therefore, Sir, the Bill which is now before the House ~~purports~~ ^{proposes} to give such powers to Government. Advantage is also being taken at this time, Sir, now that there is another amendment to the Family Allowances Ordinance to meet representations which I myself have received from one or two parents, and which my colleague the Minister of Education has ^{also} received, to take account of the increasing tendency for students, who under the Ordinance are defined as children, to stay on in the sixth form. At the moment 18 is the upper age limit for entitlement to family allowances and ~~that means that~~ it does happen in some cases that students who reach the age of 18 sometime in the course of their second year in the sixth form lose their entitlement for some months in the remaining part of that school year. Therefore, Sir, by raising the age from 18 to 19 it is hoped that we shall cover all cases where students stay on for two years and the family will continue to enjoy the benefit of family allowances until the end of the school year and not have the payment of the allowance ~~either~~ reduced or brought to an abrupt halt before the end of the school year. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON M XIBERRAS:

Sir, I cannot resist the comment that this is I think the third time Honourable members opposite have come with these reciprocal agreements to this House and we cannot but approve of the direction which their steps are taking and, I hope it is not consternation that I see in the Honourable Minister's face about what I am going to say because the Government seems to be taking the only logical

and sensible way of progressively integrating our social services with those of the United Kingdom. It is quite amazing that their well worn set of arguments which they produce when we ask for comparative statistics between Gibraltar and the United Kingdom are not employed on this occasion or on the occasion of the medical and health services agreement or on the occasion of the so-called social benefits agreement. Of course members on this side of the House regard this as being an entirely logical and obvious way in which to proceed. Our only query is that the opportunity is not taken to form more comprehensive agreements with the United Kingdom and that these bilateral agreements as they are sometimes called are not put forward with a concern for levelling up social payment standards in Gibraltar to that of the United Kingdom. But, of course, Honourable members opposite do from time to time away from this House express the general desirability of raising standards in Gibraltar in regard to those matters to those obtaining in the United Kingdom. I don't think Honourable members opposite should follow this road reluctantly. I do not feel they should think for a moment that they are letting down our own Gibraltarian standards by subscribing to these agreements. I think it is entirely logical and many better things could be done, no doubt, if all of us in Gibraltar were really united in our efforts to level up benefits here in Gibraltar to what exists in the United Kingdom. There have been movements from time to time but now there is conscious effort and conscious expression in this House for the desirability of doing this, of integrating it needn't be done all at one go - but, perhaps, the Honourable member will show in his reply an awareness of the direction which his steps are taking him.

HON A J CANEPA:

Sir, I am afraid that I cannot resist remarking that what I have an awareness of is the extent to which we are disintegrated from the United Kingdom. Reciprocal bilateral agreements, Mr Speaker, ^{are} put into effect between two separate countries or two separate nations. When a country is integrated with another one you do not require a bilateral reciprocal agreement, and that is why.....

HON P J ISOLA:

On a point, of order, Sir.

HON A J CANEPA:

Sir, the Honourable member had an opportunity to address the House. We are always interested to hear what Mr Isola has to say on social security. I was going to say, Sir, that that is why other countries, ^{contract reciprocal agreements} for instance, I understand that Spain and the United Kingdom are currently negotiating a reciprocal agreement. I wonder whether that means that Spain is becoming integrated with Britain or Britain integrated with Spain. I don't know in which direction. Were we integrated, Sir, we would not need a reciprocal agreement. And this is why I am surprised that a previous Integrationist Government did not move in this direction. They could have negotiated reciprocal agreements in their time and yet they didn't take that opportunity. So really, Sir, they have got the wrong end of the stick completely. It is because Gibraltar is a separate entity that we are giving effect to a reciprocal agreement.

HON P J ISOLA:

The point of order, Mr Speaker is that there is a constitution of Gibraltar which certainly doesn't say that Gibraltar is an independent entity. The Minister keeps on referring to two independent countries. I just wonder if it is in order for the Minister not to make the reservation that there is a

constitution under which Gibraltar is all but independent. Its quite the opposite.

MR SPEAKER:

It is not against Standing Orders for members to have their own particular views as to what we are or are not.

HON A J CANEPA:

For the purposes of Social Security, Sir, and for the purposes of the Common Market social security regulations, Gibraltar is a separate state. It is a separate authority.

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

The Honourable the Minister for Labour and Social Security proposed that the Committee Stage and third Reading of the Bill be taken at a later stage in the meeting.

This was agreed to.

THE SUPREME COURT (AMENDMENT) ORDINANCE, 1974

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Supreme Court Ordinance 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. Sir, those Members of this House who have read the bill will see that although there are certain minor amendments, there is only one amendment of substance and that is the one relating to disqualification for jury service. As members will be aware, for all serious crimes persons in Gibraltar are entitled to trial by jury. The provisions of the Supreme Court Ordinance relating to jurors starts off by saying that every male between the age of 18 and 65 shall be qualified as a juror and, in fact, any female between these

ages may be enlisted as a juror if she applies to be included in the list. Certain persons are then exempted from jury service by virtue of their particular calling because it is felt incompatible with their calling that they should also have the liability to serve on juries. I won't go into a long list but it includes the Speaker, Members of this Honourable House, Ministers of religion, Justices of the Peace, pilots, etc. Then we come to the disqualification of jurors. Every man, so it is said, is entitled to be tried by a jury of his peers. Peers doesn't mean members of the House of Lords, although there are some people who might think that members of the House of Lords are more eminently suited to try a man's guilt than anyone else, but it does mean his equals. There are at present three classes of persons who are not reckoned to be suitable for jury service. (1) aliens, until they have been in the country for ten years. That we are retaining. (2) persons who suffer from mental or bodily infirmity. Quite clearly it is highly unsatisfactory that they should be on juries. And the third, and this is one we are now changing, is persons who have been previously convicted of treason, felony or infamous crimes and have not received a free pardon. The first reason why we need to change is that in 1972 we abolished in Gibraltar, following its abolition in the United Kingdom, of the distinction between felonies and misdemeanours. Hitherto, the more serious crimes were all designated felonies. From 1972 onwards, any crime which is created is not called either a felony or a misdemeanour so a person convicted of a crime created since that time would never be disqualified from jury service. In 1972, as members will recall, there was a wide ranging amendment to our Criminal Offences Ordinance again following similar legislation in the United Kingdom, when we redefined, among other offences, larceny, robbery, blackmail, burglary. None of those offences are now designated as felonies with the result that if a person is convicted of one of these offences after 1972, he hasn't been convicted of a felony and he is not disqualified from jury service. The position before 1972, was, with respect to the law, illogical. We had the same position in Gibraltar as in the United Kingdom, but it was not a logical position. Look at it this way. Although felonies were the more serious crimes, it meant that a boy of shall we say 10, who was convicted of stealing an apple and given an absolute discharge, he would have been disqualified for life from serving on a jury because he had been convicted of a felony. On the other hand a grown man convicted of such offences as sedition, living on immoral earnings, and many other heinous crimes would have been able to sit on a jury. That, I think, is highly illogical. It was seen to be illogical in the United Kingdom and now we consider it to be illogical in Gibraltar. It is considered that the appropriate test is to make the test of the punishment inflicted the test of whether a man is disqualified on the grounds that the more serious crimes the longer sentence of imprisonment. So as members will see a man is now going to be disqualified from jury service if in the ten years preceding the time he is summoned to be a juror he has served any part of the sentence of three month's imprisonment, and he is disqualified from jury service for life if at any time in any part of the Commonwealth he has been sentenced to a term of imprisonment for life or five years or more. That does seem the logical approach and it does seem that by reason of this we

shall not exclude from our jury people who should not be excluded but we shall exclude the persons who have been guilty of serious offences and are not really fit persons to decide the guilt of their fellow citizens. There is one other provision I should mention. Again we follow the United Kingdom, and that is we provide if for some reason a person who should have been disqualified sits on a jury, that nevertheless should not vitiate the verdict of the jury. The verdict will stand. I think it is highly unlikely that this will ever happen. The Registrar of the Supreme Court, of course, keeps the jury list and certainly as far as Gibraltar convictions go he will make sure that no person convicted here gets on the jury list. It is possible, however, that a person convicted in the Commonwealth comes here, nobody knows that he has been convicted of a crime, he sits on the Jury and this is discovered afterwards. It is considered wiser in those circumstances to provide that the verdict should not be set aside solely on those grounds. The remaining provisions are what I might call tidying up provisions. To a certain extent they are caused by the fact that the crime of murder no longer carries the death penalty and we have removed from the Ordinance the provisions talking about murder or any other offence punishable with death. There are still certain offences punishable with death but this is purely as I say bringing the existing Ordinance into line with the law as it stands. Mr Speaker, I commend this bill to this Honourable House.

Mr Speaker 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 this Bill will be taken at a later meeting of this Honourable House.

THE CO-OPERATIVE SOCIETIES (AMENDMENT) ORDINANCE, 1974

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an

Ordinance to amend the Co-operative Societies Ordinance, 1971, be read a first time.

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

The Bill was read a first time.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that this Bill be now read a second time. As Honourable Members will see we are by Clause 2 of the bill, incorporating three new sections into the Co-operative Societies Ordinance. These sections, as is explained in the explanatory memorandum, are taken from the United Kingdom's Friendly and Industrial and Provident Societies Act, 1968. All three of them are aimed at ensuring that the books of accounts of the Co-operative Societies are kept in a satisfactory way, that the revenue accounts give a fair and true picture of what is happening in the Society and of how its business is conducted. This, with respect, is a provision which is aimed very much at protecting the interests of members of co-operative societies. I am sure nobody here would wish any member of a co-operative society, or anybody else for that matter, to be in any way misled by his society as to how they are conducting their affairs, and by laying down certain principles we hope to make it virtually impossible for the affairs of a society to be conducted in any way which is detrimental to the interests of its members. The second provision of the Bill to which I would draw attention is the provision which repeals and replaces the existing provision of the Co-operative Societies Ordinance which related to a member's interest in the society. At the moment the provision is this. No member other than a registered society shall hold more than one fifth of the share capital of any co-operative society. It may well be that on a particular day, let us say the 1st June, Mr X, who is a member of the society, holds less than one 5th of the share capital. Supposing the share capital is 3,000 and he holds £500 worth. He is within the law he is holding less than 1/5th. Then the next day for some reason the share capital is reduced to £2,000. Perhaps some member takes out his interest. Mr X is then in breach of the law because he is still holding £500 but this is more than 1/5th of the share capital. It is quite obviously wrong that a member should unwittingly find himself in contravention of the law through no act of his own. For this reason we have included a provision

that the interest should be not more than £500. We have removed the provision as to proportional percentage so as to make no difference to a member's holding if other members withdraw their capital. Provided he has not got more than £500 he will be in order. The last provision is a very minor one. The present section of the ordinance relating to the purposes for which regulations may be made do not allow remuneration to be provided for officers or persons employed by registered societies or of members of the committee. This is probably unsatisfactory and, therefore, this gives us the power to make regulations if we wish to do so, and in fact regulations will be made, enabling officers to be remunerated and also for persons employed by the society and members of the committee of the society. Mr Speaker, I commend this Bill to this Honourable House.

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

HON J BOSSANO:

Mr Speaker, I can say on behalf of this side of the House that the points that have been brought out by the Attorney General are clearly intended and seen by us to be improvements to the existing Co-operative Societies Ordinance. In fact, I think many of these points arose from attempts to make use of the existing ordinance to register a Co-operative Society which is now in the last stages of registration when the practical difficulties were seen and I would like to say first of all that I hope that the steps the Government has taken to improve on the ordinance mean that the Government is as keen as the previous administration was to see co-operative societies being established and flourishing in Gibraltar and I have no doubt in my mind that the establishment of co-operative societies would be a tremendous weapon in the fight to contain inflationary pressures in our economy. I trust that the Government will do everything in their power to support and encourage the establishment of co-operative societies. As far as Section 2 of the ordinance is concerned, clearly it is right that the legislation covering co-operative societies should have as one of its primary objectives the protection of members of the society because we are not dealing with normal commercial enterprises. As far as the other section is concerned, the one dealing with the £500 limit, it has obvious practical advantages over the previous limit which is a floating one as the Honourable Attorney General has pointed out. I myself feel that, perhaps, in this day and age the £500 limit is in the low side. When one thinks that the number of persons

required to establish a co-operative society is 10, it means in effect that the maximum capital of the society can be £5000, when the ten original signitaries apply for registration of the co-operative society. I don't know how far one can go with £5000 in establishing a co-operative society. Again there is the question of the relationship between the capital base of the society and its ability to raise loan finance which I think is not very clear in the principle ordinance but which clearly from a point of view of obtaining financial support from outside institutions, banks and so on, normal practice is that the lender will look at the capital base of the institution before deciding the size of the loan that can be made. I think that the original section which was the one where the shareholding was limited to a maximum of one-fifth had probably as one of its objectives ensuring that no one shareholder controlled too large a proportion of the capital. If we have in fact the £500 presumably one shareholder can control 99% of the capital of the co-operative society because of the £500 limit. On the one side there is less protection in this respect on the other side it seems to me to be perhaps in practice restrictive and I would have preferred the Government to adopt a more flexible thing here and fix the actual maximum by regulations where if it is proved to be too low it would be something that could be changed on representations from the society involved without needing to wait for a meeting of the House and amending the principle ordinance.

MR SPEAKER:

Does the mover wish to reply?

HON CHIEF MINISTER:

May I just say a word on the point raised by the last speaker on whether we should show interest in encouraging co-operative societies. I would like to remind the Honourable Mr Bossano that it was during our administration that the original enquiry that led to the passing of the ordinance made when Mr Bottomly came out and made an examination of the situation, studied the matter and prepared the brief for the then draft bill. Within the powers that are available to the Government we will do what we can to help.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I will look at the point made by my Honourable

friend Mr Bossano that the limit of £500 might be rather low. My recollection is that the limit is £1000 in the United Kingdom, I am not sure. I will certainly give consideration to the difficulties which could be caused if you only have ten members and of course your capital is restricted then to £500 I will also consider as to whether it would be possible to provide by regulation that the sum of £500 might be varied. It seems to me that perhaps the most practical provision would be to amend the section, I would undertake to give consideration to this, so that the ordinance says £500 with a proviso that in proper cases it may be raised in respect of a particular society, on application. That I will consider before the Committee Stage.

Mr Speaker 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 later meeting of this Honourable House.

THE DOMICILE, MATRIMONIAL PROCEEDINGS AND RECOGNITION OF DIVORCES AND LEGAL SEPARATIONS ORDINANCE, 1974.

HON ATTORNEY GENERAL:

Mr Speaker, Sir I have the honour to move that a Bill for an Ordinance to amend the law relating to the domicile of married women and persons not of full age, to matters connected with domicile to jurisdiction in matrimonial proceedings; to make provision about the recognition of divorces and legal separations and for matters connected therewith, be read a first time.

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

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I am going to take the somewhat unusual step of showing what this Bill doesn't do before I start to deal with what it does do. Mr Speaker, it does not in any way alter the

law in Gibraltar as to the grounds on which a person may obtain a divorce. The grounds on which a divorce may be obtained in Gibraltar will be the same after we pass this Bill, - if we do pass it - as they are before. To a large extent the Bill codifies for the first time the existing common law rules which govern the cases in which we in Gibraltar recognise divorces and legal separations granted in other countries. As members are probably aware, our common law is the same as that in England and England has now codified its common law relating to recognition of marriage and divorces and this is what we are doing in Gibraltar.

Turning from the clarification for a moment I come to a very new principle and that is the question of a wife's domicile. I hope members will hear with me. This is a slightly dreary subject for a non-lawyer but it is a subject of very considerable importance. I will try to explain in simple terms the present position as to the law of domicile. The law of a person's domicile governs, inter alia, his or her status - including his capacity to marry - it governs the distribution of his property if he should die intestate. And it can govern the construction of his will. A person's domicile, broadly speaking, is the country in which he is deemed to regard as the country of his permanent home. He may not be there, such as perhaps a Scotsman who goes abroad, lives all his life perhaps abroad working. He may be out of Scotland for 50 years but he was born in Scotland and Scotland throughout that time remains his domicile. A person at birth acquires his father's domicile that is he acquires a domicile of origin which is his father's domicile. You could always change your domicile by going to another country and having got there formed the intention of making that your permanent home. That is called acquiring a domicile of choice. Supposing you have an Englishman come to Gibraltar, work perhaps here, likes the climate, likes the people, likes the country - and the income tax as well. He sells his home in England, buys a house here, he probably acquires by choice a domicile in Gibraltar. And that of course will govern thereafter his status, his capacity to marry and the law of Gibraltar will govern how his property if he dies intestate is distributed. At the moment women are in a different position. A woman on marriage acquires, whether she likes it or not, her husband's domicile if it is different from her own. It may well be, obviously in many cases it is the same as her own. Now this acquisition by a woman of her husband's domicile was called not so very long ago by a very eminent judge, the last barbarous relic of a woman's servitude. And she retains her husband's domicile throughout the marriage. If he changes it whether she likes it or not her domicile changes with him. This can lead to very great hardship. Let us take the case of a Gibraltarian woman who marries a man who let us say is a citizen of No man's land. She immediately acquires No Man's Land domicile. And the law of No Man's Land governs her status in all matters. Supposing that the law of that country precluded a woman from obtaining a divorce even though her husband was guilty of the most infamous conduct towards her, that poor woman never throughout her life could ever obtain release because she is always governed at the moment by the law of her husband's domicile. And what we are doing in this Bill, and it is a measure which can only commend itself to persons of feeling with any humanity, is that a woman's domicile will continue to be ascertained as any other person's domicile. The mere fact of marriage will not necessarily

change her domicile to that of her husband. If she appears to change, shall we say she goes off to No Man's Land with her husband she will be deemed to have acquired a domicile of choice there. But if she then because of his conduct comes back to Gibraltar, settles here again, once again her domicile will change back again and she will acquire a Gibraltarian domicile and her status will be determined by the law of Gibraltar. This provision was advocated by a convention held at The Hague in the early 1970's and has become part of the law of England and that is what we are now doing here. Clause 3 of the Bill provides that a married woman's domicile will be determined in the same way as any other person. I think I better go through the remaining clauses of the Bill, if members would bear with me. I shall be as quick as I can. At the moment - Clause 4 - a child keeps his father's domicile until the age of 18. Clause 4 now provides that at the age of 16 a minor, a child, can obtain an independant domicile - he is no longer restricted to his father from the age of 16 - or in the case of females at the age of 16 or on marriage if that is earlier. In Gibraltar a female can marry at the age of 14, that is, the same as in some other countries. At the moment if a Gibraltarian girl marries shall we say at the age of 15, she doesn't acquire her husband's domicile, she retains her father's domicile until the age of 18 which is somewhat anomalous. So now we provide that she can obtain an independant domicile if she wants to as soon as she marries or when she obtains the age of 16. Clause 5 gives provision to the case of a child whose parents are living apart. It shows if the child is not living with his father then the child can have his mother's domicile. At the moment parents living apart, a child living with his mother, will have both in fact retained the father's domicile, but now we want to implement if I might put it that way the provision as to the wife having an independant domicile and we say that the child's domicile if he is living with the mother goes with the mother. Clause 6 removes a somewhat unsatisfactory provision which exists at the moment. It is possible in Gibraltar for a divorce to be obtained other than in the Supreme Court. That is if the persons are not domiciled here and they obtain a divorce by the particular provisions of law which are applicable to them. There was a case quite recently in England where a Pakistani divorce was obtained by what was called a decree of Talak and that is not satisfactory and in Gibraltar it must be by the Supreme Court. Clauses 7, 8, 9 and 10 deal with the instances in which our Courts in Gibraltar will recognise divorces obtained in other countries. Very briefly they are the same grounds as other countries will recognise divorces granted in Gibraltar. Clause 12 again removes another anomaly which not only was found to exist in England quite recently but in fact existed here. That if a divorce is granted in one country and that country does not permit remarriage, nevertheless, the parties can remarry in a third country. Clause 13 deals with the one in which we will recognise a divorce. Clause 14 is a transitional provision. In Clause 15 we amend the Matrimonial Causes Ordinance very much incorporating the same provisions as there are today but framing the legislation much more on the lines of the English legislation. The only difference is that at the moment in order for a court to have jurisdiction to entertain a case in Gibraltar, if the person is not domiciled here, they must have been resident here for three years.

This period has now been cut down. In the United Kingdom it is recognised that residence for one year if the person is not a national, will give the courts jurisdiction to entertain a suit for divorce. Again this is, as I understand it, generally provided for in the countries which were parties in The Hague convention. Clause 16 is again a highly technical one relating to cross proceedings. It has been, I can assure members of the House, scrutinised very carefully by the Law Revision Committee which consists of the Chief Justice, Mr Benady and myself. It is not some dreadful pitfall to increase income tax or anything of that sort, it is a genuine provision and Clause 17 again deals with occasions in which proceedings may be stayed in the Gibraltar Courts if there are proceedings for divorce in some other country. I think members will see that I have provided a fairly long explanatory memorandum dealing with the sections one by one. Probably they will find more help from that than from hearing me waffle any more. Mr Speaker, I commend the Bill to this Honourable House.

MR SPEAKER invited discussion on the general principles and merits of the Bill.

HON P J ISOLA:

Mr Speaker, we welcome this Bill on this side of the House and we are extremely grateful to the Honourable and Learned the Attorney-General for the very clear exposition he has given us of the purposes of the Bill. The field of domicile and residence and marital rights and so forth, has been a little confused and is considerably confused by the fact that different countries have different tests and different laws. I think the suggestion on domicile and women having independent domicile is an extremely good one and certainly we have no hesitation in agreeing that it should be adopted in Gibraltar. Anything that makes the position of the woman in a marriage or in subsequent proceedings rather than in a marriage on easier one is welcome of course. I am sure to all Honourable Members and certainly to this side of the House because as the Honourable Attorney-General has said in his address there have been some constraints on the position of the female spouse precisely because of the laws of domicile and we certainly welcome the idea and the concept of a woman, indeed as well as a young son or a young daughter, having an independent domicile and being capable of having one even during the substitution of marriage or after its breakdown more importantly so. I think we welcome the putting into a neat form the rules that govern relationship for divorce, the question of recognition of outside divorces and the rules pertaining to that. I think this Bill will be extremely helpful to the legal profession, Mr Speaker, and I am sure too to the judges who have to deal with these rather difficult matters. Finally, Sir, we note what the Bill does not do.

MR SPEAKER 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 be taken at a later meeting of this House.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1974/75) ORDINANCE 1974

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a bill for an Ordinance to apply further sums of money to the service of the year ending on the 31st day of March, 1975, 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 FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that this Bill be now read a second time. Sections 65 and 67 of the Constitution require that in addition of the approval of the House of the expenditure detailed in the supplementary estimates, the relevant heads of expenditure should also be included in a Supplementary Appropriation bill providing for the appropriation of those sums. The bill is designed to satisfy these requirements and I therefore commend it to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill. There being no reply Mr Speaker put the question which was resolved in the affirmative.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

THE INCOME TAX (AMENDMENT) BILL 1974.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance (Cap. 76) 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 FINANCIAL AND DEVELOPMENT SECRETARY:

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

The increase in the family allowance introduced with effect from 1st April, 1974, has rendered it necessary to adjust the amounts recovered from individuals whose income is above a certain level. The opportunity has been taken to adjust such levels in the light of the depreciation in the value of money. This is being effected by clause 3 of the bill. The opportunity has also been taken in clause 4 to introduce a similar scheme for the recovery of a proportion of pensions granted to elderly people whose income notionally exceed £750 if single, and £1050 per annum, if married. In practice, however, because of the effect of the proposed amendments in clause 2 of the Bill, the income would have to exceed £800 and £1050, respectively, before the individual will have to pay any tax. The first proviso to the clause provides for cases where the income marginally exceeds the figure at which the recovery at the lower rate ceases to operate. In such cases the higher percentage rate at which the recovery is to be effected will be applied only to such amount of the income as may be subject to the higher rate of tax. The second proviso ensures that the amount recovered does not exceed the whole of the amount of the pension paid. Finally, clause 2 amends section 19(2) of the Income Tax Ordinance by raising from \$700 to £800 in the case of a single person and from £1,000 to £1,050 in the case of a married couple, the levels at which persons aged 65 or over with a limited income will start to be liable to pay tax. This is in order to give effect to the depreciation in the value of money. Sir, I commend the Bill to the House.

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

HON M XIBERRAS:

Mr Speaker, I was expecting the Hon the Minister for Labour and Social Security to have something to say about this since this income tax claw back effects two subjects at least which are his concern. May I deal briefly, Sir, with the family allowances to say that even though the level at which the claw back begins to operate in other words at which the family allowances which is given by the Government is taken away by the Government in income tax, has been raised by something I understand like £300, there is a need to revise in our view the levels at which all these claw backs of income tax generally begins to operate in line with the concept that money has depreciated quite considerably now and what was once a salary that made a person fairly well off or at least gave him enough to live on is no longer the case. I understand, of course, that this particular level as regards family allowances must be governed by general considerations applying to the income tax structure generally and therefore I do not propose to attack this particular measure on the grounds that we would like to have been a different income tax bill but I think the point is obviously worth making. However, in respect of the effect of this claw back on the Elderly Persons Non-Contributory Pensions Ordinance, 1973, which as I remember is the ordinance which was supposed to give people or was supposed to establish a universal pension of some £2.30p, we on this side of the House have rather more to say. The Hon Minister for Labour will recall that he was very fiercely attacked by Honourable members on this side of the House when

he introduced the over 75 bill - and Honourable Members will correct me if I am on the wrong track. - but the minister was severely criticised by members on this side of the House in this Bill because it was felt by Honourable Members on this side of the House that it was quite unjust to provide in that ordinance for what amounted to a means test in respect of those people in receipt of supplementary benefits, whereas people whose income came from somewhere else, from capital or from savings were not affected at all by any kind of means test. In other words a person, if I may put it very succinctly, could drive up in a Rolls Royce with a huge income and collect £2.30 from the Labour & Social Security Department whereas a person with supplementary benefit would not receive any extra allowance over and above his supplementary benefit entitlement because his money, little as it was, came from supplementary benefits. There was a further injustice in the Elderly Persons Bill and that was that for the purposes of that bill pensions under the Social Insurance Ordinance were disregarded. In other words that if a person got £2.30 from the Social Insurance Ordinance to which he had contributed then he could not receive anymore. Now people with a high income who were entitled to £2.30 from the Elderly Persons Ordinance will have to pay income tax on the amount that they receive which is only fair. If a person has a private income of £3,000 it is not fair that he should be given £2.30 by the state further to that and there should be no claw back in income tax for it. This is I believe the purpose of the Bill and I was expecting the Minister for Labour & Social Security to offer to the House some sort of explanation of this about turn in this matter of elderly persons pensions. At the time of moving the bill he said that he had a plan in his mind about this but he did not give way at all to the attack of Honourable Members on this side who suggested that the fundamental flaw in the elderly persons bill was that there was no means of getting back this money which was paid to these people of higher income. Now the Government belatedly brings a bill to the House which may very well remedy or counter the argument of injustice, but it does not at all destroy the idea that the Government should have listened to reason at the time of the elderly persons bill and that the Minister should have been prepared more gracefully to give way on this and say: "You have a point, I will examine". I remember quite distinctly saying to the Minister at that time: "You will not be able to hold the position for very long". I said that at the second reading of the Bill and I am glad to see that the Minister has borne in mind what I had to say.

HON A J CANEPA:

Sir, there are two main aspects in this Bill. Claw back on family allowances, which is an old concept, and the new concept

of claw back on the elderly persons pensions. It is clear, Sir, that the new table amending the claw back mechanism, goes a very long way in alleviating families in respect of the depreciation in the value of the pound. ~~because the increase is of the upper level, Sir, is of the order from £3,000.~~ Previously any family with an income in excess of £3,000 had the whole amount of the family allowances clawed back. Now that has been increased to £3,500 which at that level is something in the region of 16% or 17% and that takes into account ~~at that level~~ the depreciation in the value of money. But at the lower level there is even greater relief because there the increase is £300 on an income of £1,500 which is 20% ~~and, therefore, one or two cases will clearly illustrate what I mean.~~ A family that previously had an income of £1,800 had £5.50 of the family allowances which they received in respect of every child. Therefore if there are two children in receipt of family allowances they would have £11 clawed back. Now a family with an income of £1,800 will only have £4.50 clawed back which is considerably less than a half. And that is the pattern throughout the new table. So I think the Government has ~~gone a long way not only to restoring their position to what it was a year ago but, in fact, looking ahead and providing for what may happen over the 12 next months or so.~~ Now, Sir, with respect to the new claw back introduced for the non-contributory elderly persons pensions, perhaps I should remind the House that I introduced in this House the Bill implementing the scheme only last November and there hasn't really been any opportunity until now to amend the Income Tax Ordinance. I thought it was invidious to expect a piece of legislation to be brought in the House on a purely ad hoc basis to cover a handful of cases that are affected at the moment. What I mean to say, Sir, is that it is clear from the register of about 200 persons in receipt of this elderly persons pension without any overlap that there is only a handful of cases that would be termed absolutely non-necessitous and, therefore, because there are very few cases where there is an income anywhere in the region of £2,000, which is where the claw back really begins to bite, for an elderly couple, Sir, ~~who have an income of about £2,500, the whole of the pension will be clawed back.~~ ~~Because there was only a handful of cases really, the point valid as it was made by the Opposition, did not in my view merit any urgency in putting the matter right.~~ But the Government have approved further improvements which we shall be introducing later on in the year to the elderly persons' pension which will widen the scope considerably and then the numbers instead of being 200 may be more like 500 or 550. Within that bigger number there will be more than a handful of cases, there could be 100 or 120 persons with sizeable incomes, and then claw back is more than justified and it is more ~~than~~ worthwhile for the Government to go to the trouble, in a simple amendment of this nature, ~~of~~ putting the position right. So the Opposition can rest assured that not everything that they say

When the scheme was debated the point made by the Opposition valid as it was

falls on deaf ears and as I say I am preparing the ground so that later on when I widen the scope of the elderly persons pension the same criticism will not be levelled.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I haven't been present for the whole debate. However there is one point which it did seem possible the Honourable Leader of the Opposition may not have appreciated when comparing the clawback for the family allowances and the elderly persons pension. At the moment family allowances are exempt from income tax and then you have your provision as to clawback.. Elderly persons pensions have never been exempt from income tax. So from the word go those persons with large incomes were paying up to 40% tax on the amount they received as elderly persons pension.

HON J BOSSANO:

Mr Speaker, the ordinance effects certain changes in income tax levels which in some cases, I think, are amply justified by looking at the rate of inflation. I think this is particularly true of the one where we are dealing with senior citizens where, clearly, as we pointed out earlier on and the Government has recognised, clearly there is a need for a revision of the figures that are intended to afford a measure of protection to persons in our community living on limited means. There is a constant need for revision of these figures in order to keep them in line with current events in order to maintain the real value of the concessions that are embodied in the principle ordinance and which are being amended here. But since the Honourable Minister for Labour & Social Security has said that everything we say from this side of the House does not, in fact, fall on deaf ears, I would like to suggest to him that one of the principles that he ought to take into consideration in looking at the legislation where we have got clawback arrangements and so on such as this, is to achieve a balance between equity and practicability. There is an obvious element of social justice in the progressive system of taxation but I think one important measure is that we shouldn't introduce overcomplicated means of rectifying the situation because of the burden that this puts on the system - and we have heard of the difficulties of the Income Tax Department in computing answers to my question, Mr Speaker - we don't want to overburden the Income Tax Department to affect a clawback that may only involve a recovery to the Government finances of a limited sum of money but which may be

very expensive in terms of time and effort on the part of the public servants. It is of course a basic principle I think in public finance that one should not introduce revenue raising measures that are so complex that the cost of collection is greater than the yield. I feel that in both these principles here we may be in that sort of danger area. In respect of the family allowances I think if one considers the figures produced earlier at question time by the Honourable Financial and Development Secretary of the numbers of assessments made last year in respect of different family sizes, I think the figure was 370 with three children and 101 with four, we are therefore talking of only 370 tax payers being affected by the second column in this thing, because the first column affects the second child which is the first child to get family allowance, the third child in fact there are only 370 and we have got quite a complicated system of clawback affecting 370. Now I think the numbers involved are small and the system in fact has a weakness in terms of justice to my mind in that the progressive element is as it were vertical but not horizontal. That is, that the position of a family man deteriorates the larger his family because the clawback system does not take into account the fact that his needs are greater. If we take for example the £1800 level I think that at £3500 at the top of the scale the family allowance must make little difference to the income group. But at the level of £36 or £40 per week, a family man with that sort of family income and a very large family is clearly at a disadvantage as compared with a family man in the same income group but with only two children. I think that the clawback system does not account for the greater burden on the family budget the larger the family. It doesn't because the same progressive nature is introduced at both levels without taking into account the needs in respect of the incomes. In the case of the elderly persons non-contributory pension the only point I would like to make, Mr Speaker, is that we are very glad to learn that amendments or changes are envisaged later on in the year to extend this state pension to a greater number than the two hundred who are at present receiving it. We have always felt that it was too restricted in its original form and I would like to remind the Honourable Minister for Labour & Social Security of the points that we made the last time in the original ordinance when he comes to consider the changes.

HON FINANCIAL & DEVELOPMENT SECRETARY:

Sir, most of the points have been raised but I think, perhaps, I can recapitulate that with regard to the clawback whereas now the full amount of the family allowance is recovered at £3,000

in future it will be £3,500. Apart from that you would start recovering at £1,800 whereas before it used to be at £1,500. So the difference is quite appreciable. But coming to the point which I understood the Honourable Mr Bossano to say that there were only 407 cases of children, I think he has got it wrong, with respect. The 407 children are only in the case of the second income group. If you take the two together the amount is substantially more because with three children there are 370 but there are 930 with two children. Therefore you would have to take the two together and the two together even at £25 it would probably cost the revenue something like £12,000 per annum. So the amount is substantial. It's not all that small.

If the Honourable member will give way I will explain. The point that I was trying to make, Mr Speaker, is that as I understand the figures of 470, those affected by column B that is those in receipt of family allowances for two children would only be those with three children because you don't get family allowance in respect of the first child. Now, I am saying that the additional clawback of column B affects a very limited number, those with a third child and subsequent.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, but the two will be affected because those who have got two children will also get an allowance in respect of the second child. And, finally, I would like to draw attention to the clawback of the pensions for elderly people which is that as the Honourable and Learned the Attorney General mentioned that is even at the moment subject to tax. It is taxable and, therefore, at the maximum we were recovering from people with very high incomes about 40% of the amount of elderly pension. So the effect of this clause is really that instead of recovering in those cases 40% the Government will be recovering full amount.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to propose that the Committee Stage a Third Reading of the Bill be taken at a later stage in the meeting. This was agreed to.

THE CURRENCY NOTE (AMENDMENT) ORDINANCE, 1974

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a bill for an ordinance to amend the Currency Note Ordinance (Cap 39) be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Section 83A of the Currency Note Ordinance provides that the total amount of the monies of the Note Security Fund which may be invested in securities of or guaranteed by the Government of Gibraltar shall at no time exceed £200,000 or such other sum as the Governor with the approval of the Secretary of State may from time to time prescribe. It has become necessary whenever a new local loan is raised for various Government funds including the Note Security Fund to underwrite the balance not taken up by the public, and the Secretary of State's approval has to be obtained on each occasion. When in 1972 such an approach was made to raise the limit to £400,000, this was approved but it was suggested that it would be more in line with current practice if the constraint under section 83A were expressed in terms of a maximum proportion of the total sum and not as a fixed amount as at present. It was suggested that a figure of 30% would be prudent. At the time it was thought that other amendments to the ordinance might become necessary and it was decided to defer action until all the amendments could be taken together. However, the limit of £400,000 has already been exceeded and with the prospect of the raising of a further loan authorised under the Local Loan (no 4) Ordinance, 1974, it is now necessary to take steps to ensure that the Note Security Fund can take up part of that loan. Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, clearly the flexibility of having a percentage of a fund as the maximum is something that will allow the Government to deal with the needs of the fund in a much more adequate manner but I would like the Honourable Financial & Development Secretary to explain how it is that recently in the budget debate when this side of the House questioned the increase in the money supply, a categorical answer was given saying that the increase that had taken place in the money supply over the last two years had absolutely no significance because the increase in local notes had to be matched pound by pound - I think Hansard will show me to be true - pound by pound by investments in sterling in the reserves of the fund in gilt edged securities. And it would appear that whatever may have been the situation a couple of months at budget time now we are faced with the situation where it will not have to be matched pound by pound it will have to be matched presumably 70p by pound. And I would certainly welcome some clarification of that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I wasn't present at the budget session and I don't know what was said then but I can only explain what the position is. Under the Currency Note Ordinance it is true that every note that we issue here in Gibraltar must be backed by the deposits of a pound with the Crown Agents in England. That is the position. That amount may be invested and is normally invested in the London market. But a provision was made in that section to enable a certain proportion to be invested locally. Originally, it was £200,000 and that is the figure that appears in the legislation as it stands at the moment. Despite that as I mentioned in introducing the bill there have been times when because of new loans not having been subscribed by the public, we had to go back and seek approval to invest more of the fund in local debentures. It was then that the Secretary of State referred the matter to the Bank of England and it is with the advice of the Bank of England that it was suggested that the provision in the section should be altered to 30%. For every pound that we issue here there must be a pound deposited in England except that the section provides that up to 30% of the fund can be invested here in Gibraltar. Since the fund itself is generally 10% over the value of notes in circulation, I am afraid that the 70p have got to be adjusted. As it is what happens is that our currency has to be backed pound for pound, but there is this approval for what one might call a fiduciary issue to the extent of 30%.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This was agreed to.

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: The Regulations of Wages and Conditions of Employment (Amendment) Bill, 1974; the Miscellaneous Amendments Bill 1974; the Arbitration (1958) (New York Convention) Bill, 1974; the Supplementary Appropriation (1971 - 1972) Bill, 1974; the Family Allowances (Amendment) (No 2) Bill, 1974; the Supplementary Appropriation (1974 - 1975) Bill, 1974; the Income Tax (Amendment) Bill, 1974, and the Currency Note (Amendment) Bill, 1974.

THE REGULATION OF WAGES AND CONDITIONS OF EMPLOYMENT
(AMENDMENT) ORDINANCE, 1974.

Clauses 1 to 4 were agreed to and stood part of the Bill.

Clause 5

HON A J CANEPA:

Sir, I beg to move that clause 5 of the Bill be amended by the deletion of the word 'order' wherever it appears in the proposed section 28P(1) contained therein and by the substitution therefor of the word 'rules'. Sir, as it stands in the Bill, section 28P provides for the setting up of a tribunal by order - it has to be done by order - but for the procedures and other matters involved in the working of the tribunal to be regulated by subsidiary legislation, in other words, by rules. Sir, what the amendment proposes, therefore,

is that both the tribunal and its procedures should ~~both~~ be set up by means of rules. I commend the amendment to the House.

Mr Speaker proposed the question in the terms of the above amendment.

There being no response Mr Speaker put the question which was resolved in the affirmative and clause 5, as amended, was agreed to and stood part of the Bill.

New Clause 6

HON A J CANEPA:

I have the honour to move that there be added to the Bill a new clause as follows:

"Amendment of
Section 18.

6. Section 18 of the principal Ordinance is amended by numbering the existing section as subsection (1) thereof and by the addition thereto of a new subsection as follows:

"(2) Where any part of an employee's remuneration is given in kind, the value ascribed thereto shall be entered in:

- (i) the contract of employment signed by the employee;
- (ii) the statement of terms of employment required to be given under section 21 or in the written contract of employment required to be produced to the Director under section 7(1) (e) of the Control of Employment Ordinance;
- (iii) the wages register kept by the employer".

Sir, the House will recall that the conditions of employment of Asian employees, and in particular Indians, was the subject of a question from the Honourable Mr Bossano in this House and was also the subject of some amount of controversy in the press. At the time when the Honourable Mr Bossano asked that question I told him that the labour inspectors would as part and parcel of their inspection duties look into certain matters

that had been brought to light at the Regulation of Conditions of Employment Board by the representatives of the Unions on that Board. As a result of these investigations, Sir, the desirability of making certain amendments to the Regulation of Wages and Conditions of Employment Ordinance became obvious and this is the first of the amendments that I am moving. Sir, this particular amendment proposes that where any part of the total remuneration is given in kind - and that can be for instance the cost of food, dwelling, laundry, board, passages and so on - and as permitted by section 18 of the ordinance - that it should nevertheless be possible for the department to ascertain the value which the employer purports to ascribe to this payment in kind. This will enable, Sir, the inspectors on their rounds, by taking into account the value ascribed to payment in kind and by taking into account what actual remuneration in cash terms is paid over and above that, to ascertain ~~where compliance with the orders which are made binding employees to pay certain wages is being met or not.~~ *whether employers are complying with the relevant law.*

Mr Speaker proposed the question in the terms of the above amendment.

HON P J ISOLA:

Mr Speaker, we did consider this section in the Trade Licencing Select Committee and the unsatisfactory nature of the section as it existed. This amendment, admittedly, improves the position, but I wonder whether this in fact puts right the basis of the problem and that is the right of an employer to pay wages other than in cash. Under the Truck Ordinance, I think it is, this can't be done. Under the Regulation of Wages and Conditions of Employment Ordinance it appears that it can be done and doubts were expressed in the Trade Licencing Select Committee when considering the wider aspects of competition and so forth, as to whether the law ought not to be changed or clarified to ensure that wages should be expressed in cash and it should not be within the province of the employer to select how his wages paid out were used by the employee. I don't know whether that is being looked at or being taken into consideration once that particular section was being looked at.

HON A J CANEPA:

Sir, the position is at the moment that section 18 of the Regulation of Wages and Conditions of Employment Ordinance/does clearly

allow payment in kind to be made. The problem arose because no value was being ascribed to the payment in kind and, therefore, there were very serious grievances on the part of these Asian employees. Also there was a problem of ascertaining whether the law was being complied with in respect of the numerous and frequent orders that are made for the increases in the wages of shop assistants. But let me make clear, Sir, that I think as I understand it ~~that~~ *that the* Honourable Mr Isola is proposing is that section 18 should be deleted from the Regulation of Wages and Conditions of Employment Ordinance. Do I understand him right?

HON P J ISOLA:

Sir, this is one of the factors that we did consider looking at another problem in the Trade Licencing Select Committee. Though section 18 of the Regulation of Wages and Conditions of Employment Ordinance permits apparently payment in kind this, of course, runs entirely contrary to the provisions of the Truck Ordinance that require remuneration to be paid in cash. This sort of payment in kind, as I am sure the Minister will be aware, used to exist in the early 19th century in employment and gradually the Truck Acts in the United Kingdom and the Truck Ordinance in Gibraltar has prevented the choice of an employer paying in kind. Although as I said this amendment at least makes it necessary to at least take what the value ascribed to it is, it still goes against the fundamental principle I would have thought in employer-employee relations under which the employee should have his wages paid in cash. Although I am not proposing that section 18 should be repealed in its entirety, what I do suggest is that serious thought should be given as to what sort of payments in kind can be paid in kind. Is it right that an employer should be able to tell an employee: "I give you a roof, I give you food, I give you this and that but because of the high cost of living today that is 90% of your salary and all you get is £10 a month in cash". Is that sort of situation desirable? It would seem to me that it is possible under the provisions of our own laws. I would have thought it was not desirable. I would have thought it was desirable to allow only certain payments to be made in kind, for example accomodation, just the roof. But even then the principle runs completely contrary to the normal principles of employer and employee relations. We were looking at this in the Trade Licencing Select Committee against the background of allegations made by other members of the trading community that they were at a disadvantage in trading terms with particular

kinds of communities because they had to pay the whole of the wage in cash as distinct from some other employers. But it is not in that context I am raising it. I am just raising it in the normal context as to whether it is right that an employer should be able to tell an employee: "Well, I am paying you all this in kind". If the employee wants to take it in kind by agreement, perhaps, we can't do much about that. But I would have thought that the Government should consider seriously whether in the present circumstances today section 18 of the Ordinance should be there at all.

HON ATTORNEY GENERAL:

Sir, the first point which I would like to make is that the Truck Act is extremely restrictive as to the persons it covers. It covers what at first sight seems very wide, the workman. But the definition is not quite so wide, certainly in today's understanding. Workman does not include a domestic or menial servant but save as aforesaid means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour whether under the age of 21 or above that age etc, etc, etc. The vast majority of people I imagine, I am not stating this categorically, who at the moment receive payment in cash or kind, would not come within that definition. Secondly, as I am quite sure the Honourable Member will appreciate, it is always up to the employee to say: "No, I don't want accommodation, I don't want food. You pay me my money in kind". I agree, maybe that a certain amount of pressure is put on him but if you legislate to say that he must receive all his money, no question of accommodation or food, then he gets his money in cash, admittedly, and he has to pay it back. It is a double transaction because the employer will say: "If you like I will rent you a roof for so much and provide you with food for so much". It is very difficult indeed. I think we all agree we want to overcome this problem. There is no dispute between the Government and the Opposition on this. And the question is how best to do it. We do feel that there are problems but this is perhaps the most satisfactory way to tackle them.

HON CHIEF MINISTER:

There is one point I would like to make on that, and that is that one ought to appreciate in dealing with the problem that the bulk of the people to whom we are referring are not allowed in their country of origin to leave the country unless somebody is

made responsible for his keep. Those are the contracts of employment entered into with the Indian Government immigration laws which of course have got another thing in mind and that is to ensure that people are not taken out for employment and then left abandoned and, therefore, it puts the obligation on the employer to return them back to the country and puts the obligation in that contract on the employer to repatriate them because they go all over the world. I think it is a matter of reconciling the situation with the desire to make sure. The amendment, of course, is followed by the proviso which is there pointing whether one could have a more specific way of assessing it which says "Provided that such food, dwelling place, allowances or privileges shall be adequate for and appropriate for the use of the employee and his family". - That's fair enough because these are a matter of standards - and the cash value attributed to this shall be fair, reasonable and properly assessed." The question of whether what is "reasonable and properly assessed" is, of course, a test for the court if there was any problem precisely because the cost of living problem would come in to it. I think this would be a good start to a problem which is much deeper than one would like to think it is.

HON MAJOR R J PELIZA:

Mr Speaker, I think we have got to look at it from the human aspect as well as from the legal aspect. We have got to imagine someone thousands of miles away being brought to Gibraltar under contract, not being given a sum of money but being promised food and a roof. No one knows what the roof is going to be like. No one knows what the food is going to be like, because I doubt whether that can really be defined in the contract. And so, when the individual arrives at Gibraltar he finds himself completely at the mercy of the employer. In the contract it was not a question of getting money. If he doesn't like the roof he's got to lump it. And there is no question of getting money again for food. He has got to eat what he is given. He is a newcomer in a new situation. Perhaps one of the reasons that make him emigrate in the first place were his bad conditions in his own country of origin and he finds himself in Gibraltar between the devil and the deep blue sea, and in great difficulties because I do not expect such an individual to go round running for a solicitor to look at his case, or, perhaps, he is even afraid of going to a Union to fight if for him. I think in practice there have been cases like that.

HON CHIEF MINISTER:

If the Honourable Member will give way. There are cases which are being fought by the Union on behalf of the men and are being dealt with by the employers. So that, in fact, the employees themselves are coming out into the open on this basis.

HON MAJOR R J PELIZA:

The fact that they have to do it in that way shows that it is not the sort of situation that we in a progressive society regardless of what the immigration laws on their own countries may be would like to see happening in our own society. I do not believe that in this day and age we would like to see that kind of employment going on in Gibraltar for our own people. And if that is not something that we would like for our own people it certainly is something that to me is repugnant for people who are brought from abroad. I think it is fraught with danger, it is absolutely retrogressive and it is something that I personally would not like to participate in supporting that kind of antiquated form of employment which I think has been rejected through the ages and I would not like to see the thin edge of the wedge being introduced here in Gibraltar. I would strongly object and I cannot vote in favour of that section and I think my colleagues probably feel the same way as I do in respect of that section. I think we should ensure that any employee who comes to Gibraltar has a normal contract which stipulates his wages. I think it is a good thing that accommodation should be offered. Under our own legislation when he comes into Gibraltar it is necessary that he should have accommodation. This is provided in the law already. Therefore the employer who brings an employee to Gibraltar must find accommodation for him before he comes. And if the employee has got the money to pay for that accommodation there is no problem. Why make a special provision for cases which I don't think need any special provision and where in fact the special provision is not to the advantage of the employee. But more to the disadvantage of the employee. I do not support that section.

HON ATTORNEY GENERAL:

With respect to the Honourable and Gallant member I think he has entirely misread this amendment. The Regulation of Wages

and Conditions of Employment Ordinance was passed in 1953. The basic 1953 section provided that nothing should prevent the making of any contract of service by which an employee becomes entitled to food, a dwelling place or other allowances or privileges. That was 1953. We amended it in 1966 to say that they have got to be adequate, no **noxious** drugs. That is the position at the moment. Now what we are doing is that we are tightening it up. We are saying, if you provide food or accommodation you jolly well set it out in your contract so that people can see what you are trying to do. You set it out in your register. We are imposing on the employer a duty to set out the terms so that a more careful eye can be maintained to ensure that the employees are not being misused. If the Honourable and Gallant member votes against this, this is, with respect, voting in favour of the employers and against the employees.

HON MAJOR R J PELIZA:

I can see the argument being put forward by the Honourable Attorney General but I think that what he is doing is making this House a party to that form of contract of employment which I said was repugnant to me. We are in fact perpetuating something. I cannot therefore be a party to that form of employment contract and I can't possibly agree with the Honourable and Learned Attorney General that in my doing so I am misinterpreting the effects of what this amendment will have to the bit of legislation that he is trying to introduce into this House. In fact what he has just said proves to me all the more that I am absolutely right in my contention.

HON A J CANPEA:

That is why I said to the Honourable Mr Isola whether what he was proposing was that section 18 should be deleted entirely. Perhaps I should give a little bit of background, and I am not particularly worried, Sir, about what the Indian Government or the Pakistani Government may decide to do at home as long as I can ensure that they abide by the laws of Gibraltar, such as they may be at the particular moment, or such as they may be when amended. But it is a fact that the Indian Government does insist that before a passport is issued to one of their nationals to take up employment outside India, such as in Gibraltar, certain conditions must be abided by in respect of Indian Law. Certain conditions in an employment contract that will enable the Indian national to be employed outside the country. What it is I am not all that worried about, Sir;

are
required

because, as I say provided that our laws are honoured, provided the accommodation which is given to the employee ~~and it must~~ meet the requirements of the Accommodation for Labour from Abroad Ordinance - so it is not just a case of any old shack, ^{or merely} ~~it is not a case of~~ a roof over the head of the employee. It must meet the requirements and I can tell Honourable members opposite that we are tightening up on accommodation in the private sector. The other aspect, Sir, is this. I welcome what the Honourable Mr Isola said ~~about~~ the Select Committee of this House ~~has been~~ looking at this. Indeed I welcome it. I will consider and analyse favourably any recommendations which they may make. What I am sure Honourable members opposite cannot expect the Government to do is to delete section 18 and leave nothing on the statute book and have a free for all without knowing what the repercussions are going to be. So what we are doing now, and with the other amendments that I shall be moving, is a considerable step forward which ~~are~~ being taken to tighten up and to ensure that these aspects that were raised in the Regulation of Conditions of Employment Board are at least embodied in law. The question of trade unions taking up cases has been mentioned. Perhaps the House will find it interesting to know that recently the Board has been reconstituted and there is in fact an Asian employee - an Indian - as a member of that Board. That is another step forward because that is the forum for further emancipation for these employees.

then I will
be satisfied

matter

HON M XIBERRAS:

I think, Sir, that the Opposition's point of view must be clearly understood. We accept what the Attorney General has had to say which is, roughly speaking, that the tendency of successive amendments has been to turn away from a payment in kind to a payment in actual cash. That has been the general tendency. We also accept what the Minister for Labour has had to say that this is the most progressive of those amendments to date. But, I think it is most unfair for the Honourable and Learned the Attorney General to say that my Honourable and Gallant Friend Major Peliza is siding with the employers when he proposes what he has proposed.

MR SPEAKER:

We mustn't stand in judgement but I don't think that was said. I think what the Honourable and Learned the Attorney General said was that if he voted against, it would be favouring the employer.

HON M XIBERRAS:

Which to my mind is a rather specious argument in favour of the present amendment. The point of fact is that my Honourable and Gallant Friend would like to continue the tendency of changing over from payments in kind to payments in cash to its logical conclusion where all payments were made in cash. We know that in certain professions - the Honourable Members mentioned some which were relevant some years ago - it is the practice to pay in kind. For instance domestics have lunch at home or have a bed there and so on, and this is more common with people in domestic employment than, say with people in a factory. We know that this is the case. The House should also note that there has been a tendency in those areas of employment which are more liberalised, we have seen a tendency to cash payment. And it does look rather subservient in these days to accept payment in kind. I think the Honourable and Learned the Attorney General would be prepared to accept that too. Therefore, let there be no doubt that on this side of the House we are talking of giving the employee a right of being paid in cash which generally the more advanced the employee believes to be to his advantage. It is a step in his emancipation. The Honourable Minister for Labour has things to say about the contract for Indians. I have no doubt that the Indian Government stipulates certain conditions among which is that which obliges the contracting employer to provide adequate accommodation, and I believe that this is a very good thing. But would the Minister for Labour not agree that in the case of Moroccans working in Gibraltar there is an equal obligation for the employer to provide adequate accommodation, and this case has not been raised. I have some experience of this, both from the Government point of view and private point of view and I believe that it is much fairer, much more just, to provide the employee with a sum of money and if his accommodation is with the same employer then the employer should deduct from his stated wages a certain amount for accommodation, for food or for anything else. That is a more emancipated state of affairs for the employee than otherwise. The same I would imagine could apply to contracts of Indians because a person employing an Indian from India could also be made to provide adequate accommodation in the same way as a man employing a Moroccan here is made by present laws in Gibraltar to provide adequate accommodation. It has nothing to do - in fact the Minister for Labour almost said it himself - with the contract over in India so long as the purpose of the contract, that is that the man would not find himself without a roof over his head, is kept to and we on this side of the House are very much in favour of that.

MR. SPEAKER:

I have been very liberal, but if the members will look at the amendment it has got nothing to do with conditions of employment. The fact that an employee can be paid in kind as part of an existing law. What we are trying to do is to add a clause to a bill which will compel, when this happens, the compliance with certain regulations. I am saying this after I have allowed everyone to say everything they want on the matter.

HON M XIBERRAS:

Yes, Sir, perhaps I have been wasting my breath because I am trying to explain what attitude the Opposition is taking to this particular clause which is going to be one of abstaining for reasons....

MR. SPEAKER:

To be quite honest I have not heard a single member **express** a view as to whether they consider the requirements of the section to be adequate. In other words whether what the employers are required to provide their employees **with are** adequate or not. That is what we are discussing, you see.

HON M XIBERRAS:

My Honourable and Gallant Friend has said that he can not associate himself with this clause.

HON MAJOR R J PELIZA:

I think if the Honourable member looks at my attitude he will find that the basis of my objection is that in fact we are now introducing in our statute book a kind of attitude towards employment which is absolutely retrogressive. What we are trying to do is improving something which should not have been there in any case. Why, therefore, improve something which if anything should be deleted from our statute book. If we have sufficient provision in our law for immigrant labour to have proper accommodation, isn't that sufficient for any contract of employment. Why therefore, make it more encouraging? Why encourage that instead of being paid as everybody is paid in cash, they should be paid in kind? This is what I am against. We are infact encouraging it by making believe that this kind

of contract is acceptable for workers who come from abroad because it is possible now to safeguard the position of the employee. This is what we are trying to imply. Well, I say it is not in practice possible to safeguard the position of the employee. And it is much better to discourage this sort of thing than to encourage it and not to build on something which is wrong in any case. This Mr Speaker is the point I am trying to make.

HON M XIBERRAS:

The other point is that often enough when people put down that so and so is getting so much money in wages and the value of his accommodation will be so much, it is much more difficult to apply laws that might have a bearing on the situation. For instance the Accommodation for Labour from Abroad Ordinance gives powers to classify accommodation and to set a maximum rent for certain kinds of premises. The employee has much more of a safeguard if he is given the wage and does not pay that money in.

MR SPEAKER:

Yes, but that is the principle that I have objected to. We are not discussing whether he should be given the option of one or the other. What we are discussing now and what is before the House is that if he is paid in kind then the employer must comply with certain conditions and the conditions are as set out in the clause that we are debating. That is what I am trying to make.

HON M XIBERRAS:

The ascribing of a value to accommodation is as we have made clear a step in the right direction. But it would be much better that the employee should be paid the money in full in respect of the proper implementation of other laws such as the Accommodation for Labour from Abroad Ordinance. Therefore, even at this stage in the development of this particular type of legislation it is the employer and not the employee who is still favoured. May I just make one more remark, Sir, and that is if I may at this stage because events have overtaken this particular Bill. As is known the Labour Government in Britain has repealed this sort of legislation which as the House knows was taken from the Industrial Relations Act or has announced its intention to repeal this particular kind of legislation which originally formed

part of the Industrial Relations Bill and the Labour Government in the United Kingdom has, I believe, published a Bill to replace this. Even though honourable members on this side of the House are trying to make a contribution to make this as good a Bill as possible, I think it is fair to warn the Government that as soon as people have had time on this side of the House to digest the new Bill in the United Kingdom, we shall press the Government in this House to adopt the principles of the same if we find it to our satisfaction.

HON LT COL J L HOARE:

Mr Speaker, I think that a very important point has been missed in this contract. Without these items being included in the terms of the contract, the employer is able to put a different price on the value of those things during the term of that contract. If the value is fixed in that contract both as to the value of the accommodation and the value of food, it is a protection for the employee because whatever goes up in the cost of living that amount only will be deducted from his salary. If he is paid in wages he will have to pay a fluctuating rate according to the cost.

HON M XIBERRAS:

Sir, the point has not been missed at all. It is the Honourable and Gallant member who has missed the point. We are not saying that this does not give more protection than the last amendment. What we are saying is that a man should be given all his money and then be allowed to pay whatever he gets.

HON ATTORNEY GENERAL:

Mr Chairman, the Honourable Leader of the Opposition talked about the imminent repeal of the Industrial Relations Act. I understand although I am not certain of this that the provisions in that new legislation relating to unfair dismissal are virtually taken word for word from the Industrial Relations Act. I am not certain but I think so.

HON J BOSSANO:

Sir, I believe the Government has had representations from trade

unions in Gibraltar in respect of certain elements in this Bill and I was hoping to see the Government coming forward with amendments. I had had indications from outside sources that the Government had looked favourably on the representations that had been made, I believe in the Staff Association Coordinating Committee, and I think those amendments would have gone towards meeting the deficiencies of this Bill which are being put right in the UK by the Labour Government. I am particularly thinking about the existence of closed shop agreements between a union and employees which is an area where in this Bill and in the United Kingdom original Bill is ambiguous to say the least. At least one interpretation of the particular provisions of this Bill is that such agreement would be made illegal even though they are in fact in force already in some cases.

HON A J CANEPA:

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I gave the Labour Advisory Board, where the unions are represented, and the former Coordinating Secretary of the Transport and General Workers Union, certain undertakings in writing that I would review the position in twelve months' time, in the light, as well, of whatever the Labour Government may or may not do in the United Kingdom. I have given the same undertaking at the second reading of the Bill in this House and that stands.

Mr Speaker put the question in the terms of the proposed amendment by the Honourable the Minister for Labour & Social Security and on a vote being taken the following Honourable Members voted in favour:

The Hon Sir Joshua Hassan
The Hon A P Montegriffo
The Hon A W Serfaty
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 C J Gomez

The following Honourable Members abstained:

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

New clause 6 stood part of the Bill.

HON A J CANEPA:

Sir, I beg to move that there be added to the Bill a new clause as follows:

"Insertion of
 Section 29A. 7. The principal Ordinance is amended by the insertion therein of a new section as follows:

"Language. 29A. (1) Every record and register required to be kept by an employer under the provisions of this Ordinance shall be kept in the English language.

(2) That provisions of subsections (1) shall not preclude the keeping of a record or register in a language other than English in addition to its being kept in the English language".

Again, Sir, as a result of the investigations, in the course of inspections carried out by the inspectorate of the department, it has been discovered that records and registers have some times been kept in a language other than the English language, for instance, Pakistani or Indian or some other dialect, and of course it has been impossible for the labour inspector (though not necessarily for the employees) to know what the whole thing was about. So, whilst not precluding the possibility of registers and records being kept in the language of the employee or the employer, nevertheless, we are by this amendment putting a duty on the employer which will ensure that our labour inspectors will know what the whole thing is about.

HON M XIBERRAS:

Mr Chairman, I wonder whether the Honourable the Learned the Attorney General might give us some guidance - I haven't got a copy of the main Ordinance here - as to what section 29 is.

HON ATTORNEY GENERAL:

Section 29 is the regulation making section. Subsection (1) the Governor shall have power to make regulations for the carrying into effect of this Ordinance.

HON P J ISOLA:

Mr Chairman, surely all the section has to say is that every record and register required to be kept by an employer under the Ordinance should be kept in the English language. I think that to make a second section allowing another record to be kept in another language is almost giving statutory sanction to two sets of books. I would have thought this must be the first instance in our legislation where statutory sanction is given to having two sets of books in different languages. I would have thought, Mr Chairman, that every record and register required to be kept under this part of the Ordinance should be kept in the English language, period. Whether they keep another one or not, surely, is of no concern to the House or to the legislature. I think to introduce the principle of permitting a second set of books by specific legislative enactment is wrong. Saying that it should not preclude the keeping of a record or register in a language other than English would give me the impression that there could be a book in English for the inspector and a book in French, Spanish or Hindustani to reflect the true position. I would suggest that the second part of that section is dropped by the Government. I don't see the need for it.

HON A J CANEPA:

We are beginning to split hairs now. What we are doing here Sir, is very similar to the contracts of employment which are now drawn up by employers and employees whereby you have an English version and an arabic version overleaf for the benefit of the employee. What I envisage here, Sir, will be a similar situation. Not one book in English and another book in some other language but obviously the register would be the one in English. If the employer wishes to have a translation of that for the benefit of the employee who may not speak English then he

is entitled to do so, and here we should not be thinking only in terms of Asian employees. Perhaps we should be thinking in terms of others. There are quite a few workers in Gibraltar who do not speak English.

HON P J ISOLA:

Sir, the point I am making is that every employee knows what they are getting, that we are sure. Whether it is in accommodation or whatever it is they know what their conditions are. If they don't then we are lost. I think what the legislature wants to say is that every record and register under the Ordinance should be in English. Now if employers have other records I don't think it is of concern to the House or to the Ordinance. Because I think that allowing it here you can get a great number of other Ordinances which affect employer and employee relations or affect quite a broad spectrum of public administration where they are going to be told: "Well, if we are allowed in the Regulation of Wages and Conditions Ordinance specifically by statute to have a record in another language, why cannot we have it under this or that Ordinance". The introduction of the principle of giving statutory sanction to two sets of books to my mind doesn't seem to be appropriate.

HON ATTORNEY GENERAL:

I don't think with respect to the Honourable Member, we are giving statutory sanction to two sets of books. Even if this second subsection did not exist, the Honourable Member is not suggesting that it would not be possible or permissible to keep a book in another language. The reason for putting this section in was so as to remove from the mind of an employer that he was precluded if he so wished from keeping a register in another language.

HON M XIBERRAS:

There is a lot of sense in what both my Honourable and Learned friends have had to say. I think that the Honourable Mr Canepa's argument is the most practical one, that is, that the employee should know what his terms of employment are and, therefore, it is convenient to have the terms written out in the language which is understood by the employee, I appreciate that. But I think where the Honourable and Learned the Attorney General's argument fails is that his second subsection no more than removes

that doubt whilst at the same time putting a doubt in the mind of future legislators as to the standing of any second language in our laws. This is the point of my honourable and learned friend on my left. Therefore, what we are trying to balance up is, does the second subsection which apparently is now in our legislation, does this give a new standing to a second language after English and if so is it desirable. We feel that it is not and at the same time could not the first subsection be modified in such a way that the doubt was removed without the need for a second subsection. Now that I think is the difficulty. Perhaps the Honourable and Learned the Attorney General might care to contribute further.

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

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

The following Honourable Members abstained:

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

New clause 7 stood part of the Bill.

HON A J CANEPA:

Sir, I beg to move that there be added to the Bill a new clause as follows:

"Insertion of
 Section 29B

8. The principal Ordinance is amended by the

insertion therein of a new section as follows:

"Limitation. 29B. (1) Notwithstanding any provision in any other law, proceedings for an offence under this Ordinance may be commenced at any time within the period of six months from the date on which evidence, sufficient in the opinion of the Attorney General to justify a prosecution for the offence comes to his knowledge.

(2) For the purposes of subsection (1) of this section a certificate purporting to be signed by or on behalf of the Attorney General as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof".

Sir, at the moment ^{proceedings} ~~provisions~~ for non-payment of wages are limited by section 115 of the Magistrates Court Ordinance to cases where the offence was committed within the previous six months and very often cases of underpayment of wages do not come to light until six months have elapsed and, in fact, they may have been going on for even two or three years. It is, therefore, desired to extend the time limitation by providing that proceedings may be commenced at any time within six months from the date on which evidence comes to the knowledge of the Attorney General to justify such a prosecution. I commend this amendment to this House.

Mr Speaker proposed the question in the terms of the amendment moved by the Honourable Minister for Labour and Social Security.

HON ATTORNEY GENERAL:

Mr Chairman, one point I would make is that a similar provision exists at the present moment in the Social Insurance Ordinance allowing prosecutions to be instituted a considerable time after the offence was committed and we are merely following here the provision which exists in another Ordinance already.

Mr Speaker put the question which was resolved in the affirmative and New Clause 8 was agreed to and stood part of the Bill.

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

THE MISCELLANEOUS AMENDMENTS ORDINANCE, 1974

Clauses 1 to 4 were agreed to and stood part of the Bill

The Long title was agreed to and stood part of the Bill

THE ARBITRATION (1958 NEW YORK CONVENTION) ORDINANCE , 1974.

Clauses 1 to 9 were agreed to and stood part of the Bill.

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

THE SUPPLEMENTARY APPROPRIATION (1971/72) ORDINANCE, 1974.

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

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that clause 2 of the Bill be amended by the deletion of the words "ten thousand six hundred and four" appearing therein and by the substitution therefor of the words "eight thousand four hundred and sixty seven".

Mr Speaker proposed the question in the terms of the amendment moved by the Honourable Financial and Development Secretary. There being no response Mr Speaker put the question which was resolved in the affirmative and clause 2 ~~as~~ amended, was agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I beg to move that clause 3 of the Bill be deleted and

replaced by a new clause as follows:

"Authority
for payment.

3. The payment by the Accountant General out of Consolidated Fund for the several services specified in the Schedule of the said sum of eight thousand four hundred and sixty seven pounds is hereby authorised".

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

There being no response Mr Speaker put the question which was resolved in the affirmative and new clause 3 was agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I now beg to move that there be added to the Bill a new clause as follows:

"Amendment
of Ordinance
No. 17 of
1972.

4. The Schedule to the Supplementary Appropriation (1971-72) Ordinance, 1972, is amended as follows:

- (1) by the deletion of the figures £29,915 appropriated in respect of Head XII Public Works Non Recurrent and by the substitution therefor of the figures £32,052 and
- (2) by the deletion of the figures £5,284 appropriated in respect of Head XXV Telephone Service and by the substitution therefor of the figures £3,147".

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

There being no response Mr Speaker put the question which was resolved in the affirmative and new clause 4 was agreed to and stood part of the Bill.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I now move that the Schedule to the Bill be replaced by a new Schedule as follows:

Schedule

Head		Amount
XVI	Miscellaneous Services	£ 6,508
XVII	Pensions	1,959
		<u>£ 8,467</u>

Mr Speaker proposed the question in the terms of the above amendment moved by the Honourable the Financial & Development Secretary. Mr Speaker then put the question which was resolved in the affirmative and the new Schedule was agreed to and stood part of the Bill.

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

THE FAMILY ALLOWANCES (AMENDMENT) (NO 2) ORDINANCE, 1974.

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

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

THE SUPPLEMENTARY APPROPRIATION (1974-75) ORDINANCE, 1974.

Clauses 1 to 3 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

THE INCOME TAX (AMENDMENT) ORDINANCE, 1974.

Clauses 1 to 4 were agreed to and stood part of the Bill.

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

THE CURRENCY NOTE (AMENDMENT) ORDINANCE, 1974

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

THIRD READING

The Honourable the Attorney General reported that the Regulation of Wages and Conditions of Employment (Amendment) Bill, 1974 with amendments; the Miscellaneous Amendments Bill, 1974; the Arbitration (1958 New York Convention) Bill, 1974; the Supplementary Appropriation (1971-72) Bill, 1974, with amendments; the Family Allowances (Amendment) (No 2) Bill, 1974; The Supplementary Appropriation (1974-75) Bill, 1974; the Income Tax (Amendment) Bill, 1974, and the Currency Note (Amendment) Bill, 1974, had been considered in Committee and agreed to and moved that they be read a third time and passed.

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

MR SPEAKER:

The Honourable the Leader of the Opposition has given notice that he wishes to raise a matter on the adjournment so if the Honourable the Chief Minister moves the adjournment of the House I will call on the Honourable the Leader of the Opposition.

HON CHIEF MINISTER:

I propose the adjournment of the House sine die.

MR SPEAKER:

I now propose the question which is that this House do now adjourn sine die.

HON M XIBERRAS:

I do not propose to occupy the whole time allotted, Mr Speaker,

for which the Honourable the Chief Minister will, no doubt, be grateful. The subject which I would like to raise is the replies of the Hon and Learned the Chief Minister to two questions concerning those people in the service of the Crown who are not allowed to sit in this House unless they resign from their jobs. Mr Speaker, all the members will recall that I had occasion to ask of the Chief Minister a little while back - Question No.50 of 1974 - the number of male adult Gibraltarians by virtue of their employment with the Crown in Gibraltar who were not eligible to stand for the House of Assembly without resigning their appointments, and I asked him whether the Government could state what proportion this is of the total male adult employed population over the age of 21. Now, as exchanges in this House go the exchanges on this question were very much in harmony. The Hon and Learned the Chief Minister made the surprising disclosure that 72% of the people I have referred to, no less than 72%, would have to resign their jobs either in the Gibraltar Government or in the Department of the Environment or in the Dockyard if they wished to stand for this House. And some very inspiring things were said. The Hon the Learned the Chief Minister said we could not be satisfied with this position and I asked just before that whether this was a satisfactory position that this little nucleus of democracy in the Iberian peninsula should have these limitations on democracy and, of course, all members of the House said: "No, this is most unfair". And then the Honourable and Learned the Chief Minister said with great flourish: "We could enfranchise no less than 3,000 of these people at one stroke of the pen." I have one quotation here where he said: "That is to say there are about 3,000 that could be enfranchised to sit in the House immediately we restore the people who were entitled so to do before 1969, which by virtue of the new Constitution, brought to an end the special Ordinance which, after a considerable long struggle with the Ministry of Defence, we were able to make them accept that non-industrials in the Ministry of Defence and clerks up to Grade I could stand without losing their posts. So those would give us 3,000 people back into the Register again". That is one quotation, Sir, which refers solely to Ministry of Defence and not to DOB. Then, in another place he said "I have said that by a stroke of the pen if we restore the eligibility that existed before the new Constitution, 3,000 would be immediately entitled to stand for election and be elected without giving up their posts in the employment of the Crown under the terms of the Special Powers Ordinance which was passed." Now, neither of these two statements are strictly accurate, as the Honourable and Learned the Chief Minister will no doubt agree. And there has been a considerable amount of misunderstanding, and I think it is the purpose of this debate on the adjournment, as far as I am concerned, to try to clarify the matter and see where we stand now. The

people who were disenfranchised by the Constitution were those in the City Council up to the Grade I Clerk more or less. Because the City Council was merged with the Government quite a considerable number of people lost their rights of standing for this House without losing their jobs. Then there were the Ministry of Defence employees. Then there were the DOE employees up to Grade I Clerk or their equivalent. Now, 3,000 is a very hefty chunk. When I heard the Chief Minister say that he could enfranchise 3,000 people at one stroke of the pen, of course I was more than cordial because it has been the aim of this side of the House to enfranchise as many people as possible. And when I heard him say that he would enfranchise all those who had been disenfranchised before by the new Constitution then, of course, I thought that here we would have a much better situation because some people in the Government, possibly industrials and other people in the DOE and MOD, would all have the right to come to this House and still maintain their jobs. I was aware at the time that there had been disagreement between the Honourable and Learned the Chief Minister and members on this side of the House, about who in the Gibraltar Government should be completely enfranchised. Our proposals allowed for a very wide measure of liberalisation whilst maintaining the impartiality of the upper echelons of the civil service the Honourable and Learned the Chief Minister's proposals, despite the fact that he has lead the Association for the Advancement of Civil Rights for a good number of years, were much more conservative, much more regressive and allowed fewer people the right to sit in this House without giving up their jobs. But that may be as it may be and we agreed to differ and to present our differences to the Deputy Governor and there to the Secretary of State and so forth and so forth. And therefore, Sir, I was very surprised when the Honourable and Learned the Chief Minister made his statement about the 3,000 people. But I went to see him to see whether we could get down to business and enfranchise a good number of people and do away with this blot on the democratic image of Gibraltar and get rid of the 72% of unenfranchised males in the more or less eligible age. And I was surprised, I say so quite frankly, to find the Honourable and Learned the Chief Minister telling me that he had not meant that he would enfranchise at all the Gibraltar Government employees and that he had been referring purely to the DOE and the MOD. So I said at that meeting, the minutes of which are available to the Chief Minister and myself, I said that I thought more or less it would be too good to be true and that Honourable Members on this side of the House had counselled against my optimism and I told the Chief Minister this, whereupon the Chief Minister replied that if he had said this at the time he did not mean it and, if necessary, he would make a statement of clarification, and that it was subject to two interpretations. All this sort of thing, I am sure, we are

able to understand from the Honourable the Chief Minister. To be absolutely fair to him I think that it is a complicated subject - there are a lot of figures floating around and the Honourable the Chief Minister produced more figures than he need have - because really the Honourable and Learned the Chief Minister is trying to hide the incompatible stance that he is taking now, the incompatibility between his stance now and his political record in Gibraltar which has been one of fighting the MOD for enfranchisement, of fighting against Her Majesty's Government for the freedom of the people of Gibraltar. But when it comes to this issue, this crucial issue for democracy in Gibraltar, when he is prepared to admit that 72% of the group I am talking about, the eligible males in Gibraltar for this House of Assembly, then he does a complete about turn and then he begins to worry about the political impartiality of the civil service despite the fact that the civil service in Britain is divided into various classes - the MacManus Report and so on - which allowed differing grades of political activities at different levels in the service - administrative class, executive class and so on. But here most civil servants, even an industrial, can be allowed. Now this I think was a smoke screen that the Honourable and Learned Member was trying to put forward in his answer to the question, and perhaps, I fell for it. But I asked him another question because in those minutes I referred to, the Honourable and Learned the Chief Minister said "the figures will bear me out" - it is at the bottom of the paragraph as the Honourable Member will see - and the figures referred to was 3,000. And I did some quick consultation and looked at the sentence and I found that it was quite impossible that this should be so. That just by dealing with DOE employees up to industrials and Grade I and MOD industrials up to Grade I, you could produce 3,000 people to enfranchise without touching Gibraltar Government employees, so I asked him another question today. And the answer to this question is that the figure of 3,000 was approximate. In fact, the figure for the 3 employers, including the Gibraltar Government, is 2780 not quite 3,000, and of those 960 are in the Gibraltar Government. So the stroke of the pen would produce an enfranchisement in the Chief Minister's view of 1,820 people, roughly, and not 3,000 so the pen must have slipped at a particular point in the line. I mention this because I want to give the Honourable and Learned Member an opportunity of clarifying what his views are on this and that he should not mislead people into thinking that Government employees, even industrials, even the man who sweeps the road or the man who is a labourer or even a potential telephone operator, as my Honourable Friend Mr Joe Bossano might have been, even these people who are very remote from the corridors of power, all these people are completely debarred and they are classified, as much as my Honourable Friend the

Financial and Development Secretary, they are debarred to the same extent of taking part in politics. We have two members of the House who are civil servants, and of course, they have also been addressed in the course of this meeting as Ministers, but this incompatibility apparently is permitted by the Constitution and may I add Sir, that the Constitution of course, allows the Honourable and Learned the Chief Minister to introduce a law into this House which would

MR SPEAKER:

It comes within the orbit of the Chair to decide whether anyone is entitled to sit in the House of Assembly or not.

HON M XIBERRAS:

Sir, I am not for a moment suggesting that these two gentlemen are by the present Constitution not entitled to sit in this House, not for a moment. What I am saying is that the Honourable and Learned the Chief Minister has it within his power to allow a good many other people who would be technically classified as civil servants, to come to this House and to sit in this House and the Constitution allows it and moreover the Constitutional Conference foresaw this. But the Honourable and Learned the Chief Minister seems to have put the brakes on democracy of late. He seems to have been skidding to a halt. Perhaps he is getting tired of the whole business, but I do hope that we can rejuvenate him, we can give him a bit of verve, a bit of courage, to entrust industrials, a labourer or a technician, I do hope that he will get enough verve out of this discussion to be able to allow these people the right of they so wish to sit in this House and maintain their jobs. It is awkward of course and I don't want to enter into all sorts of other arguments because I intend to move a substantive motion at a future date. It is a most important question. But the Chief Minister's flourish of 3,000 - I hope he does not make the same mistake when he signs his cheques - but because the 3,000 is now reduced to 1,820, what percentage this is of the eligible group I haven't found out yet and I am sure it's much less and what my final message to the Chief Minister is, if 72% being disenfranchised was a very serious blotch as he agreed in my first question, on the democratic image of Gibraltar, then we are just going to scrape along the edges of this blotch if we just enfranchise 1,820 more and perhaps the Honourable Member in the light of these new figures could take in the mistake that he made and state his position clearly now, take in the problem and tell the House what he proposes to do about it. I accept entirely that it is a complicated subject and I know that people can make a slip. But this slip is from 3,000 to 1,820.

HON J BOSSANO:

Sir, I would just like the Honourable and Learned Chief Minister to clarify the question of whether he is satisfied with making the eligibility available only to 1,800. Whether he thinks this is as far as we need to go when he answers the question.

HON CHIEF MINISTER:

Mr Speaker, in the first place I expressed this morning my regret at a mistake. I have no reason to prepare figures that could not bear out the facts when the time came. I said I had all sorts of figures and perhaps the Leader of the Opposition was right when he said I had too many figures, but that is the result of having been provided with full figures by the Statistician for the purposes of this question at the time. However, I don't want to blame him, I blame statistics for it because you get all sorts of sub headings some of which I can't even follow unless I apply myself very much to it, and I did say that I did not know whether I would be able to make them clear. So let it be accepted as I think assurances or explanations of this nature are always accepted in the Westminster system that when a Minister makes a slip or a mistake and he says so, that is accepted and it has no ulterior motive. If after that they think that it was done deliberately, well, I am sorry for them because I did not mean that. There are various aspects of this very important matter that I would like to deal with. The figures that I have given today are, as I said, estimates only because we could not get all the figures but they are fairly accurate estimates. The point that arises is one of principle more than of numbers up to a point. There has been a difference in the approach to this matter by members opposite from the time they came into the Government, and from that time they started agitating for the extension of the franchise to a number of people. I am, indeed surprised to hear the Honourable Leader of the Opposition say it is within the power of the Chief Minister under the Constitution to extend the franchise, and I would like to pose a question. If that were so, such an important part of the electoral manifesto of the party of the members opposite before, not the last election which they lost, the other one which they did not lose but they did not win either - they could not have got into Government with six members even if they had all been elected. I hope that I will be listened to with silence as I have listened to the Leader of the Opposition. If they have no time for the House they might as well leave. As I was saying it is extraordinary to say the least that a Government which had this as part of its manifesto and were in Government for two years and ten months, were not able to do what I am being asked to do which I do not advocate because I think there are inherent dangers in certain aspects of that policy. They did not do it.

HON MAJOR R J PELIZA:

If the Honourable Member will give way. It was he himself who would not agree to my proposition.

HON CHIEF MINISTER:

Of course, but if I am empowered to do it so would the then Chief Minister have been empowered to do it. If he says there is a need of a consensus and of a general agreement here, then that is a different matter but don't attribute that to me. This shows that this is not a new objection but it is an objection from the beginning. When I was consulted as Leader of the Opposition I made no bones about the fact that I think it is improper and completely against every principle of democracy that there should be people who are masters and servants at the same time, however much the Honourable Leader of the Opposition may put his hand to his forehead. And the principle to which we attach considerable importance is the complete independence and complete continuity and standards of the civil service which must be maintained if we are going to have good continuity of good service. The more I read all the supplementaries the more I find that the original approach to me by the Leader of the Opposition after the debate was completely misconceived when he wanted me to accept that I had meant those employees of the City Council who have been disenfranchised by the Constitution. All the supplementaries refer to the Ministry of Defence and when I say Ministry of Defence I mean in a general way, because in fact, I referred to the fact that it had been very difficult to get the Ministry of Defence to agree to the Special Status Ordinance which lapsed by the new Constitution. And, therefore, I am quite convinced in my own mind that whether the figure was right or wrong, I said so very clearly because it appears in all the supplementaries. In fact, I had not read all the supplementaries when the Honourable the Leader of the Opposition came to see me and when I read them later I was further confirmed in my own view that I could not have meant anybody else. I could not have made a mistake because I had no means of assessing the numbers and there is nothing in the figures given to me by the Statistician of how many people were in City Council employment at the time of the merger who lost the right to stand for the House of Assembly. These are not specified anywhere in any of the particulars. There were no figures for that and I could, therefore, not have included them because that would have been a very difficult situation as there would have to be an inquiry into the state of what is now a joint staff and a joint labour force, what the position was on the 14 August 1969. That inquiry was not made and those figures I did not have before me. My attitude to this matter is not one of complete negation of these rights but of certain safeguards. I think I can do no better than to read out the way in which we put forward, at the meeting with the Deputy Governor on this matter, when the schedules of the different proposals made by both parties were put to him. First of all let me say that the same offer I made before stands even though the numbers have been now corrected to 1800 and that is that there would be no difficulty in restoring the industrials in the Ministry of Defence, DOE, whatever it is, and people up to Grade I or equivalent which was set aside by the Constitution. That could be done by agreement on both sides. And I said that it was lack of agreement of the whole, which is sometimes what happens to Honourable Members opposite, that they want so much they are not prepared to accept something on account of what they consider to be a good thing. I said that if there is agreement on that - maybe 1,800 is a very big number - and that would be 36% of the 72% so that would be a very good chunk. It would

have been more if it had been 3,000. It would have been a 1000 odd more. But here are 1800 people who could be enfranchised by agreement, by restoring that law. That offer remains open. If there is agreement on that we could get on with the job of preparing an Ordinance to do the needful in respect of that. If, of course, it is going to be a question of everything or nothing, then it may take longer and then I would say, following the argument used by the Hon Major Peliza this evening in respect of the amendment to the Regulation of Wages and Conditions of Employment Ordinance, that by not agreeing to doing this until you get the rest it would be members opposite who would be responsible for the continued disenfranchisement of the 1800 people who could be restored. It is exactly the same argument that was used by Major Peliza before but it doesn't suit them now, but it is exactly the same argument. I don't want to be a party to anything that will disenfranchise anybody because Hon Members opposite do not agree, therefore, I make members opposite fully responsible. The principle which we had advocated in respect of industrials which is one that has been bandied about more than any other was that an industrial employee should be eligible to stand for election without previously resigning; that on nomination as a candidate he should be given unpaid leave from date of nomination, that if he is not elected he will be reinstated in his previous capacity; that the period of break will not count for annual increment or superannuation purposes. If he is elected and whether or not he becomes a Minister he will be required to resign from his employment. He will be entitled to reinstatement although not necessarily to the post that he held if he ceases to be a member of the House and so on. Now, these are the provisions we proposed and this is a very serious matter and the Leader of the Opposition having had his say tries to take away the importance of our argument by smiling and looking at the gallery. Well, that doesn't do him any good because the basics of the objections of my Party to the fact that people in the civil service should be allowed to sit here as members and still be members of the Civil Service, is absolutely repugnant to every principle of justice and civil rights because then you would not have that clear and independent service that any Minister, whatever his party requires to have help and advice and to work for them completely independent of any Party allegiance so that the Minister knows that he goes into a department and the people who are there are loyal to do the work they have to do. And for that reason we do not accept what Honourable Members opposite want, but we have accommodated a considerable amount in order to meet an obvious gap which by nature of our set-up in Gibraltar and by the fact that there is so much Government employment because Government activities are such a big chunk of the set-up in Gibraltar, it is of necessity that they must be excluded. For those reasons I say let us do what we can to help as many people immediately and don't wait for the ideal because the ideal never comes. I offer to the members opposite the opportunity of giving the right to industrials in Ministry of Defence employment and Clerks up to Grade I, or equivalent, without any hesitation that we could

agree on a basic that we could ask for joint representations to the extent that we have been able to do so. We cannot give up principles which we hold dear and on this it is not a matter of myself it is a matter on which my Party has always felt very strongly and which the Party will continue to stand for because it is part of our heritage to make sure that if democracy is to continue in Gibraltar, Ministers must be advised by people who are completely independent and have no party allegiance. Thank you.

The House then adjourned sine die.

The adjournment was taken at 7.30 p.m. on Wednesday the 29th May 1974