

HOUSE OF ASSEMBLY

HANSARD  
OF MEETING

HELD ON 14 JULY 1975

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Nineteenth Meeting of the First Session of the Second House of Assembly held at the Assembly Chamber on Monday the 14th July, 1975, at the hour of 10.30 o'clock in the forenoon.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION:

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

IN ATTENDANCE:

Mr P A Garbarino, ED (Clerk of the House of Assembly)

PRAYER.

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES.

The Minutes of the Meeting held on the 12th May 1975, 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 Registrar of Building Societies - Annual Report, 1974.
- (2) The Hotel Occupancy and Air Traffic Surveys Report 1972-74.

Ordered to lie.



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

The Prison (Amendment) Regulations 1975.

Ordered to lie.

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

- (1) The British Commonwealth and Foreign Post Regulations 1975.
- (2) The British Commonwealth and Foreign Parcel Post (Amendment) Regulations 1975.
- (3) The Local Post (Amendment) Regulations, 1975.
- (4) The Money Order Regulations, 1975.
- (5) The Landlord and Tenant (Communal Services Tenements)(No.2) Notice 1975.
- (6) The Postal Order (Amendment)(NO.2) Regulations 1975.
- (7) The Franking Machine (Amendment) Regulations 1975.
- (8) The Foreign Parcels and Postal Packets (Import and Export Control) (Amendment) Regulations 1975.

Ordered to lie.

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

- (1) The Copyright (International Conventions)(Amendment) Order 1975.
- (2) The Gibraltar Regiment (Pensions) Regulations 1975.

Ordered to lie.

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

- (1) The Audit and Supervision Fund Regulations 1975.
- (2) The Financial Report for the year 1973/74.
- (3) The Report of the Principal Auditor on the accounts of Gibraltar for the year ended 31st March 1974, together with the Financial and Development Secretary's comments thereon.

Ordered to lie.

HON ATTORNEY GENERAL:

Mr Speaker, before we proceed to questions I would ask for the indulgence of the House to make a personal explanation under Standing Order 50.

MR SPEAKER:

Leave is granted.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, when the House last met, I answered a question regarding a report which had appeared in a newspaper in the United Kingdom regarding the appointment of a Mr Powell as Manager of the Victoria Stadium. I informed the House, as was the case, that a letter had been written to the Editor of the paper concerned informing him that the report in the paper was incorrect. I was asked, in a supplementary question, when the letter had been written and I informed the House that I did not know. I was subsequently asked whether it had been written before or after the date when the notice of the question was received. I had no means of discovering the answer at that time, as I have already stated that I did not know when this was written, but on information volunteered in good faith which I accepted and which, of course, I should, perhaps, have checked, in fact I should have checked, I informed the House that the letter was written before the notice of the question was received. I have now ascertained that in fact the letter was not written until after the question was received. I would add, however, that the report in the paper was brought to the attention of Government on the afternoon of the 2nd May, a Friday, and the question was received on the afternoon on the 5th May, a Monday. There was, therefore, very little chance to write to the Editor before the question was received but I would like to express my regret to the House that I inadvertently misled them as to the before or after of the question.

HON M XIBERRAS:

Mr Speaker, would the Hon and Learned Attorney General further inform the House as to who signed the letter in question?

MR SPEAKER:

I am afraid that we cannot open a debate at all on the merits of the point at issue. What the Hon Member has done is that he has taken advantage of the rules to give a personal explanation as to the particular information that he gave which was erroneous and which he gave in good faith and which now having been able to verify that the information that he gave was wrong, he wants to make it quite clear that he did not intend to mislead the House and is, therefore, putting the record right. But I am afraid the merits of the subject matter cannot be reopened, at least not at this stage.

#### ANSWERS TO QUESTIONS



HON A J CANEPA:

Sir, before I make the statement of which I gave you notice may I have your leave to refer to Question No.74 where I gave an undertaking that I would try to find out certain information.

Mr Speaker, for some time now the United Kingdom Government has been making available an allocation of funds for the training of Gibraltarians under United Kingdom Gibraltar Technical Assistance. This money has been used to train various categories of officers in the public service such as Public Health Inspectors, firemen, policemen and so on. If there was a definite departmental requirement within the Public Works Department, these funds could be used for technician trainees or for any students currently undertaking the T4 course. But, generally speaking, this would be dependent on departmental priority.

HON M XIBERRAS:

Mr Speaker, we on this side are grateful for this statement which establishes that there are funds or scholarships available from ODA. We hope that the Minister will bear in mind insofar as it falls within his responsibility that there are at least two to my knowledge, maybe more, Gibraltarians with very high qualifications. I said this morning that one of them had come second in the UK and Commonwealth examinations for that particular year in the technicians course, I am told he came first in fact in this respect. We hope that the monies available and said to be available by the Minister will be used in such a way that Gibraltar will not lose the services of the people I have mentioned. I trust the Minister will do all in his power to make sure that this is the case.

HON A J CANEPA:

Of course, I will do my best but it is up to the department concerned to make a bid for these scholarships if they do have a departmental requirement.

HON M XIBERRAS:

Will the Minister investigate the question of departmental recommendation? I am pretty certain that such recommendation despite fluctuations is generally in favour of the need to train people of a higher level than ONC, that is, to HNC.

HON A J CANEPA:

I give the assurance that I will take the matter up with the department concerned, and with the Establishment Officer but beyond that I cannot do anything.

HON L DEVINCENZI:

Mr Speaker, as the original questioner I also thank the Minister for the answer he has given. All I can say is that I hope that individuals and especially outstanding individuals will not be deprived of the opportunity of going to UK because they might be needed here at one particular point in time. Otherwise these Gibraltarians might leave Gibraltar and what would happen next is that we would have another UK individual coming here to fill the place on a temporary basis. Thank you very much.

MR SPEAKER:

I call on the Minister now.

STATEMENT BY MINISTER FOR LABOUR AND SOCIAL SECURITY

REVISION OF SOCIAL INSURANCE SCHEME

Mr Speaker, almost exactly a year ago I made a statement in this House, in which I gave details of my proposals for changes in the social security scheme, which were to take place in January 1975, and I reiterated that it was the intention of this Government to review social insurance benefit rates and contributions at more frequent intervals than had been the case previously. So long as the present world-wide inflationary trend continues it seems that we shall have to carry out these reviews annually, if nothing else to protect the value of pensions. Conscious, therefore, of the need to increase pensions and other benefits again in January, 1976, I would like to inform Hon Members in advance of what is proposed, in anticipation of the publication of these Bills during the summer, prior to their introduction in this House at the next meeting, after the recess.

Basically, Sir, it is proposed to increase old age pensions, widow's benefit and other benefits, including injury and disablement benefit, by a further 25% on existing rates. This will mean, for example, an increase in the maximum old age pension for a couple from the present full rate of £10 to £12.50 a week. The process of gradually eliminating the differential which exists in the pensions of those who reached pensionable age prior to, and after, 1968 is being taken one step further, with the result that those who are drawing less than the full pension will enjoy increases of anything up to 53%. In this connection, Sir, it is worth pointing out that, over a period of 2½ years, the pension for a couple who qualified before 1968 will have been more than trebled, from £3.60 to £11.

With regard specifically to old age pensions, it is proposed to reduce the first contribution condition to 156 (instead of 500) paid contributions, in line with UK practice. This is not expected to create any large liability on the Social Insurance Fund, as the second condition of a yearly average of not less than 13 contributions will still have to be satisfied, but it will work to the advantage, particularly,



of a small number of persons who, having entered insurance at the age of 55 or more, when the Social Insurance Scheme started in 1955, have not hitherto been able to meet the condition of 500 contributions before reaching pensionable age. As proposed, a minimum of 3 years' contributions could entitle them to old age pension, even if at a reduced rate.

Once again, the increase in benefits will have to be accompanied by some increase in contributions, which will go up by a total of 32p in the case of a man. Half of the increase (ie 16p) will be payable by the employer and the other half by the employee.

These proposals have been referred to the social Insurance Advisory Committee, who have expressed their general concurrence with them, and also to the Government Actuary's Department who have advised that the revised contributions should be sufficient - together with interest on the Fund - to provide the new scales of benefits for at least the next ten years. Of course, let it not be understood from this that we shall not be keeping a constant eye - as I have already said - on the level of benefits and contributions in relation to rising costs generally.

I should mention at this stage that, in my opinion, whereas old age pensions, widow's benefits and other long-term benefits, should continue to be reviewed annually whilst inflation continues, the same need not necessarily be the case with the short-term benefits - particularly maternity grant and death grant - which are already the same or even higher than in UK.

Needless to say, retirement benefits, elderly persons pensions and supplementary benefits will also have to be increased more or less in relation to the benefits under the Social Insurance Ordinance and I shall be bringing my proposals to the House at the same time as the Bills which are now being prepared to give effect to the higher benefits and contributions under the Social Insurance and Employment Injuries Insurance Ordinances, to which I have made reference. However, with regard to non-contributory Retirement Pension, which provides for the older insured

persons who did not qualify for Old Age Pension when payment of this benefit became operative in 1965, it is proposed to increase them again by a further 60% approximately - from £6.40 to £10.30 for a couple. Care must be taken that the level of Retirement Pension does not create anomalies in relation to old age pension, and the sum proposed is equivalent to the proposed reduced contributory pension for a person with an approximately similar insurance record.

The opportunity will also be taken, when amending the legislation, to carry out minor changes in the administration of the social insurance scheme, such as increasing the time for claiming benefits from 3 to 6 months, and eliminating "broken weeks" payable at the beginning and end of long-term pensions.

Finally, Sir, I would like to make mention of the fact that the final step towards universal pensions at age 65 will be taken by reducing further from 70 to 65, the age at which the non-contributory Elderly Persons Pension introduced in January 1974 becomes payable to men. This is the goal towards which the Government has gradually been working, and it is a source of pride to me that it will finally be achieved. One also looks forward to the day when it will be possible for the rates of this benefit to be more closely related to the level of old age pension.

Sir, I think that the proposals which I have outlined are further proof - if such was needed - of the continual concern which this Government has, but which may perhaps be taken for granted as one revision quickly follows another, to see that social benefits - and very specially old age pensions - do not lag behind, at a time when the purchasing power of money is constantly being eroded.

HON M XIBERRAS:

Mr Speaker, I welcome this advance information of the changes which the Government is going to bring about in the social insurance legislation, and one should not be niggardly in the expression of praise for the Minister in this area of his responsibility for which he has done a considerable amount. The Minister should be aware, is he not, that possibilities are now offered to him which he himself thought impossible some little while back and in this context I would ask the Minister whether first of all it is absolutely necessary to raise the contributions by 32p, as I think he said - 16 for the employer, 16 for the employee - whether the benefits to be obtained are to his mind of as lasting value as the benefits to be received, and whether the Social Advisory Committee has been fully in agreement with the proposals he has put before them.

HON A J CANEPA:

Sir, the proposals have been referred to the Social Insurance Advisory Committee and they have expressed their general concurrence with them. Sir, is there any need to increase contributions by 32p, I think is the burden of what the Hon Member is asking. The short answer to that is that I do consider that at the moment, when we are in the process of breaching the gap between the pre-1968 pensioner and the post-1968 pensioner, and there are a very large number of pre-68 pensions, it is necessary to continue to increase contributions. It could well be that in the next revision or the next one after that it may not be necessary to do so at all, but at the moment it is.

HON M XIBERRAS:

Mr Speaker, does the Minister then think that these contributions which would be levied on everybody, apparently, for the purpose of bringing some people before 1968 up to scratch as it were .....

MR SPEAKER:

No. If there is something you do not quite gather from the statement and you want clarification on you are entitled to ask but we mustn't debate the statement.

HON M XIBERRAS:

No, I have no intention of doing that, Speaker.

MR SPEAKER:

You are asking for the justification for certain things he is doing.

HON M XIBERRAS:

Well, what I am asking is for clarification in the Minister's mind of the longevity of his reforms. What I am asking him to say is whether he considers that this permanent increase in contribution has any other purpose but to bring up to scratch those people who were not up to scratch up to now.

HON A J CANEPA:

What is happening is that a great deal more has been taken out of the fund over the last 3 or 4 years than what is being put into it in contributions.

HON M XIBERRAS:

Well, could the Minister be more specific? Does he have an indication of how much would be taken out of the fund and how much would be taken out of new contributions?



HON A J CANEPA:

Yes, Sir, for instance I mentioned that <sup>for</sup> the older category of old age pensioner, ~~I said in the statement~~, the pension has been trebled from £3.60 to £11 a week. Now, Sir, that has happened for over 50% of beneficiaries yet if the Hon Member compares the level of contributions that ~~they were say~~ <sup>we</sup> in 1972 to what they are now, he will find that contributions are nowhere near 300% higher than what they were then.

HON M XIBERRAS:

Yes, Mr Speaker, neither is the number of beneficiaries 100%. What I am asking the Minister is how much comes out of the fund, how much comes out of increased contributions?

HON A J CANEPA:

I cannot say, Sir, that is a matter for the actuaries. I did say in the statement that the proposals had been put to the Actuaries Department and their advice is that the revised contributions <sup>together</sup> with interest on the fund should be sufficient to provide the new scales of benefits for at least the next 10 years. What proportion comes from the contributions and what comes from the interest I cannot say. That has got to be done actuarially.

HON M XIBERRAS:

Since the Minister is acting on actuarial advice, I am surprised that he cannot give me an idea of how much would come from the fund itself, and this has been a bone of contention. The other point, Mr Speaker, is since the Minister mentioned that certain non repeatable benefits were as high as in the UK does the Minister even now envisage a situation where the permanent benefits or the repeatable benefits would be at the UK level consistently.

HON AJ CANEPA:

We will have to wait and see what emerges from the Sir Jack Scamp Enquiry won't we Sir?

HON M XIBERRAS:

No, Mr Speaker, perhaps the Hon Member would agree with me in saying that it would have to depend on what comes out of the Constitution Committee.

MR SPEAKER:

There you are. Now let us go on to Motions.



HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, in order to meet the demands for water for shipping calling at this port, the Government had to make arrangements to import some 38,700 tons at a cost of something like £54,000. The price of water to shipping at the moment is 35p per 100 gallons. This is considerably less than the cost of the water imported by the Government. Accordingly, Sir, the purpose of the resolution is to provide that the first 200 tonnes, and that is metric tons, supplied to any one ship on any one occasion shall continue to be charged at that price but that any excess over that figure shall be charged at £1.50 per tonne which the Government are advised is the highest price that the trade can stand. This latter price will hold until the cost of the water imported for supply to shipping is fully recovered from such sales. The opportunity is being taken too to convert to the metric system both for supply and charging for the water. I now have the honour Sir, to move that: "In exercise of the powers conferred upon it by section 106 of the Public Health Ordinance this House resolves as follows: With effect from the 14th July 1975, the price at which potable water is to be supplied to shipping from Waterport Wharf and North Mole shall be as follows:

£0.77 per tonne for the first 200 tonnes supplied to any one ship on any one occasion;

£1.50 per tonne for every tonne thereafter.

The charges approved by this Resolution supersede the charge approved for the supply of Potable Water to shipping by Resolution of the House of Assembly of the 29 March, 1974, and published as Legal Notice 31 of 1974 and amended by Resolution of the House of Assembly of the 25 March 1975, and published as Legal Notice 44 of 1975."

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

HON M XIBERRAS:

I am surprised that the Hon the Minister for Tourism and Economic Development or the Hon Minister for Public Works have not stood up to add further to the Hon Financial and Development Secretary's arguments on this matter.

There are a good number of questions to be asked and given the rules of debate, of course, one would hope that the answers would be given fully by the Financial Secretary when he replies to this. But it is a curious state of affairs that the Government should be proposing new measures in respect of shipping when as recently as March this year they were in a complete muddle about the importation of water or rather the sale of water to shipping. One remembers at the budget session this year a certain declamatory speech by the Minister for Public Works saying that Gibraltarians should not subsidise the ships that called into Gibraltar and I would have thought the Financial and Development Secretary would have taken account of these political matters when he proposed what he has just now. I would like to know, Mr Speaker, whether any alternatives or options have been

examined in the course of consideration for this two-tier system, as I understand it, for the importation of water or for the sale of water to shipping. I would like to know what the general water situation is in Gibraltar. I would like to know whether we can afford to sell at this price or we can't afford at all on the basis of what the Minister for Public Works and the Minister for Tourism had to say on the debate on this subject matter at the Budget Session. I would like to have a more comprehensive picture of the situation. There is no doubt that as far as this side of the House is concerned, provided that the burden on the local population is not excessive, we would like to see Gibraltar recognised by seafaring people as a hospitable port, one which attracts vessels to Gibraltar rather than repels them. And one would have thought that the statement made by Government Ministers responsible for the promotion of tourism and economic development and the Minister responsible for the issue of water at the budget session were not conducive to such an end. Therefore, Mr Speaker, at 35 there is a mathematical query in my mind, a ton is 1000 gallons ....I give way to the Hon Financial and Development Secretary.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

It is 1000 litres and it amounts to 77p per tonne. A tonne is 220 gallons.

HON M XIBERRAS:

I am very glad that it has cost us only 77p per tonne to produce water in Gibraltar. It is rather less than the figures given about two years ago when it was put at just over £1 and the importation of water from Tangier was about 90p and the sale of water to DOE was something like £1.65. Any measure that makes the availability of water to shipping easier would be welcome by this side of the House, provided as I say that an unfair burden is not put upon the local consumer. We are very glad the Government has found a way, where no way apparently existed before in their minds, to do precisely this. And subject to the overriding query in our minds as to the water situation generally in Gibraltar, that would justify the figures being used, we would support the motion. The only other point is whether the Shipping Associations that were consulted so assiduously by the Minister for Public Works at budget time in March this year, have been consulted on this, I have no doubt that on this deal they would have supported the Government, I have no doubt at all about this, but this is a situation which we on this side can support wholeheartedly where we criticised the Government before. So, perhaps, the Minister for Public Works could tell us what the overall situation as regards water is now.

HON LT COL J L HOARE:

Mr Speaker, first of all I think people making statements in this House should verify and know what they are talking about. It was perfectly clear that the last speaker did not know what a tonne is. A tonne is 220 gallons, a ton is 224 gallons. <sup>This decision was taken recently as a result of,</sup> not only the debate we had here at budget time and the motion, but on subsequent events. We were discussing water in March, and one would have expected since March a fair amount of rain, ~~and~~ in fact the statistician whenever I tackle him on this states that statistically it is raining outside but we haven't had a drop of rain for a long time. And in fact this



year so far I think we have only <sup>had</sup> ~~got~~ about 21 inches as compared to 22 inches last year, 29 inches the year before, and I think 50 inches the year before that. We have thought it prudent, Mr Speaker, to import two tankers, not only to supply shipping but to safeguard the requirements of the people of Gibraltar, which is and continues to be my main concern. I consider a tourist who is resident in Gibraltar as part of the community. They are immobile in Gibraltar, they are fixed they are not like a ship which is mobile and can sail from port to port. Our present situation is that until a fortnight ago the VTE distiller on which we have pinned so much hope and so many other people pinned hopes, <sup>sequence</sup> ~~had been going on almost without a stop for two years because of the continuation of dry years, and it was producing less than half of what it was rated to produce because no machine in the world not even a Rolls Royce can carry on for 168 hours a week, 365 days a year, without maintenance.~~ <sup>distille</sup> ~~and therefore this thing had to be stopped, not for its normal quarterly maintenance but for six weeks to eight weeks. Sir it would have been the easiest thing in the world for me to have imported tanker after tanker last year and burden the people of Gibraltar with that extra money.~~ I resisted every temptation to do so. I have done so this year because there was no other course. The consumption of water amongst the civilian population of Gibraltar is rising at an incredible rate and this is because there are more and more flats, more and more old flats being connected to the system and this is the reason, Sir, why we have imported two tankers, <sup>which</sup> ~~which~~ incidentally have been rationed in Southampton. They were due to bring out 5,000,000 gallons each. In fact the first one only brought in 18,900 ~~gallons~~. The second one which is discharging at the moment brought in just over 19,000 ~~gallons~~. Let me remind the House Sir, that at the budget session I reported on a meeting that I had with the Shipping Association where at that particular time I offered to import a tanker and reserve it for our own use, putting at their disposal free of charge one or two of our reservoirs. They couldn't see their way clear to accept. <sup>making</sup> ~~But~~ in addition to ~~make~~ <sup>make</sup> sure that the people of Gibraltar have ample supplies of water, I am as keen as anybody, as keen as my colleagues that we should attract as much shipping as possible to Gibraltar because this helps the economy of Gibraltar. At the same time I am not driven into panic. I have seen too many situations in life where panic in the end has done more harm than good. So I held my hand, I have been prudent and I have studied the circumstances from day to day. I took the matter to the Council of Ministers ~~and~~ <sup>who</sup> endorsed my view that we should get these tankers. And, finally, Mr Speaker, let me say quite clearly that the Shipping Association has not only accepted this but have shown their enthusiasm that from now on we will not be limiting shipping to 200 <sup>as</sup> ~~tonnes~~ <sup>tonnes</sup> as we did in the past, they can now get additional supplies beyond the 200 ~~tonnes~~ <sup>tonnes</sup> but it is only fair to the rest of the community of Gibraltar that they should pay an economic price for that excess. That has been fixed and agreed and, in fact, suggested by the Shipping Association.

HON P J ISOLA:

Mr Speaker, I am glad to see that at long last there is some policy emerging for the supply of water to shipping and that the Government is securing this particular position which of course is so important and vital to the economy of Gibraltar. The Minister, Mr Speaker, has told us of the way that consumption of water is rising rapidly within Gibraltar though I was sorry not to hear from him some sort of report as to whether his Department is doing anything about the considerable wastage of water that has been growing in alarming proportions.



in the last two years which was evidenced in the last debate on water by the statistics of one Government Department as compared with statistics given by the Minister of actual water that left his particular production machine. And we wonder whether this tremendous increase in the consumption of water in Gibraltar, is not really a tremendous increase in the wastage of water in Gibraltar, and I think it is impossible for the Minister of Public Works to get up and tell us that water consumption is going up enormously in Gibraltar rather than assuring us that it is not in fact going to waste, because on the last debate on water it was shown to the Hon and Gallant Minister that his own Government statistics, although another department showed that there was very considerable wastage in water. And we do hope that somebody on the Government side will reassure us, now that the Minister cannot speak again, that this tremendous increase in the consumption of water is not in effect a tremendous increase in the wastage of water. This is vital in any debate on this subject once these discrepancies have been brought to the notice of the House. Mr Speaker, the other point that I would like to bring up is that we notice that two tankers each with roughly five million gallons, are on their way to Gibraltar and this would seem to indicate an almost emergency situation in Gibraltar when you have to import 10 million gallons at the same time. Certainly, we would like to know whether anything has gone seriously wrong with the Distillers to make necessary this rather large supply of water. And we would certainly also like to know whether this working the distillers to the extreme that has apparently been occurring in the last two years, has not done irremediable damage to them, and that the saving there has been from non-importation of water in the last few years, we are not going to be called upon to pay for now. I think it is something which requires some answer on the Government benches because if the Minister has proudly said: "Well, we haven't had to import water for two years. True, we've frightened a bit of shipping away, true, we've had certain economic consequences in the Port." And if now he's going to add to that: "Now we have to pay the price of having worked the distillers too hard, we are having to lay them off now for considerable periods of time, or considerable capital expenditure is now going to be involved in putting them right as a result of their having been overworked," then I think the Opposition is entitled to ask the question as to why they have been so seriously overworked in these last few years, as to why the Water Engineers have not kept an eye on the situation. Because, as I understand it, the Department did have some time ago - now I don't think it has - but it did have a source of regular imported water supply from Tangier, it did have it available, and I would have thought that in the terms of long term planning, it may have been a mistake for the department to have cut off it's links with the importation of water from Tangier. Because if now we are going to have two tankers with 10 million gallons and it is only the beginning of the summer, perhaps, it may be necessary to have a few more tankers before the summer is over and certainly on this side of the House we would like to have certain questions answered. The first, what is the cost of these two tankers that we are having to import? The second question, assuming that the need to import water continues throughout the summer, how many more are likely to be imported? And the third question is, is there anything seriously wrong with our distillers at the time being? Have they in fact been overworked beyond the limit of discretion thus requiring need for heavy capital expenditure to put it right? I think a debate on water should not be passed over without these important questions being answered. And finally, Mr Speaker, has the Government taken any steps at all since the previous debate on water to ascertain the amount of wastage there is in water and whether anything can be done to control this enormous wastage about which we heard in previous debates?



HON A W SERFATY:

Mr Speaker, I want to say my little bit and then to something on behalf of my colleagues. First of all I would like to say that the Statistician has based his report on water on actual revenue received not on the bills that have gone out. So therefore the wastage is bound to be much less when comparing the amount of water produced with that actually charged and collected. The Statistician got his figures from the Treasury and not from the Public Works Department. A certain amount of water has been produced and supplied, but for several reasons the bills have not gone out in time.

HON P J ISOLA:

I am not quite sure about the accuracy of that statement because under the abstract of statistics 1974, Consumption of Potable and Brackish Water it says at the top of the page "Produced by the Public Works Department" so perhaps the Minister can explain that.

MR SPEAKER:

We had that at Budget time. I think we came to the conclusion that the wastage was something like 32%. The answer that you are being given is that there are Treasury statistics which are based exclusively on the amount that is being collected and that there are still water bills to be charged which have not been collected.

HON A W SERFATY:

I think an assurance can be given, because there are mechanics and engineers in the Department of Public Works, that the desalination has not been worked beyond the limits of discretion. I would like to say as Minister responsible for the Port, that the charges for water to shipping that are now being proposed make a lot of sense. The amount charged for the first 200 tonnes is more or less the cost of desalination, and the amount charged for anything in excess of 200 tonnes is more or less the cost of importation. So I think we have reached a happy solution. I can also vouch for the fact that the Shipping Association is very satisfied with this decision of the Government.

HON MAJOR R J PELIZA:

Mr Speaker, this of course is a vital question from the finances and also I think from the standard of living of Gibraltar. It is a well known fact that societies as they improve their standard of living they use more water. And this is something that every Government, of course, has got to plan ahead for. I cannot understand why suddenly everybody is very upset and worried because there is much more consumption apparently, according to the Minister for Public Works, than it was envisaged. At least this was the impression he gave me, one of surprise, of astonishment, that so much water was being used. And I think immediately it makes one suspicious, that it can't be just the only reason that much more water is being consumed. I think that over the years one can plan and see what the progress is likely to be. I am not quite satisfied with the answer the Minister has given. Surely, it does not say much for the Treasury that



the money is not being collected. Surely, there is a system for collecting the money. And, surely, after a period of time, somehow, they've got to balance. But here we are from 1970 to 1974 and there doesn't seem to be any catching up. I am not looking at the figures of consumption of potable water and I see that the figure is rising steeply and whilst not suggesting for a moment that anybody is trying to mislead the House I think the Minister should volunteer some more information and support his statement with some more concrete and credible argument that has been given to this House at the moment. I think this is a serious matter and a matter that the House should look at. Certainly the Government should try and find out whether in fact it is just a question of misunderstanding between pounds and gallons or whether in fact it is a question of water going to waste. I am not happy with the explanation given by the Government and I doubt whether anybody who looks at the figures and anybody who listens to what the Minister has got to say would be satisfied, particularly, I think, when we look back to what has been said in the House before. Surely, the Minister did not expect that the Opposition would allow this opportunity to go by without probing to find out if anything concrete has been done about the wastage of water. And the answer is no, nothing has really been done. He hasn't come out with any statements saying: "Yes we have made tests, we have measured meter for meter not pounds with gallons but gallons with gallons. I can now swear on the Bible that there is no wastage or an acceptable wastage." Far from that, he comes along and says: "There has been a misunderstanding between two departments of the Government and this is all there is to it, and I hope you will accept it." If he thinks the Opposition is going to vote for that he is very much mistaken. And I would have thought that after three years in this House he would have known by now that the Opposition would not accept such flimsy statements from a Minister. Now, coming back to the question of supplying water to shipping we find that under pressure from the Opposition something is happening. Yes, it is a fact. It wasn't the Government who came out with suggestions that something should be done in this respect. It was the Opposition who pressed very hard. I am very happy to say today that something can be done, but it is the way that is being done that one has got to question. The Minister just said that they were even rationing water in Southampton. And so you see through acting rashly and without understanding of the problem and maintaining a close link with a constant water supply the Minister now finds that even from England, it is now a question not only of whether a tanker is available but whether the water is available. Why act so rashly, I say? Why not listen to the sound advice that the Opposition has given to the Government and which now and then they accept - don't want to lose face, we are here for the good of Gibraltar not to score debating points - but what I am surprised is that the Minister comes today on the question of water, knowing how strongly the Opposition feels about it, and he has no concrete argument to offer to the House and certainly not constructive, but even saying: "Be careful, we may not even get water from England because it is rationed there". This is what I am critical about the Government. And I would say this I don't believe this will be the end of the water argument, and I do hope that next time the Minister comes to the House he has something more definite, more credible to say.

HON CHIEF MINISTER:

Mr Speaker, there have been quite a number of factors in this which have been behind the whole situation. Apart from the lack of rainfall, which is always important, because it has an effect all round and people come on the supply much quicker than when they.....

HON MAJOR R J PELIZA:

There is nothing unusual about lack of rainfall. We do have this lack of rainfall in Gibraltar time and again.

HON CHIEF MINISTER:

I haven't started yet. The Hon Member is so excited that he comes all the way from England to give a speech, goes back to England again and tells us everything that we should do in Gibraltar. I am getting fed up and tired with all that preaching from away. You come here and live with your constituents and live with them every day and you will find the real facts of Gibraltar. Mr Speaker, the problem originally arose with the opening of the Suez Canal which brought matters to a head. Because we had difficulties, because we have low rainfall because we had to cut shipping severely in order to safeguard the provision for the town, it was represented at the time of the Budget that we should import water for shipping. Now water at that time, because Suez was not open, water at that time was worth..... I am not going to give way Mr Speaker, I propose to speak without giving way.

HON M XIBERRAS:

Mr Speaker, on a point of order.

MR SPEAKER:

If it is a point of order, yes.

HON M XIBERRAS:

Mr Speaker, could I ask for your guidance? Is it right for any Hon Member to state inaccurately that Members on this side asked for water to be imported in order to supply ships?

MR SPEAKER:

That is not a point of order. That is a question of fact as to whether it was said or not and it can be challenged by a member of the Opposition in due course.

HON CHIEF MINISTER:

Mr Speaker, the lack of water generally in Gibraltar which was commented upon the time of the Budget brought about a claim from shipping that we were cutting water severely from shipping. Water at that time, Mr Speaker,



was double the price that it is now, double the price, I repeat it, and it was suggested to us by the shipping association that we should buy water at £3 a ton and sell it at £1.50 and Gibraltar should subsidise shipping to the extent of £1.50 a ton. Now that the Government refused to do, and as the Minister has rightly said, he offered to bring a tanker for account of shipping and provide the water for the amount that we paid for it. That was not accepted. Then came the opening of the Suez Canal and representations from the Shipping Association and the Captain of the Port, that the pattern was now being set of shipping that were coming through to the Mediterranean as to what ports they would call and what facilities they would find at the different ports. And it was represented that it was essential that they should have water for shipping so that the pattern of shipping could be developed in such a way that they could come on later. As it happens, precisely also because the Suez Canal is open, we were able to obtain the two tankers, and the fact that the two have come together is not any more emergency than if one had come. It was the fact that there were two good purchases and at a very reasonable price and we had the undertaking of shipping that so long as we gave them beyond the 200 tonnes an indefinite amount without any qualification they would gladly pay £1.50 per tonne. That at the same time safeguards the water supply to Gibraltar which at this time of the year is at its worst and also because the distillers have not been able to operate properly recently, they have been overhauled, some occasionally give trouble, some because they are overworked and some because they are distillers and that will be for end of time. The Government have got in hand the question of a further provision of distillers. The whole question is being studied now by consulting engineers in order to be able to provide for the future. Of course, the increase in consumption is a clear indication of an increase in standards of living which is what we all want. Insofar as the wastages are concerned there is a discrepancy in the statistics and in the figures given by the Department because as the Minister has said before, the statistics show at least on the information he has given and we have nothing to contradict that, the amount of actual water paid for as against the water produced. Let there not be any misunderstanding, either. There is a lot of wastage of water. Of course there is. There is wastage by evaporation, there is wastage by burst pipes, there is wastage of many kinds. In fact there was a wastage recently of  $\frac{1}{4}$  of a million gallons at the Varyl Begg Estate, for which the Contractor has had to pay. But that is not enough, this  $\frac{1}{4}$  of a million gallons would have been much better in our tanks than wasted because we cannot afford to waste water but these things happen. Now, insofar as wastage is concerned, I am satisfied and I am assured by the Minister that nightly checks are made. Every night a check is made in order to bring the amount of wastage of water to the minimum. However, all technical papers, in fact one which was quoted by the Minister at the time of the debate, show that any water undertaking has about 38% wastage. Now, we are trying to keep our wastage within reasonable bounds and reasonable limits and it is of course a constant concern. We don't have to come to this House and be reminded by Members that wastage is important. We share their anxiety or they share our anxiety, whichever way it is, but wastage is being looked nightly and in an attempt to bring it to a close. It is as simple as that and there is no more in it except that we have been able to come in consultation with the Shipping Association to an arrangement whereby we safeguard our water supply in this difficult year and we have safeguarded the interests of the territory by being able to sell it more or less at the price at which we buy it.



HON W M ISOLA:

Mr Speaker, I would just like to mention one particular point which I am taking from the abstract of statistics 1974. What amazes me more than anything else is that whilst in the year 1970 the consumption of potable water was 91,746,173, in 1974 it was 81,813,584. It would appear that from 1970 to 1974 the consumption of potable water is going down even though there are more houses being built at present because the price of water is becoming more and more expensive and therefore people are consuming less.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have heard the word wastage bandied about and as the Honourable and Learned the Chief Minister said there is a certain amount of wastage, obviously, but I don't think that the wastage is as great as is shown by these figures. The point at issue is that in the good old days when there were only a handful of people who were connected to the then City Council water system it was very easy for the meters to be read all in one day and to check up with the main meter from the Waterworks and, therefore, any difference could be traced almost immediately. At the moment there are no less than 20 check meters covering 20 districts in town and it is an utter impossibility for all the meters to be read all at once and to check up either with the test meters or with the main meters at the Waterworks. Nevertheless, the Productivity and Training Unit have been carrying out an investigation into it and because the results have not been to our satisfaction I myself have had these people together working out so that we get a test meter at one district to be tested one particular day, and that day the subsidiary meters will be read and compared with the check meters. But that in itself is not sufficient. It's got to be checked again and compared with the readings carried out by the people who would then supply the information on which the billing is being made. This is where we hope to trace what the exact wastage is and what we think is more likely is that many meters are registering incorrectly and, therefore, people are getting water which they are not paying for. Of course the easy way would be to increase the price of water to the consumers but that would be very unfair because obviously the people whose meters are correct would be paying for those.....

HON MAJOR R J PELIZA:

Would the Hon Member please clarify one point. If the Hon Member says that meters are not registering properly and therefore registering less the wastage is even greater in that obviously this water is being used, not being paid for, and it is equivalent to wastage. On the statistics perhaps the Hon Member who obviously knows everything about the figures could explain to us why there is no catching up and the gap is getting bigger. I wonder if he could explain this.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As I have said that is exactly what we are trying to do at the moment. We are checking up because there is no doubt that the programme of maintenance of meters has not been kept up as it should have been but at the moment all the meters are being converted to metric and very soon all the meters will have been replaced by new meters and it will then be obviously the time to

ensure that from now on all the maintenance is carried out in a proper programme, but as I say, it's not wastage, people are using it. It is not going to waste in the sense that people are not making use of it. Of course the other point is the "drip-drop" where the meter is not sensitive enough to register. But as I say the matter is very much in hand. The other points that have been made I think have been answered by other Hon Members, except that perhaps with this question of supply to shipping it shouldn't be forgotten that we had a grant from HMG years back in order to lay pipes to the wharves, to build two reservoirs and also enlarge the catchment area specifically to provide water for shipping. So, in fact it is necessary in a way to ensure that shipping has some water to a certain extent. I think the other point that was made was whether the 77p was the price at which water was imported. That is not so, the cost of water imported is considerably more than 77p. Actually my figure is that if we get the 48,700 tonnes for £54,000, it would be 137, so its near enough. The actual cost would not be known until the water has been pumped from the tanker on to the reservoirs. I think that is all I have to say.

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

## BILLS

### FIRST AND SECOND READINGS

#### The Town Planning (Amendment) Ordinance 1975.

HON A W SERFATY:

Sir, I have the honour to move that the Bill for an Ordinance to amend the Town Planning Ordinance 1973 (No.8 of 1973) be read a first time.

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

The Bill was read a first time.

### SECOND READING

HON A W SERFATY:

Sir, I have the honour to move that this Bill be now read a second time. I don't think that this Bill is controversial. It is really what I might call putting our house in order in the Development Commission, in a way. One of the important items that has been provided for by this Bill is this question of change of use. And that is that after a certain date it will not be possible to change the use of a building without permission from the Development Commission. This is part of town planning and I think will be readily understood that, for example, we cannot have in a Housing Estate a factory or that kind of thing. This is a kind of thing that we are trying to avoid. The other point is this question of outline planning permission. In fairness to developers and to anybody wanting to build anything, it should be right and proper that the Development Commission



should be consulted before extensive drawings and plans and quantities etc are prepared, that we should know whether the Development Commission will look sympathetically and there is a possibility of the scheme being approved. This is the idea behind an outline permission. I remember in many years of practice, about 30 years ago, I used to consult the City Engineer and Medical Officer of Health before actually submitting plans in cases of doubt on the building by-laws. This is of course a very proper thing that before plans are prepared the developer should know that the project does not go against the policy of the Development Commission. The other point is that apparently, according to the Legal Department, it is doubtful whether the Development Commission has the power to compound car parking obligations in certain cases. This, successive Development and Planning Commissions have been doing for years and we are now making sure that they have a legal right to do it. I commend the Bill to the House.

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

HON P J ISOLA:

Mr Speaker, we welcome parts of this Bill. The question of setting out the procedures for obtaining outline planning permission in respect of any development is, of course, a welcome provision in the Bill, provided that this does not result in further delays to consideration of applications for planning permission in other matters. Talking about the Outline Planning permission and the question of user that is introduced into this Bill, I think it is important that we should have some news about the position of the Planning Scheme for Gibraltar which the Planning Commission is meant to produce under the Town Planning Ordinance. It is, I think a bit hard to place on people the obligation to seek permission for any change of user of a building without those people knowing the background of the general scheme of things and how the Planning Commission is working. It is a very good thing to have Planning control and it is a very good thing to have planning, but equally, it is important that people involved in these matters know what the Commission's Planning Scheme is what the thinking of the Commission is with regard to any particular area of Gibraltar as to its user. Otherwise, I think you could get into the position of a developer being reluctant to do any developments in Gibraltar or do development in Gibraltar of a particular type without knowing what the scheme of things is for that particular area, without knowing whether if his particular development cannot proceed on that basis, what policy would be if he wanted a change of user. I think it is a very good weapon to give the Planning Commission, the weapon of being able to control the use of buildings, but on the other hand, I think it is important that people should know what is the plan for Gibraltar and its particular areas. The other point is I would certainly like some more information about material change in the use of any building. Is the Commission envisaging or should there not be some definition or consideration given to put some definition in the law about the use of a building. For example, is one to say that there is a change of use in a building if a particular shop in the building is changed from a butchers to a clothing establishment or things like that. This could be important, I do know that in the United Kingdom, any change of user of almost any kind requires planning permission. I don't think we should in Gibraltar go to that extent but equally I think it is important that the people should know what is the planning scheme of the Government for any particular area of Gibraltar. I think we would certainly welcome some



information as to the interpretation of the word "user of a building". It is quite easy to understand an hotel as opposed to flats, that is a simple thing, but is it proposed that anybody who builds a building and has shops down below will not be able to change these shops for garages, or will not be able to change those shops from one type of shop to another, or from shop to office, would that require permission? If all that is envisaged I think it should say so, if it isn't I think it should equally say so. I think people should know what the law is, should know as clearly as possible what the intentions of the Commission is. But above all I think it is vital before one starts pushing too far planning control I think it is vital that people should know and should have as soon as possible a planning scheme for Gibraltar so that people will know how many particular thoughts they may have on land user or development, they should know against what background and against what scheme this plan or use must be put. I think that is all, really, we have to say. I think one agrees with the Bill, one agrees with the principle behind this and one only wishes that a lot of this sort of legislation had come to Gibraltar many years ago. Thank you, Sir.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, if perhaps I can deal with one point raised by the Hon and Learned Mr Isola. As you will see the proposed new clause 16A starts off with the words "Subject to the provisions of this section and to any exemption which may be prescribed under section 30". Now, I hope perhaps I am not jumping the gun but it is certainly Government's intention to bring in subsidiary legislation which will show the change of user, broadly, which will not require planning permission and although we are not entirely resolved on it the intention is to follow similar legislation in the United Kingdom. And briefly there you can change the particular product sold in the shop with very few exceptions. I think for some odd reason you can't change any shop into a fried fish shop. That is one, so that a shop will be able to be exempt straight away and that will be quite clear to the would-be developer. An office can be used for any purpose, you can change use at any time. Industrial buildings can be used for any industrial purpose. A Boarding House, Hotel, Guest House, can again be changed from an Hotel to something less commodious or can be changed from a Boarding House to something more grand. There are, I think two or three others which I do not think will affect Gibraltar and may not even form part of our legislation because it would be unnecessary. We do propose to legislate and those are the main outlines of the subsidiary legislation which will form a guide to developers.

HON A W SERFATY:

On the first point raised by the Hon and Learned Mr Isola, I do not feel there are going to be further delays in the approval of building applications, on the contrary I feel once an outline permission is obtained - and that should not take long - it would be much easier to submit a full project for a scheme which will be built and it is up to the architects and the engineers that they should meet with the requirements of the Building Bye-Laws. Once outline permission is obtained there should be no difficulty then in the approval of the building application. I am very thankful for the Hon Attorney General for explaining about this matter of change of user because he will have to draft the legislation and he is the man who knows about the matter. Unless, of course, the Select Committee of which the Hon Member is a member, might wish to submit proposals for giving the Development Commission further powers on the question of change of user in relation to trade licensing. But I am jumping the gun and we have not yet reached that stage. I am sure that we shall try and follow UK practice without complicating matters unduly because I can't see why a shop selling clothing should require permission,

to sell groceries unless there are other elements of Public Health, etc involved. On the point raised by Mr Isola on the question that it is hardly fair that developers should not know what use the Development commission will decide on for the different parts of the City and areas, we all know and I think I have already said in this House before, that the Town Plan should be ready by March 1976 and by then.....

HON M XIBERRAS:

If the Hon Member will give way I apologise for this intrusion but I hadn't realised that he was the man who was replying to the debate. Mr Speaker, would the Hon Member know anything at all about any consultations which took place between the Chief Minister and myself on the question of sharing the overall plan for Gibraltar between Government and Opposition for which I suggested a Select Committee and the Honourable Member said that perhaps he would consider making the information available in some other way. My second point is has the Government taken into account the need for secrecy in respect of the advance planning permission?

HON A W SERFATY:

Do I realise the need for secrecy in the question of the outline permission? Of course we do and all these matters we fully appreciate are very confidential matters. But on the question of the Town Plan of course, this plan when prepared has to go through a certain process and the public, and of course the Opposition too, will have plenty of opportunity of having their say on the matter before the plan is finally approved. It is a very important plan for the future of Gibraltar, I fully appreciate that, and everybody must have an opportunity of having their say in the matter.

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

The Bill was read a second time.

HON A W SERFATY:

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

#### THE EQUAL PAY ORDINANCE 1975

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to remove discriminations on grounds of sex in remuneration and other terms and conditions of employment 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 A J CANEPA:

Sir, I beg to move that this Bill be now read a second time.

Mr Speaker, the purpose of this Bill as stated in the explanatory memorandum is to provide that as from the 29th December, 1975, equal treatment as regards terms and conditions of employment shall be given to men and women, where they are engaged on the same or broadly similar work, or where a woman's job has been graded as equivalent to a man's job though of a different nature to her own. The principle of equal pay as an aim of policy has been accepted by successive administrations over the past 15 years or so, during which very considerable progress has been made without the need, in fact, for any legislation. Thus women employed in non-industrial posts by the Gibraltar Government and by the United Kingdom Departments have had equal pay since 1969 when the third stage of the first Marsh Report was implemented. With regard to those in industrial employment, Sir, the differential between men's and women's rate of pay has been progressively narrowed from 25% as it stood in 1967 to about 7½%, but because cost of living payments and the interim award which has been operative since October 1974, have been made at exactly the same rate for women as for men, the actual differential is now only about 5%. Insofar as the Official Employers are concerned, Mr Speaker, therefore it only remains to finally eliminate this remaining small differential for industrials and in the normal course of events this could well have come about in the current review of wages and salaries. The position of the Private Sector, Sir, is probably not quite as satisfactory although equal pay already does apply in a number of areas. But as conditions in this sector, generally, tend to follow those in the Public Sector it could have been expected that equality would not have taken long once it had been fully applied to employees in the Official Departments. Sir, I have given this background information to show that Gibraltar has not been really behind the times in the matter of equal pay. I would now like to draw attention to the fact that the Bill provides for equality as regards terms and conditions of employment where women are doing the same or broadly similar work in establishments which are owned by the same or an associated employer as long as these establishments have common terms and conditions of employment. Because of this and because there are bound to be establishments in which there are no men doing work of the same or broadly similar nature as women, there will probably be cases where the women's remuneration will not necessarily be affected. Typists, Hotel Chambermaids, are just two examples of what I have in mind but no doubt there are bound to be others. With regard to the operation of this Bill, Mr Speaker, the same procedure is envisaged as for the unfair dismissal legislation passed by this House last year. In other words, claims in respect of failure by an employer to observe the provisions of the law may be referred either by the aggrieved party or by the Director of Labour and Social Security for determination by the Industrial Tribunal established under the Regulations of Wages and Conditions of Employment Ordinance. Sir, the Bill now before this House is modelled on the United Kingdom Equal Pay Act of 1970, which is itself as comprehensive a measure as any in Europe, providing not only for the removal of such discriminations as exist but also for the direct right of access by women to the Industrial Tribunal to claim their rights. Lastly Sir, I think we are all agreed that this being International Women's Year, no more propitious time could have been chosen to achieve the objective of full equal pay for women towards which, as I have already said, successive administrations have been working over the years as economic circumstances permitted. 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, equality of opportunity, equality of payment, equality of almost everything of the good things in life is a principle that must be dear to every democrat whether it is in the field of remuneration or the field of rights but perhaps not in the field of adverse conditions. We in this House, I believe, must always strive for a levelling up of standards so that at one time or another we may achieve the sort of equality which can be accepted by the majority as a criterion of social stability. I think that this measure introduced by the Minister for Labour is in its own way one which contributes to this equality and one which contributes to this stability. It is, the Minister would be the first to agree, limited in its scope to the question of remuneration but nonetheless as a banner and as an earnest of the equality that should exist between the sexes, it is very much welcomed by this side of the House much the same as any sort of equality for the better, any source of equality as I say, would be welcomed by this side of the House. We, on this side of the House have contributed in small measure just like the Government to this great ideal of equality. There might have been criticisms of people, for instance Mrs Summerfield who went to the conference on equal rights for women, but I don't think that anybody in Gibraltar would for a moment deny the majority of its citizens the right to equality in remuneration with what the majority enjoy. And if it can be done in these particular areas where discrimination is even now as between sexes, there it is no less welcomed than if the equality is achieved in bigger areas where the discrimination has existed, perhaps over a bigger number of years over a bigger area. We would be delighted to see this levelling up towards equality with what the majority make or should make. Limited as it is in scope, nonetheless, it is welcomed. We would like to see other Bills to follow this so that Women's year will not be just a simple question of paying lip service to the idea but will become a reality in Gibraltar which I might add I agree with the Minister does not lag far behind other areas. We would like to see us able to subscribe to the labour conventions on equality which up to now we have not been able to do or we have not found it safe to do. We would like to see that great injustice of nationality whereby the nationality of residents in Gibraltar can only be passed on by the male in the marriage rather than the female. We would like to see that changed. And if this Bill augurs for a greater sense of equality between our citizens then we on this side are all the more prepared to support such a measure. The provisions of this Bill and its implementation are a different matter. It is notorious to know that it has been very difficult for the Government even in Britain to implement the provisions of equal pay in Bills similar to this. I must say honestly I am not totally conversant with the terms of the UK legislation but I would like to see for the information of this House which I think is united in this matter, in what way this Bill differs from the United Kingdom Act. I do not think we should do any less for women here. But, even though it is difficult legislation to implement, I think that the Minister has shown that he does intend to have something more than lip service for the women of Gibraltar that he does intend to change the legislation and he does intend to give at least de jure equality treatment to the women of Gibraltar, and we are entirely behind this. It was our plan in the previous administration to bring forward a Women's Charter, even ahead of



the women's year, whereby you would systematically eradicate all the discrimination that existed as between men and women on the grounds of sex. There are, of course, areas which are sensitive to the male, there are of course areas which are generally conceded to be a male preserve but, slowly I have no doubt these will be invaded and we shall have a complete equality as I de jure though perhaps not de facto, for a number of years in the question of equal treatment as between men and women. I would be glad to hear the Minister say that he intends to stake his own personal prestige in this battle for equality between the sexes and that he would be prepared to push this matter even beyond the legislation and by example and in any way possible by his own extra legislative powers and influence bring about this equality which is so much desired by both sides of this House. Mr Speaker, I started off with a panegyric on equality I cannot end without recalling 1969 when the Spaniards left Gibraltar and there were 399 British women in employment in a short space of time the women of Gibraltar came forward and enlisted their support, whether it was out of patriotism or private gain or because the exigencies of the circumstances but in 2½ years 2,300 British women as compared to 399 had registered in employment. No doubt the actual number of British women workers was much greater. I have no doubt that this sort of effort should be rewarded with the kind of legislation which the Minister is bringing forward and I have no doubt furthermore that whether it is out of necessity that this is the pattern of Europe, the level of economic exigencies demands it or whether it is simple because women feel that they should contribute more actively to the society to which they belong, that many more women will as it happens come into employment and this can do nothing but good for Gibraltar because the money that will be earned by Gibraltarians will stay in Gibraltar and it will make Gibraltar that much more strong to resist the Spanish Government's campaign. It was a very real factor in 1969, it can become a real factor again in 1975. And nothing more compelling and more articulate than the example of women in Israel for instance, who are prepared to come forward and fight for what they think is correct, nothing more inspiring for the community to see a great influx of women coming into the employment situation and doing their bit for the maintenance of British Gibraltar.

#### HON ATTORNEY GENERAL:

Mr Speaker, Sir, I can assure or comfort perhaps, the Hon Leader of the Opposition. There is nothing in the English Act which is relevant in Gibraltar which has been left out. There is one passage there regarding female agricultural workers which it didn't seem to me that it was relevant to put into our legislation but I have not been dictatorial. I myself have very firm ideas about the position of women, nevertheless I have been fair about this I have left everything in which can apply in Gibraltar. It may be I am old fashioned, but I took a hard look at the article in Gibraltar Evening Post, last Saturday regarding the importation of canes from Egypt into Saudi Arabia for the punishment of women. That I may say is going a bit too far, I could put a clause in this Bill to forbid that, but I think not. But nevertheless we have followed the United Kingdom and we are now in the same position as they.



HON MAJOR R J PELIZA:

Mr Speaker, I really welcome this Bill. It is as it were the culmination of a policy that started under our administration. Well, history proves the point for indeed when we took over there was great encouragement and I am not saying that all the feathers should go to our cap. I think in fact the Spanish Government did play a part by withdrawing Spanish labour from Gibraltar. Because its' very difficult to change attitudes, particularly male attitudes. In this respect I should say the Spanish Government gave us a very helpful hand. But at the same time I think one has to accept that although it happened before we came not very long before but sometime before we came into Government, the foundations were laid by us and I remember in those days there was a lot of giggling and laughter - and you can imagine who did all the giggling without mentioning names - about high productivity and high wage society. It was then that we laid the foundation on encouraging women to come forward and participate in the social and economic life in every possible sense and do away with master and slave attitude which is a few decades behind and that unfortunately because of the circumstances of Gibraltar there had been little change here until then.. It was my ambition, philosophical and idealistic ambition to see that in the progressive society in which we live the partnership between man and woman became more established in a practical sense and now it is being legalised. This is very much a legal process no more than that, because it is not what is written in the law that is going to come, it is the attitude that is going to be adopted by all concerned, including husbands and wives. And this is where, I think, we need to somehow radiate in Gibraltar the feeling that is being expressed here in this House today. Not in the cold words of legislation but in the actual practical sense of giving effect to the legislation that we are all supporting here. At the same time I should add it is extremely dangerous to believe that women and men are the same. Equality is one thing but the same thing is a different matter and I would be the last one who would like to see women be like men.

HON M XIBERRAS:

Why not?

HON MAJOR R J PELIZA:

Well, for one thing they are much more beautiful than we are. And I think they do provide society with something that we men haven't got and I think all men will approve that and at the same time I imagine that they also accept that we have something perhaps a little inferior than theirs that they haven't got. So, you see, while the legislation talks of equality I would be the last man here to see that when a woman and a man go into a bus in Gibraltar the man does not stand up to give the seat to the woman because they are equal. And this is what I am trying to explain, this is the attitude of man that I am trying to explain. And the same thing applies to work. There are in every department of life things that we know women can do better than men and there are others that men can do better than women. I would not like to see our society having to compel

the women to earn a living to get a shovel or a pick. I do not think that would be the attitude of the Gibraltarian male and whilst we see what it says in the Bill here today that is not the spirit I am sure that we are expressing in this House today, it goes beyond that. It means no discrimination against women but it also means special consideration for them, that is, if there is a job in our society that a woman can do well then we must go ahead and make sure that this opportunity is given to them and not because it is a cushy job is it going to be retained by a man. This is where our gallantry as men comes forward. So when we talk about equality its all wrong. No discrimination, I think is a better word. And I agree that if they are doing some equal work they should be paid the same amount and have the same privileges and have the same rights and take into account their special physical considerations which from time to time we have to face because they are mothers and as such, I think, we owe them a great respect. All us men owe it to a mother that we are here today. So, I think, we must not take the law literally, this is the danger, and is happening in other societies when through equality in the end the women are trampled down. I don't believe that this should be our attitude and this is why I have risen here to say it. To me this is a great day. You may not believe it, you may think that I am making a political point of this, but I think my friends on this side of the House know perfectly well that this is one of my ambitions and whether I am on this side of the House or there or in London or in Gibraltar, I can make a logical argument. According to the Chief Minister any one who wants to speak something logical must be here in Gibraltar otherwise he must shut up. It looks to me as if he wants me to go from this House because I am in London. Because he doesn't like to hear the truth, the unpleasant truth now and again. And this is why, although I rise now with some temerity because the Chief Ministers might say: "Shut up, sit down, you're in London. Who are you to come to Gibraltar to talk about the women of Gibraltar, even if you are married to a Gibraltarian, what does it matter". After all I am married to a Gibraltarian and I have every right to talk about them and about any issue of Gibraltar because I am a Gibraltarian whether I am here in Gibraltar or whether I am living in England, or whether I go to New York, Timbuctoo, it doesn't matter. My heart is still here. My spirit is still here. And I will not allow any man however much his power may be to shut my mouth because I happen to be a Gibraltarian who happens to be away from Gibraltar for some time. Honestly, he is not doing any credit to himself, and I hope he never stands up again to say: "Shut up because you live in London". Well, not live "because you go to London". I hope he never says that. There is always something to be gained by going abroad, good and bad.

MR SPEAKER:

All this has nothing to do with the question before the House.

HON MAJOR R J PELIZA:

But, Mr Speaker, I think it is all connected. I am coming back to the women which is a subject we all like to hear about.

MR SPEAKER:

I would also like to hear about it.



HON MAJOR R J PELIZA:

What I am trying to say is that because one lives abroad one sees things happening there that have not happened in Gibraltar yet. And if I, as a scout, can bring back some information and explain to the House that the spirit and not the letter is the thing that we have got to follow - and this is why I referred with all due respect, Mr Speaker, to the attitude of the Chief Minister.

MR SPEAKER:

We must not go back to that.

HON MAJOR R J PELIZA:

I am not going back at all, I think I have more than explained the point. I think it is important that we welcome this legislation, that we apply the spirit of the law; that we still treat women for what they are, women, that we give them privileges that we are not prepared to give to men and that in every way the Government particularly shows the way in giving opportunity to women that perhaps private employers will not do and so show the way not just to equality but to privilege to the women of Gibraltar.

HON CHIEF MINISTER:

Mr Speaker, at the beginning of Major Peliza's dissertation I thought he was going to sing with Professor Higgins "why can't a Woman be more like a man". But he didn't sing it. I would have enjoyed it because "My Fair Lady" is one of my favourite ones. For the sake of historical accuracy the Spanish women were withdrawn from Gibraltar in August 1968 and not in July 1969, they were taken away a year before and we in Government gave them every encouragement and the Housewives Association and everybody every encouragement and to do the good work which they did which with time and the need increased into the wonderful contribution that they have done and that they continue to make. I wanted to make the point that they were taken away, as everybody remembers, a year before the males were taken away and it was then that every encouragement was given to the Housewives Association and that was the beginning of the contribution that they make and which they can make. But I think typically in the way things happen in Gibraltar we are passing this important Bill and there isn't one woman in the gallery to see that their rights are being protected. It is not that they are not interested, it is like so many other things that everybody takes everything for granted.

HON L DEVINCENZI:

Mr Speaker, I think the Bill is important enough to warrant a brief contribution to record my approval, if I may say, Mr Speaker, all within the framework of what the Honourable and Gallant Major Peliza has said about the importance to be attached to women vis-a-vis work. I think, Mr Speaker, all I can say is I am surprised that this Bill has not come before. This is something which one would imagine both men and women would

be pleased to bring out. It has come about now and this is one more progressive step that Gibraltar has taken and, in fact, we have followed Europe and particularly so England and I very much trust, Mr Speaker, that in due course as we continue to progress that any other happy event which might come Gibraltar's way vis-a-vis wages and what have you, will be fully enjoyed by women after the Bill which has been presented today. Thank you Mr Speaker.

HON A P MONTEGRIFFO:

I am going to make an even more brief contribution than the Hon Member opposite. I agree with the sentiments expressed by the Hon and Gallant Major Peliza that the word discrimination perhaps is more appropriate because what we don't to end up with is with men wearing mini-skirts and women wearing trousers. It is always nice to see women wearing the mini skirt. The only point I would like to take issue with Major Peliza is that although I agree that if you go into a bus one should show the gallantry and courtesy of allowing the lady to sit whilst you stand, I don't think I would agree with him if instead of a bus it was a bath. I think if it is a question of a bath I don't know who would jump into the bath quicker.

HON A J CANEPA:

*in legislation*  
Sir, I cannot but agree with the Honourable Major Peliza that today is a great day and it is very appropriate in a way that it should be on the 14th of July - Bastille Day - which is the day that commemorates the achievement of the rights of man in the great event of the French Revolution. It is very appropriate that it should be <sup>on this</sup> on a day ~~when we commemorate~~ that, ~~that in legislation~~ the rights of women are being enshrined. But although, Sir, this is undoubtedly one of the major pieces of legislation of the last 25 years, in introducing the Bill I purposely did so on a very low key because I did not think that I should in any way attempt to hog the credit for it, <sup>and</sup> I said that successive administrations had over the years been working for this objective, <sup>and</sup> that it had been an accepted aim of policy of successive governments, <sup>and</sup> therefore, today all ~~that it is~~ is a logical culmination of all that work. The only thing is that I do agree with the Hon Mr Devincenzi that it should have come earlier. But what is not accurate is that Major Peliza should say that they started the whole thing. I also said that under the First Marsh Report of 1967 the principle of equal pay for non-industrial women was accepted and that was therefore the first major step <sup>forward</sup> ~~which~~ the ultimate achievement of what this Bill will achieve by the end of this year. It is unfortunate that one should have to say that, but whilst one does not want to hog the credit, on the other hand, I think it is unfair that people should make claims which historically are not founded on reality. This Bill, which is modelled on the United Kingdom 1970 Act, could have come to this House in 1970 under a Government which prided itself on the achievement of integration with Britain and I am surprised, that that UK Equal Pay Act of 1970 was not seized upon by the Hon Gentlemen opposite and introduced in Gibraltar as we are doing now. As I say, Sir, it is a pity that on a matter on which there is so much unanimity in this House, something which we all want to see, there should be an attempt to introduce any element of controversy or any element of political bickering when there ought to be none. The Hon Mr Xiberras wondered during his intervention why the achievement of equal pay was being such a problem in the United Kingdom. I think part of the reason, the major reason, for that is that whilst the Act was placed on the statute book in the United Kingdom in 1970 it doesn't come fully into



force until the end of this year and, therefore, for the last five years it could be said that employers have merely been put on notice in UK and not very many have been working towards that objective and, therefore, what is going to happen is that over the next few months, till the end of December, very many of them are going to have to catch up and implement equal pay in one stage whereas they could have been doing so in stages over the last five years. And one final thing, Sir.....

HON M XIBERRAS:

If the Hon Member will give way. The Hon Member is right in saying that I sang a panegyric to equality of pay and equality of other conditions but my specific point was what measures the Hon Member had in mind for the implementation of this Ordinance?

HON A J CANEPA:

The first measure which will be immediate is that whatever the attitude of the official employers may be as regards the October, 1974, Biennial Review they will have no choice whatever their policy might be, but to narrow the gap from 92% for industrial females to equality, to 100%, by the end of this year. So the public sector, ~~there~~ without my doing anything about it ~~it will have to~~ - in the sense of subsidiary legislation ~~in the sense of~~ regulations - ~~they~~ will have to nevertheless implement equality. As far as the private sector is concerned once the Bill goes on the statute book at the next meeting of the House, it will be followed by subsidiary legislation whereby regulations will lay down the new wages of female shop assistants, female petrol pump attendants and so on, covering those areas of the private sector where the principle of equality hasn't been implemented. But let me say that as the Honourable Leader of the Opposition said putting a piece of legislation on the statute book is not enough. Attitudes have got to change and unions, my department and women's organisations must be watchful and ever vigilant that, in fact, this piece of legislation will not be by-passed - and there are other countries where they have got around the principle of equal pay by various means - that that doesn't happen in Gibraltar and that lip service is not merely paid to equality for women but that we do get it in fact, at least in this field of remuneration for work done.

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

HON A J CANEPA:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading should be taken at the next meeting of the House.

The House recessed at 5.50 p.m.

TUESDAY THE 15TH JULY 1975

The House resumed at 10.30 a.m.

The Notaries Public Ordinance 1975.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to provide for the admission of notaries public in Gibraltar 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. A notary public is a duly appointed officer whose public office it is among others to draw, attest or certify (usually under his official seal) deeds and other documents, including conveyance of real and personal property, and powers of attorney relating to real and personal property situate anywhere in the world. In addition he may note or certify transactions relating to negotiable instrument prepare wills or other testamentary documents and may draw up protests or other formal papers relating to occurrences on the voyage of ships their navigation as well as the carriage of cargo in ships.

The office, which is one of great antiquity, and is recognised in all civilised countries and, by the law of nations, his acts have credit everywhere.

Most countries have laws providing for the appointment of notaries but there is no such law at present in Gibraltar. Until 1969 there was power under the Ecclesiastical Licences Act 1533 in the United Kingdom for the Archbishop of Canterbury to grant faculties appointing notaries public in any country of the Commonwealth including dependent territories, unless the laws of that particular country provided otherwise. In 1969, however, the 1533 Act was repealed and there is now no power to appoint notaries public in Gibraltar. In practice there are two notaries in Gibraltar at the moment who practice as such by reason of the fact that they were granted a faculty by the Archbishop of Canterbury before 1969. The present Bill therefore allows for the admission of notaries in Gibraltar. As will be seen any person who is at present practising as a notary i.e. the two



persons I have mentioned, are entitled as of right to continue. Power is given to the Chief Justice to admit to practice three broad categories of persons. In England and Wales no one may be appointed as a notary unless he has had at least five years experience of notarial duties and functions. For this reason it is considered appropriate to provide that no one may be admitted as a notary in Gibraltar unless he has five years professional experience although not necessarily as a notary. It is proposed, however, to make rules to ensure that any barrister or solicitor who applies to be admitted as a notary shall appear before a committee appointed to advise the Chief Justice as to whether the person making the application has a practical working experience with notarial duties and functions. Unless we pass this legislation, gentlemen, the time will come when there will be no notaries in Gibraltar. The two gentlemen who practice at the moment in the very nature of things will go to a better place - at least we hope they will - and I would advise that it is now the time to make this provision so that the future can be safeguarded. There are many acts which a normal barrister or solicitor although he can do in his own country the Act is not recognised in other countries but if he is a notary then those acts are so recognised and this is bound to be a beneficial advantage to Gibraltar. Mr Speaker, I commend the Bill to this House.

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

HON P J ISOLA:

Mr Speaker, we are not happy with the provisions of this Bill. I can see the difficulty of the Hon and Learned Attorney-General in wishing to provide for the appointment of notaries in Gibraltar for the future and that feeling we would endorse, but it is one thing to provide for notaries for the future and entirely another to provide for the glutting of the market. It seems to us that certainly in the countries where notaries public are used the number of notaries are limited to a particular area. I think mainly of Spain, France, Italy and the European countries. I understand that in London there are no more than something like 12 notaries for the whole of London. And in fact I don't think there are many more in the rest of the United Kingdom and here with one sweep of the pen we could have tomorrow 18 notaries in Gibraltar because most barristers and solicitors would apply presumably to be made notaries because this is a useful function especially with lawyers who have practices which extend in Europe. It is much easier to do a notarial act yourself than to give it to somebody else and pay. There is a basic unfairness in this piece of legislation in that respect in that it does not preserve the balance between lawyers and notaries and enables lawyers really to apply to be a notary and get the financial benefit from such part of the notarial practice it suits them and the sticky side of the notary business leave it to the strictly traditional notary. In addition, Sir, I think that for Gibraltar, for example, two notaries is ample and possibly a third at the most, but consider large populations like Algeciras for example with a population of 100,000, I don't think Algeciras has more than two notaries for the whole of the town, I don't think La Linea with a larger population than ours - really I don't know whether they still have a larger population than ours I wouldn't know - but there too I think there are no more than 2 notaries. I see no reason why barristers or solicitors by virtue of the fact that they are



barristers or solicitors should be entitled to be appointed notary public any more than a chartered accountant or anybody else. I would think there is a need to have experience in notarial duties. The Hon and Learned the Attorney General has referred to the two notaries that exist today. Well, I happen to know as a fact that one of them certainly has somebody in his office who has had a considerably longer period than five years so that when the two notaries do pass on - and I do hope that it will be a long time before they do - certainly we will have one notary in Gibraltar. Do not think for one minute that that one notary is not going to be able to deal with the work involved. I think there is only really one full-time notary in Gibraltar and I don't think he is kept busy all day. But I think there is a basic unfairness in this piece of legislation which seems to discriminate very strongly in favour of the legal profession, not that they are not worthy of discrimination, Mr Speaker but the balance does come rather heavily on their side. I think that for the appointment of notaries in the Committee Stage if there is a need for an Ordinance and it appears that there is one, then there should be like there is for lawyers, like there is for doctors, like there is for dentists, a Notaries Ordinance relative to the appointment of notaries and nobody should be entitled to be appointed a notary merely because he is a legal practitioner. In other words we do not favour particularly section 51A of the Bill but we do feel that the question of appointing somebody with five years experience in notarial duties that should stay and function and I think we should encourage new entrants into the profession in the same way as one encourages entrants into any profession. They should have a period of pupillage in that particular profession and I see no reason why we were differentiate with what happens in any normal profession. So we think that the basic unfairness inherent in this piece of legislation could conveniently be eliminated without necessarily doing away with the Ordinance altogether. There is obviously a need for it from what the Honourable and Learned Attorney General has said. The other point I would wish to make, Mr Speaker, is that I think there should be a measure of consultation with the existing notaries. Since the legislation in England has been done away with there must still be provision for appointment of notaries in England and I think there should be a measure of consultation with the notaries to come to some sort of agreement as to how notaries should come to be appointed in Gibraltar. I don't know whether the Chief Justice is, in fact, the proper authority to deal with this. He obviously is in respect of the legal profession because we practice in his Court, and so whether he is the proper officer to appoint notaries in Gibraltar I wouldn't know, I don't know what the position is in the United Kingdom. But I would strongly urge the Hon and Learned Attorney General to have consultation with the existing notaries in Gibraltar and get their views as to how this important public function should be continued. As the Hon and Learned Attorney General has pointed out to the House a notarial Act is something that is respected all over the world and more particularly of course in European countries. It is not so important, I think, in the United Kingdom but certainly in European Countries it is. I wonder how strongly such an act would be respected for example in Spain or France or in Italy if it came to the knowledge of the pertinent authorities that in a place of 25,000 people we had something like eighteen notaries. I think it would tend to diminish the status of the office of notary. So before bringing this Bill to its final stages I would urge the Hon and Learned Attorney General to discuss this matter further with or possibly discuss it with the notaries if he hasn't already done so and get their views and I think, frankly, some amendment is required to make the office of notary public something independent from any other particular profession and treated as a profession on its own.



HON CHIEF MINISTER:

Mr Speaker, Sir, lest there should be any misunderstanding I have drawn the attention of the Attorney General to precisely the points raised by the previous speaker and the fact that I don't think it would be in the interest of Gibraltar that there should be a flood the same as Commissioner for Oaths - everybody now is a Commissioner for Oaths who has been at the Bar for five years - but this is a completely different thing. I was assured and by the Attorney General that the regulations that would have to be made under the Ordinance would provide for stringent rules qualifying for the qualifications for becoming notaries. I have got that in mind very much as the previous speaker is concerned and I am very glad that he has made that point because I hope that between now and the Committee Stage some form of more stringent application could be devised in order to make sure that the numbers are limited - certainly I am not interested in this at my stage at the Bar - but I think that there would be a danger that everybody would want to be a notary for fear of having to give work to somebody else. I entirely share that view and I have expressed this, and this is why I can speak so clearly about this matter, I have expressed this concern to the Attorney General who assured me that we could do that under regulations. Whether we do that at the regulations stage or in the Committee Stage is a different matter, but I entirely agree that we ought to be very careful how we expand the privilege, so to speak. There is one difficulty as I understand it, that apprenticeship under the present law to another notary in itself would no longer be possible for anybody who is not otherwise qualified to become a notary however experienced he may be because the powers given to appoint notaries abroad has been abolished and that has been the reason that the Attorney General has been moved to that. I think also if I may say so that this letter was circulated to members of the Bar.

HON J BOSSANO:

Mr Speaker, this is obviously a technical matter where Members of the House are not directly involved in the legal profession are very much in the dark as to the implications of the thing, and it is always useful to have in the House the advice of those who are best informed about these things. For my part I would very much welcome some words of explanation from the Honourable and Learned the Attorney General when he speaks again on this Bill as to precisely the sort of qualifications that are looked for in a person that is expected to discharge the functions of a notary public so that perhaps one can judge what relationship there is between the skills that are required to exercise this profession and the skills that are required to exercise the profession of solicitor or barrister. I wouldn't to a certain extent go along with the idea that one should not have a glut on the market in any particular sphere which as a Trade unionist I know very much that this is something that all trades try to do, to limit the number of people in a particular trade or profession to the available demand. But on the other hand if experienced barristers and lawyers of five years are going to have a chance to enter the notarial profession then why not carpenters of five years experience or plumbers. I mean if there is something special about the work of the barrister or the lawyer I would certainly like to know about it. It might even be that Branch Officers might be well qualified after five years to apply automatically to be a notary public.



## HON ATTORNEY GENERAL:

Mr Speaker, Sir, I was not aware that there are only approximately 12 notaries in the City of London or 12 in the rest of the United Kingdom. Certainly my understanding was that there was a far greater number. There is no restriction anywhere in the United Kingdom on the number of notaries which may be appointed. I think about 80% of the notaries in the United Kingdom are solicitors. A large part of a notary's job is concerned with the same type of job as a solicitor. does and members will recall that in my second reading speech I said that they draw and attest documents, conveyancing of real property, protests on Bills of Exchange. These are all, in fact, very much legal jobs and that is why the vast majority of notaries are already qualified in the United Kingdom as solicitors. It does require legal knowledge and that is why this particular qualification has been put in. It would be quite wrong to make a provision in Gibraltar whereby the number of notaries is restricted to a fixed number. That would be I feel unfair. Why should it perhaps be restricted to five, why should Mr B because he comes along when there were five already why should he be precluded when Mr A merely applied and was admitted a short while before? I accept that we do not want to flood the market but I see no reason why in fact the market will be flooded. Unless we allow for some additional class I don't think we are going to get anybody from outside Gibraltar coming here to practice as a notary. Therefore the only class other than barristers or solicitors who have got legal qualifications will be the persons who have a certain amount of notarial experience because he is worked with a practising notary. That is not going to be in my opinion a very fruitful source. At the moment there is one but what happens if nobody is particularly interested if he is admitted to a notary in going to work with him? Let us have this legislation which will enable others to be admitted. As the Hon and Learned the Chief Minister has said we are going to provide that anybody who wished to be admitted will have to satisfy the persons appointed to advise the Chief Justice that he is aware of notarial functions and I may be wrong but I would doubt whether there would be a tremendous influx of barristers and solicitors wishing to be admitted. But I would suggest that it is essential to have this source open to us.

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

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



The following Hon Members abstained:

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

The Bill was read a second time.

HON ATTORNEY GENERAL:

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

The Administration of Justice (Miscellaneous Amendments) Ordinance 1975.

HON ATTORNEY GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend in procedural matters certain Ordinances dealing with the administration of justice 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, I have the honour to move that this Bill be now read a second time. Subject to certain exceptions which are irrelevant in the context of this Bill causes of action subsisting against or vested in a person who dies survive against, or for the benefit of, his estate. There is a provision in our law, in the Contract and Tort Ordinance, that no proceedings shall be exercisable in respect of a cause of action in tort unless either they had been commenced at the time of death or are commenced not less than 6 months after the personal representative takes out representation. This could cause prejudice to a person who has a claim in tort and the corresponding provisions in the United Kingdom have been repealed. Clause 2 of the Bill repeals this provision in Gibraltar. But I should add that this does not mean that there is no time limit within which a cause of action against a deceased person must be started. The normal rules of limitation relating to the time for starting proceedings will apply. The position of an injured party against a live or a dead person will therefore be the same. Now I come to clause 3.

The Court of First Instance cannot entertain cases where the claim is in respect of a sum greater than £300. It sometimes happens - and indeed this has happened recently and this is the reason why the amendment is now being brought to the House - that a person against whom a claim is made in the Court of First Instance - has a counterclaim or set-off for an amount greater than £300. As the <sup>law</sup> ~~man~~ stands he cannot in his defence to the claim in the Court of First Instance <sup>plead</sup> his set-off or counter-claim

and the only remedy open to him is to take proceedings in the Supreme Court. As it is very likely that the same facts will be relevant in both the action and in the counterclaim and the witnesses would be the same it means a virtual doubling of time as both actions will have to be heard. Clause 3 which is based on corresponding English legislation, allows an application to be made to the Supreme Court in these circumstances and the Court is given power either to order that both be heard in Court of First Instance, both in the Supreme Court or if it thinks fit can say: "Right, claim in the Court of First Instance, counterclaim in the Supreme Court". This can only be of benefit not only to practitioners but certainly to members of the public who litigate. The last provision. Until our Matrimonial Causes Ordinance of 1962 there was a specific provision in our legislation dealing with divorce that a decree nisi could be made absolute in a time shorter than the normal statutory time if the Court saw fit to so order. This was a safeguard against cases where there would be hardship if a party to a divorce had to wait for the expiry of the Statutory period before the decree became absolute. An obvious example would be where one of the parties wished to re-marry because ~~perhaps the other party~~ was expecting a child and if the re-marriage could take place before the birth then the child would be born legitimate. Some doubt has arisen as to whether this power in the Court was in fact included in the Matrimonial Causes Ordinance. There is a section in that Ordinance which could be and indeed has recently been construed as giving the Court power to shorten the time but it is considered advisable to put the matter beyond doubt and this is what the clause 4 of the present Bill does. Mr Speaker, I commend the Bill to this House.

one of the parties to the proposed marriage

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

The Bill was read a second time.

HON ATTORNEY GENERAL:

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

This was agreed to.

The Income Tax (Amendment) Ordinance 1975.

HON FINANCIAL & 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 the Bill be read a second time. Sir, on the 14th of April, 1975, the government issued a press release to the effect that the Hon and Learned Chief Minister had met representatives of the Transport and General Workers Union that evening to communicate to them the Governor's decision on the points raised in the resolutions passed at the extraordinary general meeting of the Union held on the 6th of April. These decisions included one to the effect that amended legislation would be introduced in the House of Assembly in due course to provide that arrears of wages and salaries arising from the current review in respect of the period the 1st October 1974 to the 31st of March, 1975, would not be taxed. And that tax deducted from earnings in respect of the year ending the 31st March 1975, and paid during the month of April of that year, would be adjusted as soon as it was conveniently possible after the necessary legislation had been enacted. Sir, the Bill aims at giving effect to these two objectives. The first is covered by clause 2. This clause provides that the Commissioner of Income Tax shall issue a certificate in writing to the employer stating the amount from which no tax shall be deducted. This will ensure that only arrears in respect of the current wages and salaries review for the period envisaged are in fact relieved from the payment of tax.

The second purpose of the Bill is covered by clause 3. In the first place it exempts from liability to tax earnings paid during the month of April 1975 in respect of the year ending the previous 31st March and in the second place it provides that where tax has already been deducted from such earnings then the Commissioner will allot to the employee a new code in order that such deduction is set off against future tax liabilities. Sir, I commend the Bill to this House.

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

## HON J BOSSANO:

Mr Speaker, the Bill as the Hon Financial and Development Secretary has explained sets out to meet two objectives. There was I thinking that meeting between representatives of the Transport and General Workers Union and the Hon and Learned the Chief Minister, another point where the Government had in fact seen the need to introduce some amendment which would enable adjustments to be made other than specifically in respect of the earnings of the year ending 31st March 1975, and I would like clarification whether in fact the provision that is made in the present Bill caters for this sort of six monthly adjustment in the current year and, in fact, in future years again. I think in the course of the meeting it was seen as a move to make our PAYE income tax structure which is non-cumulative to make it closer to the UK cumulative one by making an adjustment every 6 months which would compensate for any under payment or over payment of tax and make it easier for the tax payer to meet with commitments and I think to a certain extent prevent crowding of claims at a particular peak time in the year when the final assessment is made. I think such a move was seen both by Government and the Union as being in the mutual interest of the Administration and the tax payers and I would like to be reassured that the Bill as it stands does provide for this to be done as well.

HON CHIEF MINISTER:

Mr Speaker, the undertakings given at those meetings will be honoured in full. It has been found as a matter of law that it is not required to amend the Ordinance to do that, administratively it can be adjusted.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think there is very little to be said, Sir. The Honourable and Learned the Chief Minister has already replied to the point raised by the Hon Mr Bossano.

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 these proceedings.

This was agreed to.

COMMITTEE STAGE AND THIRD READINGS.

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 Supreme Court (Amendment) Bill 1975  
 The Prison (Amendment) Bill, 1975  
 The Public Health (Amendment) Bill 1975.  
 The Regulation of Wages and Conditions of Employment  
 (Amendment) Bill 1975.  
 The Public Service Commission (Amendment) Bill 1975.  
 The Stamp Duties (Amendment) Bill 1975.  
 The Traffic (Amendment) Bill 1975.  
 The Administration of Justice (Miscellaneous Amendment) Bill 1975.  
 and The Income Tax (Amendment) Bill 1975.

THE SUPREME COURT (AMENDMENT) BILL 1975.

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 PRISON (AMENDMENT) BILL 1975

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

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



THE PUBLIC HEALTH (AMENDMENT) BILL 1975.

Clauses 1 to 6 were agreed to and stood part of the Bill.

Clause 7

HON LT COL J L HOARE:

Mr Speaker, Sir, I have given notice that I propose to bring an amendment to this Bill at this particular time and this has been circulated. "That clause 7 of the Bill be amended by the insertion immediately after the words "Section 8" appearing therein of the figures "107" and that consequential amendment be made to the marginal note thereto." This was really an omission and in fact I mentioned my intention of moving this amendment at the second reading. I commend the amendment to the House.

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

Mr Speaker then put the question which was resolved in the affirmative and clause 7 as amended was agreed to and stood part of the Bill.

Clauses 8 to 11 were agreed to and stood part of the Bill.

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

THE REGULATION OF WAGES AND CONDITIONS OF EMPLOYMENT (AMENDMENT) BILL 1975.

Clauses 1 to 6 were agreed to and stood part of the Bill.

New Clause 7

HON A J CANEPA:

Mr Speaker, I have given notice of an amendment, namely, the insertion of introducing a new clause after clause 6 to be called clause 7 and the amendment has been circulated to Hon Members. The proposed amendment Mr Speaker is that a new clause 7 be inserted after clause 6 as follows -

7. Section 28K(4) of the principal ordinance is amended by the deletion of the words "four weeks" appearing therein and by the substitution therefor of the words "three months".

The purpose of this amendment, Mr Speaker, is to allow for a period of 3 monthss during which a person wishing to file a complaint of unfair dismissal can do so. At the moment the period is limited to 4 weeks though the Chairman of the Tribunal is allowed under the Ordinance discretion to extend that period if the circumstances so merit it. I think it was the Hon Mr Peter Isola who at the second reading of the Bill made the point that he thought that the four weeks was insufficient, I think in fact he suggested 6 months. Well we know that in the United Kingdom the period allowed has recently been amended to 3 months and that is what it is proposed to do here. I think in all circumstances Mr Speaker, 3 months should prove to be adequate. I commend the amendment to the House.

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

HON P J ISOLA:

Mr Speaker, I welcome this amendment of three months. That should in normal circumstances, I think, be enough for people to make up their minds whether they wish to file a complaint for unfair dismissal and as the Minister has already said there is still discretion in the Industrial Tribunal to consider complaints after that date provided they satisfy the text laid down in the Ordinance. We welcome this amendment to the Bill and this should enable people who have claimed for unfair dismissal to have a little more time to consider their claim and to put it in.

Mr Speaker then put the question which was resolved in the affirmative and New Clause 7 was agreed to and stood part of the Bill.

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

MR SPEAKER:

I would like to inform the House that I have received two notices under Rule 25B(4) for the purposes of enabling the Opposition to raise two matters on the adjournment. The first notice is from the Hon the Leader of the Opposition and he gave notice yesterday before 5 p.m. as required by the Standing Order that he intends to raise on the adjournment the report of the investigation of stability of the foundations of Penney House. I have received this morning a notice by the Hon Mr William Isola that he wishes to raise on the adjournment the unsatisfactory answer to question No.91 of 1975. I will remind the House that no.91 of 1975 refers to the siting of the Public Works Garages at the eastern side of the Rock, below the north face, and as far as this notice is concerned since it has not been served before 5 p.m. I have got a discretion to grant leave.

Since the question was only introduced yesterday and since the meeting is a short one and therefore he only had until 5.00 p.m. yesterday and no other day, I feel that it is right and just that I should use this discretion to enable Mr Isola to raise the matter. So the two matters will be raised on the adjournment.

THE PUBLIC SERVICE COMMISSION (AMENDMENT) BILL 1975.

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

Clause 2

HON J BOSSANO:

Mr Speaker, on the previous meeting of the House in particular with reference to clause 2, I made the point that the definition of public office taken from the Constitution and inserted in this Ordinance would



appear to me to be opening the door to all sorts of complications as regards the rights of public servants not in the employment of the Government of Gibraltar and I must say I am surprised that there appears to have been absolutely no reaction from the Hon and Learned Attorney-General either by way of explanation as to why the points that were raised previously are not considered by him valid or any attempt to introduce any changes in the Bill at this stage to take account of those points. One hesitates to suggest putting forward an amendment from the Opposition benches if all that is going to happen is that Government is simply going to vote against it and defeat it, but I must continue to state that the concern that I expressed at the previous meeting of the House is still there and that unless the Attorney-General can offer some explanation as to why this concern is not justified I think he is heading for a great deal of trouble in the public sector by making the Public Service Commission Ordinance applicable to a great number of public servants who up to now have not been covered by this legislation.

#### HON ATTORNEY GENERAL:

Mr Chairman, the first point I must make is that when the Public Service Commission Ordinance was passed it was that Ordinance which was the source of power of the Commission. There was nothing in the Constitutional instruments in force at the time which had anything to do with the Public Service Commission and, therefore, we provided having set up the Commission, section 10 of the Ordinance which is now being repealed hereunder provided that subject to the provisions of this Ordinance it shall be the duty of the Commission to advise the Governor on the following matters and included in that <sup>were</sup> ~~was~~ appointments which <sup>are</sup> ~~is~~ within the Governor's power to make to any public office. That is the source of the Commission's powers. <sup>And</sup> And in the definition section <sup>we</sup> ~~the~~ defined public office <sup>the</sup> the Hon Mr Bossano knows it excludes a large number of people. Then along comes the 1969 Constitution which has several references to the Public Service Commission and it is the 1969 Constitution which is now the source of the cases which the Public Service Commission considers. The first section is the section which states "There shall be a Public Service Commission....." then in Section 73: "the Governor acting in his discretion may refer to the Public Service Commission for their advice any question that relates to the appointment, promotion, transfer, or termination of appointment, dismissal or disciplinary control of public officers and any other question that, in his opinion, affects the public service. "Section 73 gives the Governor very wide powers. Now, the first point I would make in that although in the Constitution public office is defined as meaning a civil office of emolument under the Crown, the section starts off with the words "in this constitution unless the context otherwise requires". Now, section 73 in my opinion does require a different interpretation in fact because it is dealing with the public service of Gibraltar and therefore the only cases which the Governor can - not must - can refer to the Public Service Commission are those of any office of emolument if he chooses to do so, he is not bound to do so, any office of emolument in the public service of Gibraltar. He cannot refer any office relating to the MOD or the Dockyard because the definition of public office must be restricted to office in the public service of Gibraltar. But even if I am wrong on that - I don't think I am - even if I am wrong on that this is the source of the Public Service Commission's powers. And it is no longer the Ordinance which is the source of those powers. Now, the Governor can, if he chooses, refer any case to the Public Service Commission, any office in the Public Service of Gibraltar be it industrial or non-industrial. As a matter of practice it is well known industrials are not dealt with by the Public

Section 73 of



Service Commission but there is nothing to preclude the Governor if he should choose to do so. If in the Public Service Commission Ordinance we have a provision where public office is defined as it is at the moment as meaning an office the emoluments of which are payable at an hourly or daily rate, it would mean that ~~the~~ Commission could only deal with those cases. What is to happen if the Governor exercises his powers under the Constitution and chooses to refer industrials to the Public Service Commission? There would be a complete conflict. There ~~is~~ in fact ~~now~~ only ~~one~~ sections in the Ordinance where public office is used, ~~and it is~~ section 13 of the ~~Bill~~ which talks about giving false information to the Commission in connection with an application for appointment, promotion or transfer in a public office and section 18 which deals with attempting to influence the Commission. There is a proviso "provided that nothing in this section should prohibit any person from giving a certificate or testimonial to any applicant or candidate for any public office." Unless we amend the Ordinance in the way I have done in the Bill by giving the same definition as there is in the Constitution, if at any time in the future the Governor should decide to refer industrial cases to the Public Service Commission then it would be in conflict. The Commission could say "although this has been referred to us public office does not mean any office it doesn't ~~refer to~~ hourly or daily paid employment." ~~include~~

HON J BOSSANO:

What the Hon and Learned the Attorney General has said is precisely reflecting the fears that I expressed that the change implies that the Governor could theoretically refer a greater number of cases or a greater range of public offices to the Public Service Commission than has been the practice heretofore. I must say that I disagree with the interpretation of the Hon and Learned Attorney-General as regards Section 73 of the Constitution being a contextual factor that limits in any way the definition of what a public office means.

Because there is no reference in there to Gibraltar as being a limiting part of a definition of what a public office is and I would have thought that if one wants to make that distinction between MOD and the Gibraltar Government service then the logical thing is to put in the law explicitly what one wants to do rather than depend on the hazards of interpretations of Attorneys-General who with all due respect to the Hon and Learned Member come and go and we may find ourselves with a successor to this office with a different interpretation of something that is to say the least ambiguous. And I would have thought if we want the law to apply only to the Public Service in the employment of the Government of Gibraltar then we ought to put that in the law.

HON ATTORNEY GENERAL:

No, I will agree to differ with the Hon Mr Bossano on this particular section of the Constitution. But even if I am wrong - I think it refers to the Public Service of Gibraltar - even if I am wrong the Constitution gives powers to the Governor to refer any case to the Public Service Commission be it an industrial in the Dockyard, be it an industrial in government service. You cannot fetter the Governor's powers of referring



not matters to the Commission contained in the Constitution by leaving it in the Ordinance. You cannot have something in the Ordinance saying the Public Service Commission shall hear cases which relate to hourly employment or shall not hear cases which relate to employment otherwise than under the Government of Gibraltar or other emanations of the Crown. You cannot do that in your Ordinance because the Constitution is the vital thing here and that is why whatever one does about, whoever is right whether it is the Hon Member or myself, you still cannot fetter the Governor's powers by putting something in the Ordinance attempting to achieve what one intends to achieve.

HON J BOSSANO:

Mr Speaker, I accept the validity of that argument but it seems to me that the manner in which we are amending the Public Service Commission is in fact creating a different sort of situation from the one that appears to be at the back of the Hon and Learned Attorney-General's mind when he has sought to remove any inconsistency between this Ordinance and the Constitution. I understand it that the Constitution says that the Governor may refer certain cases and that the public service commission Ordinance in fact laid down certain duties that the Commission had. Now, I do not see any inconsistency between a law that says the Commission shall do this and the Constitution saying that the Governor may also refer other things because obviously you set up a Commission to do a particular job and that does not preclude the Governor coming along and adding on whatever he sees fit to add on but by setting out what the job of the Commission is then you are in fact laying down in our legislation what we consider to be the normal function of the Commission, what the Commission is normally there for. In addition the Governor may if he wishes refer to the Commission the case of a dismissal of a Moroccan labourer in the Dockyard. It is a highly unlikely event, hypothetically the power exists in the Constitution and one cannot for the time being as the Hon and Learned the Attorney General has said, fetter the powers of the Governor. But without wishing to do so I cannot see why we must of necessity fetter the function of the Commission by taking away the normal jobs of the Commission and saying that the Governor may refer anything to it and presumably the Commission from now on will only deal with the things that the Governor chooses to refer to it whereas before if the Commission was set up to do a particular job it wasn't only the Governor who had the right to appeal to the Commission but presumably public servants who might have felt aggrieved that things were not being done as they were required to be done under the Public Service Commission Ordinance. One could presumably appeal to the Commission to act in accordance with the Ordinance and in the event of the Commission not having acted in accordance with the Ordinance I would have thought there could always be a let out clause in the Ordinance saying that any departure from what was the normal practice could be completely justified if in fact it arose out of the exercise of the Governor's discretion under section 73 of the Constitution. So that one would not be in any way inhibiting the Governor from acting in any way other than the way in which the Commission was expected to act but nevertheless one would lay down a pattern which would be available to those whose work or whose promotion is regulated by the Commission.



HON CHIEF MINISTER:

I would like a little clarification of the indication given by the Honourable last speaker about the question of being in for trouble. I did not know what he meant by that, that he had indicated that at the previous meeting, if I may say so with respect, either my memory has failed me or I wasn't here when he was saying so. But in which way I would like to know having regard to the matters that are being discussed does he think there are going to be additional problems.

HON J BOSSANO:

Mr Speaker, I did make this point last time but I was arguing about the legislation not from the point of view of looking at it as a trade unionist but from the point of view of good administration and I can see that a change in this which appears to bring in the hypothetical right of many other public servants produces to my mind a situation where there could be pressure from quarters for appeal to the Governor to refer to things to the Public Service Commission which has never been before. But if that is a possibility in the law then it is going to be used sooner or later and in addition to that I think many public servants in MOD and DOE in particular non-industrial are already somewhat concerned about what this means in terms of the application, for example, of Colonial Regulations and Standing Orders to Gibraltar Government civil servants which have not been made to apply to UK Departments civil servants. Now presumably by eliminating from the Ordinance the clear specification of the functions of the Public Service Commission as regard the local civil service one opens up the door to somebody saying: "Well, what is the discrimination that is being exercised when in fact there is in law no distinction, in law there is one civil service in Gibraltar. Why you know are certain things being referred to the Governor and not other things." And on the other hand we are getting in fact I can assure the House that there is a particular amount of disquiet amongst people who have been outside the local civil service but still part of the public service as to the implications long term that this may mean to their conditions of service, the manner in which they are promoted and so on. And I think in the interested parties that are the Staff Associations representing the two public services the MOD and DOE civil service cadre and the Gibraltar Government themselves are not very clear as to the implications but they are worried as to what possible interpretations could be put on something that appears to carry with it certain very fundamental changes although superficially we are concerned simply with a tidying-up exercise. What concerns me is that the public service may be heading for a storm which is avoidable and which I have an interest in avoiding because I think it is desirable that the public service should function smoothly in the interest of the whole community.

HON ATTORNEY GENERAL:

Mr Chairman, I can assure the Hon Member that there is no intention whatsoever to change the existing practice. But I would also stress this point that this Bill does not in any way amend the law. ~~It is merely in the public service commission.~~ It is removing anomalies. That is all that it is doing. The powers of the Public Service Commission emanate from the



Constitution, as I have said. Since 1969 if there is any conflict in this Ordinance with the Constitution it must of course be resolved in favour of the Constitution. The Constitution is paramount. All we are doing here is removing from the Ordinance discrepancies so that it is more intelligible. A person is not faced with a conflict where the Constitution says one thing and the PSC Ordinance says another. We are not making new law, we are merely bringing this into line with the Constitution and I can assure the Hon Member opposite that there is no suggestion at all of any change as to the existing present practice.

MR SPEAKER:

Either we are speaking at cross purposes or we are not on the same wavelength and I think we must press on. Do I understand that the objection being raised by the Hon Speaker is not the powers of the Constitution but the definition of public office. Because otherwise we are talking at cross purposes. I have the assurances given by the Hon and Learned Attorney General and I entirely agree that whatever the Ordinance seeks to do or whatever it succeeds in doing it can never override the Constitution. That is a fact of life. Any Ordinance passed in this House which is against the Constitution is unconstitutional. I will not say more than that but if it is the question of the definition of public office which is causing worry then we might bring down the debate to that particular sphere.

HON J BOSSANO:

Mr Speaker, I would certainly welcome your guidance on this matter. I do not doubt for a moment that the overriding document as far as our law is concerned is the Constitution and any law passed in the House which conflicted with the Constitution would be unenforceable. I would certainly like guidance on whether in fact it is possible to have a particular definition in the Constitution and a more limited definition specifically for the purpose of an Ordinance in a particular Ordinance, that is that one might say; for the purposes of this Ordinance a Public office means this and if one wants to say this definition would not however preclude the referral of any case by the Governor as required under section 73 of the Constitution. But what I am saying is that if we intend the Public service Commission to be a body that deals exclusively with the Gibraltar Government Civil Service then that ought to appear somewhere. It doesn't appear here and it certainly doesn't appear in the Constitution although the Hon Attorney General has read into a particular section such a thought at the back of somebody's mind it is not stated there explicitly. The other thing is that as regards this particular Ordinance and the Constitution as I understand it the Constitution says that the Governor may refer any case to the Public Service Commission but the Ordinance says the Public Service Commission is there to do a specific job. To my mind there is no conflict there, the Ordinance can set a function for the Commission and in addition to that function anything else the Governor may wish to add exercising his power under the Constitution. But by setting down a function in the Ordinance we are saying this is what the House of Assembly expect the Commission normally to be dealing with. Now if we take away that then what we are saying is: we are just setting up a Public Service Commission to do whatever the Governor chooses to ask it to do and in that case I ask myself, why do we need an Ordinance at all? All the Governor has to say is: "There is a Public Service Commission provided by section so and so in

the Constitution and I am referring to it whatever I like under section so and so "And you do not need an Ordinance to do anything if all we are saying is that we leave it entirely up to the Governor."

HON M XIBERRAS:

Mr Speaker, can I ask the Hon and Learned Attorney General a question. To what extent does this interpretation of the Constitution which is relevant to this or any interpretation of the Constitution dependant on existing legislation? What I am saying Mr Chairman is that when there is some doubt as regards a definition over its legal interpretation normally one goes to existing Ordinances to find out what that interpretation should be. It is to my mind wrong to have an arbitrary interpretation of the Constitution and then change the Ordinance to fit it.

MR SPEAKER:

I think the Hon and Learned Attorney General should not be put in that position. I think it is clear that Ordinances are passed in the House of Assembly, interpretations are given by different people as to what the provisions amount to. They are open to discussion, they are open to question in a court of law by any given person if he feels that there is an abuse of the Constitution.

HON M XIBERRAS:

Mr Chairman, I am sure the legislature would not like to create problems for the courts. So let us not rush into these things either. I was told at the Constitution Conference that the Constitution was not supposed to legislate, in other words that existing Ordinances would be respected in so far as it was possible that is in so far as it was deemed desirable by the Constitutional Conference. Now it is aimed.....

MR SPEAKER:

The Hon and Learned Attorney General is not saying that the Constitution is legislating but that he is legislating in accordance with the powers granted to him under the Constitution. Whether the particular piece of legislation which we are now discussing is ultra vires and whether it can be proved to be so that is a matter for decision elsewhere. The Attorney-General has given an assurance that what he is doing will not derogate at all from the Constitution and does not change the position. Of course, Members of the Opposition are completely and utterly entitled to the opposite view.

HON M XIBERRAS:

We are not here simply to disagree, Mr Speaker. I go along a long way with my Honourable Friend Mr Bossano in saying that if there is absolute provision or absolute discretion in any part of the Constitution it does



not necessarily follow that any Ordinance must be co-terminous without discretion. Now, I would also say that that is why he is lead to the position of, why have an Ordinance at all? Let the absolute discretion exist in the Constitution and let the words simply be repeated in the Ordinance. I am sure this is not the case with every absolute discretion which is contained in the Constitution.

HON ATTORNEY GENERAL:

I think if the Hon Memebbers opposite look at the clauses of the Public Service Commission Ordinance which still remain they will see that they are almost entirely confined to certain offences if I perhaps might go through this. <sup>Section</sup> ~~Clause~~ 1, of course, stays. ~~Section~~ (6) is still in, that is "the validity of the proceedings of the Commission shall not be affected by any vacancy among the members thereof of any defeat in the appointment of the member thereof." 8 (1) says: "Subject to the provisions of any regulations three members shall constitute a quorum and the Commission may regulate its own procedure". 9 stays which is the appointment of the Secretary and Staff by the Governor. 11 stays which is the power of the Commission to conduct examinations. And then 13, taking an oath by members of the Commission; 14, giving false information; 15, communications of the Commission to be privileged; 16, Publication and disclosure of information prohibited; 17, Protection of Members 18, offence to influence or attempt to influence the Commission; 19, the Attorney General must give his fiat for any prosecution, and 20, power to make regulations. They all stay but the flesh and blood of the Commission is now no longer contained in here, it is contained and has been contained since 1969 without any complaint as far as I know, in the Constitution.

HON M XIBERRAS:

I hear an echo of the arguments about the - I don't wish to draw into it I just wish to point it out to the Attorney-General - of the public officers which we had also in respect of standing for election. Here again it is a widening of a definition encompassing people who are not encompassed before by the law. I wasn't too happy then and I am not too happy now about the right procedure in making this Constitutional provision which makes us change laws which it was not intended to change. In the case of officers standing for election there was specific provision for the very reason we are advancing from this side to exempt certain people. The legislature has the power to exempt according to the Constitution and that indicates to my mind the fear in the minds of the Constitution makers that the definition must be wider than was really desired by them. So I think it is a very important area which the House is treading on now and I am sure my Hon Friend Mr Bossano has raised it in all good faith and I would ask the Attorney General to give it very serious consideration. We may not have the argument absolutely crystallized in our minds. Perhaps he might give us a chance further to do this, to crystallize the argument in our own minds and, perhaps, he could reconsider some of the things that have been said.

HON ATTORNEY GENERAL:

on the last point. On the question of standing for election, the power to cut down the wide definition of "public officer" is itself given by the Constitution. The Constitution says "subject to any law made by the House of Assembly, by the Legislature. But there is no power in the section dealing with the public service to fetter or cut down the Governor's powers by any other way as to what cases he may refer to the Public Service Commission.

HON M XIBERRAS:

Mr Chairman, perhaps the Chief Minister will recall the session with Mr Rushford, following the Constitution in which this third subsection in the section referred to pertaining to standing for election was put in explicitly on points made around that table that the definition of holding an office of emolument was too wide for what was desired. And how narrow it should be was left to this House to decide. Now, this I put forward as an indication that it was not Mr Rushford's intention or HMG's intention to legislate in such way as to deprive people of rights, which were enjoyed before the 1969 Constitution. Whether this was done deliberately at the same time was put in the power of this House to exempt. Now, I wonder whether the rather severe interpretation of the Constitution which the Attorney-General is putting in respect of this particular section is entirely justified, whether this was in fact, what was intended because if it was intended that way then we might be setting up precedents for other things. And I can think of at least one section which I won't refer to, where if the Constitution is paramount then certain laws would have to be undone to my mind. I do not think it was the intention of the Constitution to deprive or usurp any rights already obtained.

HON J BOSSANO:

Mr Speaker, I would like to point out that as regards the Hon and Learned Attorney General's last intervention when he said that in fact the body of the Public Service Commission was now in the Constitution and that in fact by taking out certain clauses and leaving others we were doing little other than to alter the appearances of the thing I think that was the implication of what he was saying, he mentioned the sections of the Public Service Commission Ordinance that were staying. For example, one of the sections that is being taken out, Mr Speaker, is section 10 where it says that it "shall be the duty of the Commission to advise the Governor on the following matters" and it lists a series of matters which, in fact, are virtually the ones that are provided for by section 73 of the Constitution except that in section 73 it says "The Governor acting in his discretion may refer to the Public Service Commission for their advice any question that relates to the appointment, promotion, transfer and so on." And here it says that "it shall be the duty of the Commission to advise the Governor on the following: - appointments, promotion, method of recruitment and so on." Now I think that the distinction here is that if we take out section 10 we are precluding the chances of the Commission advising the Governor unless the Governor asks for that advice. Now, to my mind this is not inevitable. It can be the duty of the Commission to advise the Governor on these matters regarding the Gibraltar Government Civil Service and the Governor may in addition to the normal advice he gets refer any matter for advice as well. The two things are now not incompatible in my estimation but in any case it seems to me absurd on the one hand to take out section 10 which says that the Commission may advise the Governor on these matters and then leave in section 11 which says that the Commission may conduct examinations, interviews and investigations and appoint selection, promotion and other boards that they may consider necessary for the discharge of its functions under this Ordinance. Not under the Constitution, under the Ordinance. So we are taking out its functions under the Ordinance and leaving it only with its functions under the Constitution and yet we are leaving it with the power to hold examinations, interviews and investigations to carry out functions which it no longer has because we have just eliminated them under section 10. So what



does the Commission do? It holds an investigation or an examination and then it cannot give the advice to the Governor as a result of that examination unless the Governor chooses to ask for that advice. So it has the power to carry out an examination obviously designed to enable it to carry out the functions in section 10 which is to give advice as it is its duty to do. It has an examination as a result of the examination it advises the Governor that so and so should be appointed and the Governor says: "Well, I didn't ask you for that advice. The Constitution says that you give me advice if I ask you for it and the Ordinance doesn't say anything about you giving me advice unless I ask you because that has been eliminated from the Ordinance." So a logical consequence of taking out section 10 must be to take out section 11 or at least to amend section 11 to say not to discharge these functions under this Ordinance but to discharge its functions under the Constitution because we have just taken away the functions under the Ordinance. So I honestly think that the Attorney-General hasn't given all due thought to the mangling that he is doing to the Public Service Commission Ordinance with all due respect to him.

HON ATTORNEY GENERAL:

I can only repeat the assurance that there is no intention in any way to change the present working or the matters which are referred to the Public Service Commission. I take the point of the Hon Mr Bossano that section 11 could with profit be amended by the deletion of the words "under this Ordinance". That is, I think, a good point and I accept that and perhaps, in due course I will move an amendment when we come to the appropriate time.

On a vote being taken on clause 2 of the following Hon Member voted in favour:

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

The following Hon Members voted against:

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

Clause 2 stood part of the Bill.

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

HON ATTORNEY GENERAL:

Mr Speaker, may I give verbal notice of an amendment. That a new clause 7 be inserted after clause 6 as follows:

Section 11(1) of the Principal Ordinance be amended by the deletion of the words "under this Ordinance" appearing therein.

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

Mr Speaker then put the question which was resolved in the affirmative and new clause 7 was agreed to and stood part of the Bill.

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

THE STAMP DUTIES (AMENDMENT) BILL 1975.

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

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

THE TRAFFIC (AMENDMENT) BILL 1975.

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

Clause 2

HON W M ISOLA:

Mr Speaker, in this particular amendment which is now coming before the House, we now have a new Minister for Traffic and, perhaps, he might have a fresh approach to this section which requires protective headgear to be made compulsory. Before I go into the merits of this particular section I would be glad to know, because the last time we came to the Second Reading there was, if I remember rightly, some suggestion by the Government that certain vehicles or motor cycles or mopeds and vespas would be exempted and before I go into the merits of this particular section I would like to know if that is, in fact, the case because previous to the second reading there was in my mind some confusion. Some members of the Government said that it would apply to all motorcycles and I remember hearing an Hon Member on that side saying that it would only apply to certain categories and I would like to know which is the Government's approach to this particular section before I go into the merits of this.

HON H J ZAMMITT:

Sir, the approach is the same despite the fact that there has been a slight change of ministerial responsibilities. The other thing, Mr Speaker, is that regarding the possibility of exemptions of some kind of vehicles, that is still a matter for consideration under the Regulations and not within this particular concept. It is under review and it is a matter for consi-



deration ~~within~~ the regulations.

HON W M ISOLA:

I am not at all happy with that particular answer. I would have imagined that if we are going to bring regulations to this particular section, the Government should have made up already their mind as to what particular if any, motorcycles are going to be exempted. Therefore, if this is going to be a general application I would like to say two or three points in this particular matter. Firstly, in all these sections in which basically speaking there has not been a case made out and we are forcing an individual to do something which he may not wish, is wrong unless sufficient evidence is brought to this House that it is a necessity. In England, the question of headgear is compulsory because the speed limit in the United Kingdom is 70 m.p.h. in most places whilst in Gibraltar the speed limit is only 30 m.p.h. and only in certain areas. If one looks at the road transport statistics we will find only one fatal casualty in Gibraltar within the last ten years and there have been more people killed on the road by car accidents than by motor cycles. I do not know, Mr Speaker, whether the Government is aware that if they are talking about young people in Gibraltar.....

HON CHIEF MINISTER:

Mr Speaker, on a point of order. We have had the Second Reading of this Bill when we discussed the general principles of it and we are dealing now with the particular clause on the application but we are having now a whole dissertation exactly the same as we had at the Second Reading.

MR SPEAKER:

The clause does say "requiring, subject to such exceptions....." and I think the Hon Member is entitled to try and influence what the exceptions are going to be and that is what he is trying to do.

HON M XIBERRAS:

Mr Speaker, I am grateful for what you have said now. All the clauses in this Bill are in fact matters of principle. It is one of those odd Bills which the Minister for Public Works introduced very lightly. It has very few provisions and it is practically impossible to discuss a clause without discussing the principles of it.

HON ATTORNEY GENERAL:

Perhaps the Hon the Leader of the Opposition would support an amendment to have protective headgear when playing cricket.

HON M XIBERRAS:

If cricket rules applied, Mr Speaker, I think the Members on the other side would not be very safe.

MR SPEAKER:

I think in fairness to the Hon Member who is holding the floor I must say that before he is in a position to vote on this clause he is entitled to know what are the Minister's views insofar as the Regulations that are going to be passed are concerned and to that extent he is entitled to seek information.

HON W M ISOLA:

If it were a case that a person riding a certain type of motor cycle had to wear protective headgear and not others, of course, our position might be different. I have to assume at present that it would appear from the Bill that they have power here to regulate for everybody riding a motor cycle whether it is a moped, a vespa or a 650 cc. We want to know what the exceptions are to be because in this Ordinance it says "subject to such exceptions, if any ..." so there may be no exceptions at all. I would have thought following the debate at the Second Reading that the Government would have made up their mind as to what exceptions, if any, they were going to have.

MR SPEAKER:

Perhaps, Mr Isola, in fairness now to the Government, you should be entitled to say what you think the exceptions should be and get an assurance from Government that these exceptions were going to be taken into consideration when the Regulations are being passed but I don't think on the other hand that you are entitled to have the Government telling you which are the ones that they are prepared to leave in or not. I think you are entitled to say the categories you feel should be included in the exceptions list.

HON W M ISOLA:

I am much obliged for that, Mr Speaker. If I were to be informed at this stage which were the exceptions it would cut the debate considerably. I give way to the Minister.

HON LT COL J L HOARE:

I think Section 2 deals with the amendment of Section 45 of the Traffic Ordinance which empowers the Governor to make regulations on different aspects of traffic and this is what we are debating, not the Regulations resulting from there but adding this to the list of items with which the Governor may make regulations and therefore the whole argument being advanced is completely irrelevant at this stage.

MR SPEAKER:

Let us not have a debate on this. I have ruled that as the clause reads you are entitled to follow your argument.



HON W M ISOLA:

Mr Speaker, I do not know if the Minister is aware for instance that a Learner Driver - because if I remember rightly the Minister for Labour quite rightly said that he was very interested in protecting young people . I do not know whether the Government is aware that a young man of seventeen can be a learner driver and he can run round Gibraltar.....

MR SPEAKER:

I will allow anyone to speak on the exceptions that can be included in the Regulations otherwise we are repeating ourselves.

HON W M ISOLA:

I am coming to the point on the question of headgear. What happens is that a learner driver at seventeen years of age would be a learner driver for one whole year. He cannot be a driver until he is eighteen. We would go along if we were to say that a learner driver should have protective headgear and that would mean that anyone at the age of seventeen could drive round our roads and would not get a licence as such until he is eighteen. That would mean that we would make it compulsory for a learner driver to have headgear until the age of eighteen and then after eighteen if they are used to wearing protective headgear they could still carry on doing so and the same would apply, of course, to anybody who would be a learner driver in Gibraltar. The circumstances in Gibraltar are completely and utterly different from the ones in the United Kingdom.

MR SPEAKER:

The principle of wearing protective headgear has been voted in this House and has been accepted.

HON W M ISOLA:

We voted against it.

MR SPEAKER:

Yes, but that is the penalty that the minority has to pay. They have to abide by the majority. The principle of wearing protective headgear has been accepted and we cannot debate that again but we can debate which are the exceptions that should be included in the regulations insofar as the wearing of headgear is concerned.

HON W M ISOLA:

What I am trying to say, Mr Speaker, is that we would go along with having headgear compulsory for learners and that would mean in effect that all the

youngsters under eighteen years of age would have to wear protective headgear until such time as they became a driver at the age of eighteen. It would also protect learners above the age of eighteen and they would have to wear headgear because they are learners and after they have obtained their driving licence then they could please themselves whether they wore protective headgear or not. Nothing has come out from members of the Government giving us the main reasons why headgear should be made compulsory and this is something which I think should be considered by the Government because it helps young people at that particular age and that would go our way. Or alternatively if the Government feels that at eighteen they are still too young it could be raised to the age of nineteen. This is a matter which on principle as it stands we have to vote against but we would be perfectly glad to go along on the lines which we have suggested.

HON H J SAMMITT:

Mr Speaker, I am not going to repeat what has been said at the Second Reading or even this morning because I think the Opposition fail to see that this is purely to enable regulations to be made as to whom, if any, motorcycle rider or pillion rider is going to be compelled to wear a crash helmet. The matter is still under review, we are receiving representations from the Gibraltar Automobile Club, the Gibraltar Motorcycle Club, Mr Denis Thorpe, whom we all know, and these matters have to be considered very carefully. It is not as simple as Members opposite seem to think. The great majority of motorcycles we have in Gibraltar are within the 50cc and those are what most people are buying. But quite honestly, Mr Speaker, what I do find ridiculous is this suggestion of learner drivers or riders at the age of 17 because if anything one is more cautious when learning to ride a motor cycle than when one gets more experience. And if that is the case we could very well say: "Well, let us not have a bathing offence as we have in Eastern Beach and Catalan Bay for those who are over 18". It is quite ridiculous and I feel that there is the possibility of looking into the thing and trying to see if anybody can be accepted as exempt from this but I cannot quite honestly see any justification in compelling learners be they 17 or for that matter 70, to have to wear a crash helmet during the time of learning and the minute they get their licence they can go around without a crash helmet. It is purely a protective measure. We have to pass laws to make people do things sometimes which are not very pleasant but it is done with a view to protecting the individual. Mr Speaker, I am sorry I cannot go further than that at this stage. We have to ensure that it is as fair as possible and we are receiving the representations from people who are directly concerned with this and when we have then ready we will see.

HON M XIBERRAS:

Mr Chairman, the Hon Member has really left himself wide open to attack. One could drive a coach and four through the gap. Mr Speaker, for the Minister to come and say that he is bringing legislation on a matter which he is still considering, which depends entirely on regulations which seeks to have.....



HON H J ZAMMITT:

If the member will give way. I have said even originally that all that we are seeking here is enabling power to make regulations.

HON M XIBERRAS:

Mr Speaker, the enabling power to make regulations and they are still considering the very principles on which the regulations are going to.....

MR SPEAKER:

The Minister has said that they are now at the stage of getting the necessary powers to pass regulations and they are still considering what the regulations are going to be and they have accepted representations.

HON M XIBERRAS:

Mr Speaker, it is those very powers which have brought about the necessity for people to distinguish between one kind of motor bike and the other. And the representations which the Hon Member is referring to are here in my hand. And they are not receiving them, they have received them and they are not so much about distinctions as about the very purpose of the Bill. Now, Mr Speaker, there is a letter from the 19th of March from Mr Dennis Thorpe. Then there is one 12.3.75, and one before that too. There is also one for the Chief Minister 9.6.75 from the President, Gibraltar Motor Cycle Club.

HON CHIEF MINISTER:

And who is that?

HON M XIBERRAS:

Mr Dennis Thorpe. Yes, but no doubt with the approval of his Committee. The Hon Minister for Public Works just said: "Oh, Mr Thorpe". I thought he was referring to the letter Mr Thorpe has written in the press. But we have the President of the Gibraltar Motor Cycle Club, also the Gibraltar Automobile Club.

MR SPEAKER:

What are you trying to prove?

HON M XIBERRAS:

That this law is completely cockeyed, Mr Speaker. Mr Speaker, there is one letter to the Attorney General.

HON CHIEF MINISTER:

From whom?

HON M XIBERRAS:

From Mr Thorpe and there is more sense in that letter than from the Government benches. Mr Speaker, if you are going to provide legislation, give the power to the Hon Member who is not at all convinced about the need for this, I can see that. He hasn't said one word in support of the Bill. Mr Speaker the Government are asking that we should give them blanket powers without saying whether they are going to draw the line at 10 c.c.'s or 15 c.c.'s or what they are going to draw the line at. Just give us the powers and we will use them. I remember the Hon and Learned the Chief Minister complaining from this side of the House vehemently that he did not want Government by regulations. There is hardly a need for a second reading of this Bill, Mr Speaker, though not demanded constitutionally by the orders of this House because all of it is regulations and Government doesn't care how we are going to exercise these regulations.

MR SPEAKER:

I haven't heard a word from anyone from either side of the House as to what the regulations are going to contain.

HON M XIBERRAS:

I am going against the clause Mr Speaker, the need for regulations.

MR SPEAKER:

That is a question of principle which should have been done before, not now.

HON M XIBERRAS:

I am talking about the actual clause. I am going to propose an amendment to the effect that the clause on regulations should be deleted. Is that in order Mr Speaker?

MR SPEAKER:

I am going to do something because I have to be away. I am going to recess the House. It is 12.30 and I would like to make it completely and utterly clear that I am recessing the House because I have a commitment which requires me to be chairing a meeting at 2 o'clock this afternoon. So we will now recess until 3.30 this afternoon.

The House recessed.

The House resumed.



HON M XIBERRAS:

Mr Chairman, before lunch I was referring to copious correspondence between Mr Thorpe and various members of the Government and this caused some hilarity in the Chief Minister who kept on saying "Who wrote it, Mr Thorpe". I wasn't surprised that the Hon the Chief Minister should say this. If we had been meeting here ten years ago which we are not, Mr Chairman, but perhaps equal representations might have been made in respect of a good number of things by the then Mayor, the then Chief Minister, the then Chairman of the Planning Committee, the then.....

MR SPEAKER:

No, I am not having it. Order.

HON M XIBERRAS:

Mr Thorpe is a man who should be listened to because he is Chairman or President of Associations who are directly involved in this. They are directly involved in this but the Chief Minister chooses to ridicule the representations made by Mr Thorpe.

HON CHIEF MINISTER:

I am not ridiculing Mr Thorpe. I am ridiculing the speech of the Leader of the Opposition who is making a mountain out of a molehill. I wouldn't dare ridicule anybody of the public here under the privilege of the House of Assembly.

HON M XIBERRAS:

I am sure the Hon the Chief Minister wouldn't but that is the impression that he gives when he says "Mr Thorpe, Mr Thorpe". Mr Chairman, what I am saying is that these representations have been made by a man who represents people who have a direct interest in this and especially in view of the statement made by the Minister now responsible for traffic to the effect that he wishes to consider all these representations, I think that it is hardly good practice for legislation of this nature to be brought before the House which gives the Government a complete free hand as to how it should be applied when the Minister himself has practically admitted that he has no idea as to how he is going to use it. There are various criteria that could be employed. There might be the criterion of speed, the criterion of the size of the engine. But the Government has not decided on what criterion it is going to employ or criteria, and therefore, it is ludicrous to introduce into this House legislation which is essentially legislation by regulation which the Hon and Learned the Chief Minister appeared to abhor not so long ago without any definition, any indication even, to the Opposition as to how this legislation is to be used. If the Hon Mr Zammitt had a clear idea of what he wanted to do then fair enough. If he would say: "Yes, we are going to limit it to 75 c.c.'s or 50 c.c.'s or what have you. But we know that there are T.T. races I believe, at the 50 c.c. level and would it be fair to limit the wearing of these helmets to a machine of less than 50 c.c.'s or 155 or what have you, purely on engine capacity. And if one

takes speed then it is not possible to do this unless you go into great complications about what speed a small machine can do. Now Mr Thorpe and this side of the House have chosen to fight this legislation on the general principles involved. Now we are at the stage of distinguishing between different types of machines and there the difficulties become so great that given the problem of Gibraltar which is not all that great, the legislation now appears to be more ludicrous than it was at the second reading. Now, if the Government can give a very clear indication as to how it is going to use this legislation then we shall consider it. If it does not, then the Government can hardly expect that this side of the House should give them a blank cheque to impose a legal obligation on people to use a crash helmet when the Government sees, thinks fit. It will not come before the House again. We shall have handed over these powers to the Government and the Government can use them quite arbitrarily.

MR SPEAKER:

With due respect it does come before the House and it can be debated when it is tabled.

HON M XIBERRAS:

Oh, yes, it can be raised by Hon Members on this side of the House but there is no legal obligation for a vote of the House before the regulations become law. And therefore, Mr Speaker, as with all subsidiary legislation it is absolutely essential that the parent Bill should outline the reason or the general criteria which would be followed in its employment and the Hon Mr Zammitt, Minister for Traffic, has given no indication whatsoever as to how he feels. He has told us quite the opposite, he has said that he doesn't know how it is going to be used and that he is considering representations. I would hope that he does not make up his mind now on the spur of the moment or even over the lunch break because I am sure he will not have had an opportunity of consulting the interested parties. Therefore, I strongly advise the Government that they should not press this matter, they should allow it to drop, have another rethink, and perhaps, if they think it necessary, come back to the House later.

On a vote being taken on clause 2 the following Hon Members voted in favour:

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



The following Hon Members voted against:

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

Clause 2 stood part of the Bill.

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

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

THE ADMINISTRATION OF JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 1975.

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 INCOME TAX (AMENDMENT) BILL 1975.

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.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to report that the Supreme Court (Amendment) Bill 1975; the Prison (Amendment) Bill, 1975; the Public Health (Amendment) Bill 1975; the Regulations of Wages and Conditions of Employment (Amendment) Bill 1975; the Public Service Commission (Amendment) Bill 1975; the Stamp Duties (Amendment) Bill 1975; the Traffic (Amendment) Bill 1975; the Administration of Justice (Miscellaneous Amendments) Bill 1975, and the Income Tax (Amendment) Bill 1975, have been considered in Committee and agreed to, in the case of the Public Health (Amendment) Bill 1975, the Regulations of Wages and Conditions of Employment (Amendment) Bill 1975, and the Public Service Commission (Amendment) Bill 1975, with amendments. And I now move that they be read a third time and be passed.

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HON M XIBERRAS:

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On a vote being taken on clause 2 the following Hon Members voted in favour:

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



The following Hon Members voted against:

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

Clause 2 stood part of the Bill.

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

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

THE ADMINISTRATION OF JUSTICE (MISCELLANEOUS AMENDMENTS) BILL 1975.

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 INCOME TAX (AMENDMENT) BILL 1975.

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.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I have the honour to report that the Supreme Court (Amendment) Bill 1975; the Prison (Amendment) Bill, 1975; the Public Health (Amendment) Bill 1975; the Regulations of Wages and Conditions of Employment (Amendment) Bill 1975; the Public Service Commission (Amendment) Bill 1975; the Stamp Duties (Amendment) Bill 1975; the Traffic (Amendment) Bill 1975; the Administration of Justice (Miscellaneous Amendments) Bill 1975, and the Income Tax (Amendment) Bill 1975, have been considered in Committee and agreed to, in the case of the Public Health (Amendment) Bill 1975, the Regulations of Wages and Conditions of Employment (Amendment) Bill 1975, and the Public Service Commission (Amendment) Bill 1975, with amendments. And I now move that they be read a third time and be passed.

HON M XIBERRAS:

Mr Speaker, on two: the Public Service Commission Bill and the Traffic Bill, the Opposition voted against. Could we please Sir, have a separate vote on these so that we can vote against them separately.

Mr Speaker then put the question that the Supreme Court (Amendment) Bill 1975; the Prison (Amendment) Bill 1975; the Public Health (Amendment) Bill 1975, with amendment; the Regulation of Wages and Conditions of Employment (Amendment) Bill 1975, with amendment; the Stamp Duties (Amendment) Bill 1975; the Administration of Justice (Miscellaneous Amendments) Bill 1975, and the Income Tax (Amendment) Bill 1975, be read a third time and passed. This was resolved in the affirmative and the Bills were read a third time and passed.

MR Speaker then put the question that the Public Service Commission (Amendment) Bill 1975, with amendment, and the Traffic (Amendment) Bill 1975 be read a third time and passed.

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

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

The following Hon Members voted against:

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

The Bills were read a third time and passed.



H.O.A. 14 7 75

## PRIVATE MEMBERS MOTIONS

HON P J ISOLA

Mr Speaker, I have the honour to move the motion standing in my name which reads: "This side welcomes the recent decision of the Civil Aviation Authority on the Gibraltar/London route fare structures and in particular the sympathy and understanding shown for the people of Gibraltar by the Authority and calls on the Chairman of the Select Committee Air Communications to resume without delay meetings of the Committee with a view to reporting its recommendation to the House before the end of the current year." Mr Speaker, in moving this motion we on the Opposition side are extremely conscious of the importance and have shown ourselves to be extremely conscious of the importance of air communications for the life and welfare of the people of Gibraltar. Some might have thought it should really have been a motion of censure on the Government for not following the advice and the recommendations that they received from all sections of the community recently when they announced their deal with British Airways. But we thought that we would try and put forward a constructive motion, not that we by this must be taken not to be criticising the Government in its attitude, but a constructive motion so that we can go forward on this very important issue as far as Gibraltar is concerned. Mr Speaker, it is no use crying over spilt milk but I think we must recall the last debate that we held on air communications when the whole House expressed concern at the situation and when we urged the Government to take the matter to the Civil Aviation Authority and let them resolve this particular problem in so far as the people of Gibraltar were concerned and in so far as air fares are concerned. The Government resisted this even though we told them that we thought they would receive a sympathetic ear from the authority having regard to the way they had reacted the last time Gibraltar representation had been taken up at a hearing of the Authority the year or the two years before that. Despite the strong urging from this House and from other representative bodies in Gibraltar, bodies with vital interest in this particular field, the Government stood firm, rather typically I think, in all matters that do not relate to confrontation with major bodies of opinion. Having made a deal they stood firm by and said: "Right or wrong we have done it so we'll defend it come what may." And there, Mr Speaker, the matter would have rested and there both sides would have said: "Well, if you have gone to the Authority this would have happened" and the other side would have said: "No, it wouldn't. British Airways is losing a lot of money and this was the obvious solution" and so forth and so forth. Had it not been for the intervention of the Gibraltar Trades Council which had a reasonably free hand in

the matter and which despite the obduracy of the Government decided to appeal on behalf of the members it represented against the proposed fare structure on the London/Gibraltar route. And I think that this House owes a debt of gratitude to the Gibraltar Trades Council for the tenacity and courage showed in taking the matter to the Civil Aviation Authority and arguing themselves their case in the matter which having read the full report I must say was argued very efficiently and with an expertise almost surprising. Well, I shouldn't say almost surprising but anyway an expertise which showed that a lot of work had been done on their application and I can only reflect that it is a pity that the Government did not deal with the matter as thoroughly as the Gibraltar Trades Council appear to have done. The representations of the Gibraltar Trades Council must be looked at against the background of Government obstinacy and standing by the agreement they had made with British Airways against the background of no support from the Secretary of State for the objection, presumably after consultation with the Gibraltar Government, against the background of the Gibraltar Trades Council literally going it alone supported only by their members and other bodies in Gibraltar that protested against the deal that had been done. And against that background one must look at the decision of the Authority which confirmed if any confirmation was needed what had been said on this side of the House to the Government and that was that they showed great sympathy and understanding or they had great sympathy and understanding for the situation of Gibraltar in this particular field. And anybody who has read the whole judgment, and I am sure Honourable Members opposite will have read the whole judgment, cannot but feel satisfied at the understanding of the Gibraltar position shown by the Civil Aviation Authority and the length to which they have gone in order to meet the objections as far as they themselves could do. And I think in this House where we used to be critical about different agencies and different bodies I think when something is done that shows real sympathy and understanding of the Gibraltar situation it is right and fitting that the House should show appreciation of it and should note it in its records for posterity. And we think that the Civil Aviation Authority in this judgment showed a real desire to alleviate the position of Gibraltar. Incidentally, Mr Speaker, of course the Civil Aviation Authority also got to the root of the problem of air fares the solution of which lies in Gibraltar and not in London. And that was the balance that exists between what are known as SGIT fares and normal excursion fares on the route. The great difference, the great gap, that exists between these two types of fares, which is at the root of the problem as far as Gibraltar is concerned, and which, of course, has been said time and again by this side of the House at the meetings



of the Select Committee that were held soon after this House set up a Select Committee to look at the air communications. And it has chiefly been due to the refusal on the part of the Government to tackle this problem in a realistic way that has put us in the position that we are in today insofar as seats are concerned in the Gibraltar/London route and insofar as air fares are concerned on the Gibraltar/London route. But before passing on to that, Mr Speaker, I would like to mention a part of the judgment of the Authority which I think ought to be recorded. And that, Mr Speaker, refers to the reference by the Authority to the need (in paragraph 32) to the need of asking the British Government possibly to help on this route. There they said: "As a matter of general principle the Authority is opposed to subsidies in view, inter alia, of their distorting effects. But there are areas, for example the Scottish Highland and Islands in which the circumstances are such that the Authority have thought it right to recommend them. The Authority is aware of the substantial financial support which the British Government has given to Gibraltar in order to assist the colony in the situation in which it has been placed. As matters have now developed in the local situation and in view of the disproportionately large increases in the cost of airline operation which have resulted from the recent increases in the cost of oil, the Authority hopes that the Government - the British Government - will give consideration to allocating some part of the financial support which it gives to Gibraltar to support the air services which are vital to its viability." Mr Speaker, there is the Authority itself suggesting assistance on the Gibraltar route but the problem goes far deeper than that, the problem goes of course as to the sort of air communications that are of interest to Gibraltar. You do not solve this situation, Mr Speaker, by obtaining a subsidy from the British Government which reduces the amount of loss that the airline suffers on the route because all that would happen in such circumstances is that it would be left in the same position of not having proper capacity on the route, not having the proper number of seats. This is why in our view the whole problem of air communications must be settled by the Select Committee of the House obtaining the expert advice that it can obtain. It is quite clear that the Government has not got the expertise to deal with this matter and this is shown by the fact that they have got the wrong side of the deal as far as British Airways was concerned and that despite their agreement to the deal the Civil Aviation Authority made reductions in the agreed fare increases. These are facts and the Government must recognise that the field of air communications is very much a specialised deal and that they cannot deal with the problems of air communications every time that there is a round of

talks on fare increases. You cannot deal with the question of air communications on a pro temp basis, dealing with the situation as it arises and saying: "The answer for this now is this and that's it." You have got to look at the problem and its roots and the Select Committee of the House was set up to do precisely that, a Select Committee which came to a grinding halt, Mr Speaker, since the meeting in which the Chairman consulted the Select Committee as to the possibility of Gibraltar Airways applying for a licence, as to the possibility that they would do this and that is the last that we heard of the Select Committee until one meeting to consider the answers from the Secretary of State and no more meetings. It is a pity because all these problems that have arisen about suggested increases in air fares from London, the rush and so forth, all these could have been avoided if the Select Committee had been sitting in on them and the Government had had the benefit of the views of the Opposition before it rushed into agreement without having any conclusions from the Select Committee. And it is important, Mr Speaker, in this particular field because the Government now has a situation where it has cried victory because it had obtained 10 flights a week for Gibraltar. Nine or ten flights, Mr Speaker, which we know from the statistics which have been produced in this House were running at an average over the years of 78% full. A load factor of 78% full. And the result of being 78% full was, in fact, a decline of the percentage of hotel beds taken up, in other words 43% occupancy for Gibraltar. It means, Mr Speaker, that the present hotels in Gibraltar are doomed to no higher occupancy in the next year and possibly the year after that because even with the best will in the world you cannot get that percentage up if you haven't got the aircraft seats and the statistics report show that you cannot have more people on this route because 78% average really means that a great number of people, Mr Speaker, are being turned away from Gibraltar. Because 78% over the year means that in the summer months - I think this was quoted by the Gibraltar Trades Council in their submission - and in March which they admitted to be the Easter period, they were flying 85% full. Well, when you think of last minute cancellations, when you think of people shifting dates of flights, it leaves absolutely no room for expansion. This is where all the Government expenditure on tourism has landed us in. All the Minister can show is 43% sleeper occupancy for the hotels in Gibraltar and the planes full. And no room for expansion in the tourist trade in Gibraltar and in that sort of situation how can you have the nerve, how can anybody have the nerve to encourage people to build more hotels in the hope that there will be a trickle of a few more seats, another plane a week or



something like that. What is needed, Mr Speaker, is clearly a great number of extra seats. But the problem is - and it has been shown in the Civil Aviation Authority hearing - the problem is that the finances of the airlines or whoever it is who runs the route, cannot afford an expansion of seats unless fares are doubled up again. The Civil Aviation Authority has told the airlines in the judgment that in a way they are to blame for this situation because they have set the level of the SGIT fares and they have obviously set them too low. Now, Mr Speaker, at the moment, who decides the level of air fares? At the moment it is the airlines in consultation with the tour operators apparently.

MR SPEAKER

Mr Isola, I have given you a fair amount of latitude, but you are not discussing the motion before the House.

HON P. J. ISOLA

Mr Speaker, I am giving reasons why it is important that the Select Committee should deal with it because the root of the problem lies here and the Civil Aviation Authority pinpointed this that the root of the problem lies on the fare level of the SGIT rate and you need the Select Committee of the House to say authoritatively once and for all what shall be the balance between SGIT fares and ordinary excursion fares. And you need the authority of the Select Committee not the Minister getting up in this House and saying: "I support anybody who wants to fly charter flights to Gibraltar."

That doesn't solve the problem, Mr Speaker, and it doesn't solve the problem because the people who fill the charter flights are precisely the tour operators and why should they take the financial risk of an independent charter operation if they have a good number of SGIT seats which they could make use of at no risk to themselves and, therefore, the root of the problem as far as Gibraltar is concerned lies there and it is there that decisions have to be made. And it is there that the Select Committee must balance all the interests and come with recommendations to the House. It is no use the Government saying that they want more SGIT seats through the scheduled airlines. It is no use saying that because we must either accept a much higher level of SGIT fares or we must accept a much higher level of excursion fares which frightens everybody away from Gibraltar and they must accept a lower seat capacity because no scheduled airline in its senses which has to run every day on a particular schedule is going to give spare capacity of the sort that is required by Gibraltar if hotels are going to be filled up properly. If there is going to be a real tourist industry in Gibraltar no airline in its senses is going to give that spare capacity with the fare levels and the balance between fare levels that we have in Gibraltar even today. And that is why, Mr Speaker, we have put the motion in these terms. There is an urgent need to grapple with the problem of air communications. The Gibraltar Trades Council delegation put it very aptly to the Civil Aviation Authority. Why do British Airways spend all this money on advertising their Gibraltar/London route if they have got 78% capacity? There is no need for it and I might ask the same question. Why does the Tourist Office spend more than £100,000 in running its Department when there is no spare capacity in bringing people to Gibraltar? What are they paying for? It is important, I think, in asking the House to vote in favour of this motion that these issues should be faced squarely. The House has got a Select Committee on which both sides of the House sit to come back to the House before the end of the year - perhaps I am being a bit optimistic here Sir - but my anxiety is that the Select Committee should come back to the House before the next general elections with its recommendations. It has a lot of information, it has done a lot of work and it should come back with clear recommendations before the next general elections so that the next Government can deal with these recommendations when they come up. We have had too much haphazard planning where air communications are concerned in Gibraltar. People all pulling in their own particular direction, and there has been no planning at all and the Select Committee was set up precisely to look into



this for the future and it has not done this and Gibraltar today is in a mess whatever the Minister may say. It is no use, Mr Speaker, making pious expressions of hope such as: "We hope this won't happen, we hope that won't happen." There must be a policy and the solution, Mr Speaker, lies in Gibraltar. British Airways is the big brother but Gibraltar is the authority that counts for a lot. The Gibraltar Trades Council was listened to by the Civil Aviation Authority. Can you imagine, Mr Speaker, what would happen if the Gibraltar Government said: "We as a government think this and this should be done." And think of the strength the Gibraltar Government would have if it was seen to be arguing sensibly, if it was seen to be arguing in pursuance of a policy that recognises the different fare levels in Gibraltar of a policy that aims to produce a particular situation. You have, Mr Speaker, the Ministry of Defence, for example. They organised their charter flight this year. They said: "We are not playing with this, this is what we have done." And then we have British Airways saying that because they have done this we cannot expand because they are taking a lot of our traffic. What you really need is to consider what is properly scheduled traffic for Gibraltar, to consider what is a reasonable level of SGIT seats and then force the genuine high season market of holiday makers, force them by action from Gibraltar, force them into the charter market. The Government position cannot be any worse than it is today with 43% sleeper occupancy in the hotels. The Government plans for development cannot be any worse than what it is today. And accordingly, Mr Speaker, I would urge the House to consider this motion in the spirit that it has been presented and to be conscious of the importance of this subject as far as Gibraltar and its future is concerned.

Mr Speaker then proposed the question in the terms of the Honourable P J Isola's motion.

HON A W SERFATY

Mr Speaker, the more I hear the Honourable and Learned Mr Peter Isola speak on this subject, the more people who hear him will be convinced of the complexity of this whole question of air communications and he is more of an optimist than I am if he thinks that the Select Committee is going to solve all the problems of air communications between London and Gibraltar. We met for at least a dozen times and didn't make much headway. I am not going to say that we shouldn't

meet. We shall meet, but I must confess that I was rather discouraged when - I think it was in April - the Honourable Leader of the Opposition said that they were considering their position in the Select Committee and that is why I didn't call another meeting of the Select Committee if the Opposition was considering its position. I am not a man that gives in to threats and this was a mild going to give in to that kind of attitude on the part of the Opposition. But if the Opposition wants to come and try and do - because it is a very complex subject - something constructive on the question of air communications by all means let us meet. I normally enjoy, and I am sure they do too, meetings of the Select Committee which I have the honour and privilege to chair. Now, the Honourable and Learned Member has raised the question of charter flights and I hope, Mr Speaker, you will allow me to refer to this **though** it is not necessarily directly connected with the motion. But there I must part ways with Mr Isola. I am convinced that one of the answers to the problem of air communications is charter flights. The tour operators and the hotels to whom I have made certain suggestions which have not been accepted should take some risk in the question of charters. Some charters have been operating between Gibraltar and London quite successfully - this is not the first time it has happened - I say and I am not ashamed of saying it quite openly that we should not depend exclusively on any particular airline even if it is the State airline of Great Britain for our communications with the United Kingdom. And I hope that that is not what the Honourable Member is suggesting ie that we should carry on depending on British Airways or any particular airline for our communications. I think the matter is far more important than that. Coming to the representations made by the Honourable Mr Bossano and Mr Matthews I must say that in my heart of hearts I wished them good luck when they to the Civil Aviation Authority. They have succeeded - because this must also be said - in reducing the rich man's fare more than the poor man's fare. You see, the decision of the management of British Airways was to increase all fares by 25% and part of the package deal was that the normal fare should stay at 25% and that the public excursion fares and public creative fares should be reduced to 15%. So I think in that way I prove to be a bit more of a socialist than Mr Bossano is because the rich man's fare stayed at 25% and I reduced the poor man's fare by 10% and he subsequently had the rich man's fare reduced by 5% and the poor man's fare by another 3%. These are facts. Because I don't think any of the members of the Honourable Member's union travel on normal fares. I would be very



much surprised if they did. In fact the Honourable Mr Bossano himself admitted in the CAA that he had travelled on a cheaper fare. And that fare he has only succeeded in having reduced by 3%. Mr Bossano has scored a small victory but there are dangers in this small victory of reducing the rich man's fare by 5% and the poor man's fare by 3%. In paragraph 30 of their decision the Civil Aviation Authority said: "This fact accentuates the Authority's dilemma. The Authority has no power to compel British airlines to operate these services and if it fixes fares too low they may decide to come off the route as British Caledonian has already done." So if the losses are greater the Civil Aviation Authority is not going to stop British Airways from reducing the frequency or from going off the route completely as they have mentioned on more than one occasion in all these years. This is important. So by losing more money on the route they may be tempted to reduce the frequency. And Honourable Members may be hearing something about this in the next few days how difficult it is to maintain frequencies in Gibraltar. On many counts I am using all kinds of arguments. I won't say anything more about that in the present moment. I will now quote from part of paragraph 33 as I do not want to tire the House with too much quoting: "We were told at the hearing that 70% of British Airways traffic travelled at SGIT rates - that is the low bulk fares for the tourists from Gibraltar and from the UK - which are at present unregulated and often unremunerative. The regulated fares (which are the ones that Mr Bossano has been instrumental in reducing somewhat) may well, however, have some influence on the level at which the airlines fixed their unregulated fares." Now, what does this mean? This means that if the regulated fares have been reduced - as Mr Bossano has been successful in doing and I before him in 10% and he in 3% - the airline may now be tempted to increase the SGIT fares, the bulk fares. And that is not going to work in favour of the members of the Honourable Mr Bossano's Union or any tourist who uses a SGIT fare. And we are already told that at least 50% and perhaps as much as 70% are travelling on these SGIT fares. So the public excursion and the creative fares may have been reduced somewhat but we may expect to have increases in the SGIT rates which the CAA have been quoted as saying are unregulated. And now I come to another very interesting part that the Honourable and Learned Mr Isola himself quoted. "And in view of the disproportionately large increases in the cost of airline operation which have resulted from the recent increases in the cost of oil, the Authority hopes that the government will give consideration to allocating some part of the financial support which it gives to Gibraltar to support the

air services which are vital to its viability." I cannot but understand that this means that part of the financial support that the Honourable the Chief Minister fought so gallantly for in London - £7.6m if I remember rightly - may be used to subsidise British Airways. So it does mean that so that the Honourable Mr Bossano may pay 3% less in his fare that somebody else is not going to have a flat which he may very well need. This is what it means, Mr Speaker, and I cannot see any socialism there, really I cannot. I feel I have said enough but what I do think is that we are placing in jeopardy more than it need be placed flight frequencies and the cost of the bulk fares to tourists, both United Kingdom and Gibraltarians. I therefore, have a suggestion to make. I am going to move an amendment, Mr Speaker, with your leave, I don't know whether I am supposed to read it first.

MR SPEAKER

You can read it and then let me have a copy.

HON A W SERFATY

The amendment I am going to move is this:

- (i) "that the following words be inserted between the words "Authority" and "and" in the fourth line:

"hopes that this decision will not have adverse effect on flight frequencies and cost of bulk fares."

- (ii) that the following words be inserted between the words "House" and "before" in the last line:

"if possible".

Because I am not going to commit myself or the Select Committee to having our deliberations completed by the end of the year whatever the Honourable and Learned Mr Isola may say.

Mr Speaker proposed the question in the terms of the Honourable A W Serfaty's amendment.



MR SPEAKER

Having proposed the question we now have the amendment to consider before we go on to the motion. May I make it completely and utterly clear that I will not allow anyone to speak on anything other than the advisability of the non-advisability of adding the proposed words to the motion and not the merits of the motion itself. May I further remind Members that whoever speaks on <sup>the</sup> amendment will still be able to speak on the motion if he hasn't spoken yet.

HON. BOSSANO

Mr Speaker, confining myself to the amendment, may I say that I must express my great disappointment at the attitude that has been adopted by the Honourable Minister for Tourism and Economic Development. I must say that in my humble estimation the House has today been treated to the disgusting spectacle of seeing the Government attempting to rescue some sort of kudos from what has been and must be seen as a performance by the trade union movement in Gibraltar to obtain a benefit for the people of Gibraltar that the Government, being charitable, was unable to obtain because in its estimation the risk that it would have taken in going to the CAA was too great and I for one have always been in this House, Mr Speaker, willing to give the Government the benefit of the doubt. And when the Government came here and told the House of Assembly that they had reached agreement with British Airways and that they had on balance decided that rather than object to the fare increases it was in Gibraltar's interest that they should not object and I distinctly remember the Honourable Minister for Medical Services, Mr Montegriffo, who usually in my experience in this House tries to introduce an element of common sense into the debates, say that he accepted that their judgment might have been wrong but that we on our side had to accept that their judgment had been motivated only by a desire to do what was best for Gibraltar.

And when the Gibraltar Trades Council went to Mr Montegriffo as acting Chief Minister and asked for help in financing the cost of the trip to UK notwithstanding the very favourable SGIT fares of which the Honourable Minister for Tourism has accused us of making use of, for that trip, for the benefit of the people of Gibraltar, he told us that much as he would have liked to be able to finance that trip he felt he could not do anything that might endanger the agreement that they have reached with British Airways, and the Trades Unions accepted the sincerity with which he said this. And it was in that understanding of a spirit of sincerity on the part of the Government that we went there and we fought the fare increases because we made it quite clear to the Civil Aviation Authority that the package tours are primarily designed to bring tourists to Gibraltar, and in cross examination British Airways accepted fully that their package tours were designed for this objective and no other. That they were not concerned with taking Gibraltar workers to UK they were concerned with bringing British workers to Gibraltar and in our submissions to the CAA we made reference to the fact that there are 90 seats available to UK and although I accept fully the greater expertise of the Honourable Member opposite as to who is a rich man and who is not and if he tells me what I have done on behalf of the Gibraltar Trades Council benefits more the rich people of Gibraltar, I accept expertise in this matter..... his

MR SPEAKER

Mr Bossano, you are having two bites at the cherry. All that can be said later on. We are dealing with the amendment just now.

HON J BOSSANO

I accept your ruling, Mr Spaker, it will be a pleasure to repeat it later on. If indeed this is the case then I accept it, but the Gibraltar Trades Council in its submission told the CAA - and it is important that the House should know it in case it would have gained a different impression - that holidaymakers from Gibraltar to UK have great difficulty in obtaining seats for package holidays unless they book several months beforehand because they are limited to 90 seats a week on the northbound route. And it was precisely because our experience in the Transport and General Workers Union Travel



Service which caters for members of the Gibraltar Trades Council has been that we have an overflow of demand that cannot be met through package holidays, that we stated that we tend to use the inclusive tour, that is the ITX, which is more expensive than the SGIT but less expensive than the normal return fare as the fare for package holidays and I think it was in sympathy with this submission and, in fact, the CAA decided that this particular fare - the ITX fare - should be dealt with in a unique way. Whereas they have approved increases from July for the normal fare, for the ITX the increases are not due to come into effect until November. Now, as regards the package tour fare, if there is going to be any implicit criticism, Mr Speaker, then the implicit criticism must be of an agreement that was made some time in the past by the present Government whereby the fare which is used for package holiday is not subject to a ruling of the Civil Aviation Authority as it has been in the past but can be completely decided by agreement between the airlines. At one stage British Caledonian and British Airways.....

MR SPEAKER

Mr Bossano, I take it you are not going to speak afterwards on the general debate.

HON J BOSSANO

Mr Speaker, I am talking simply on the amendment.

MR SPEAKER

I wouldn't have said so. Are you for or against the amendment?

HON J BOSSANO

I am against the amendment.

MR SPEAKER

I haven't heard you say that so far.

HON J BOSSANO

Well, Mr Speaker, I am saying that this amendment has got an implicit criticism in that it is suggesting that any increase in SGIT fares might be the result of the representations of the Gibraltar Trades Council in reducing normal fares.

MR SPEAKER

I think the implication of the amendment is that it is going to have an adverse effect in flight frequency.

HON J BOSSANO

And cost of bulk fares, yes. Now, I cannot for a moment accept that the submissions of the Trades Council and the decision that followed that submission will have any effect on the bulk fares - and I am talking of the bulk fares only at this stage - because, in fact, the bulk fares at one stage were controlled by the CAA and in the ruling that was made by the CAA previous to this one, it was agreed notwithstanding the fact that the Gibraltar Government was there as an objector, without any objection by the Gibraltar Government, it was agreed that bulk fares should not in future go to CAA but that in future it should be the result of future agreement between the carriers, at one stage British Caledonian and Gibraltar Airways, at present Gibair and British Airways. And I have sufficient confidence in Gibair and in their interest in the development of the tourist industry in Gibraltar because of the obvious connection with the Bland Group who have got a big stake in Gibraltar, to keep bulk fares down. But Gibair is a minor partner in this deal and, obviously, the major voice in the level of bulk fares is going to be the voice of British Airways and British Airways have got a free hand to fix bulk fares at whatever level they like regardless of what the CAA says, regardless of what the British Government says because that was the decision that was agreed to previous to this one.

HON A W SERFATY

If the Honourable Member will give way. The Honourable Member said before that this Government had something to do with that.



HON J BOSSANO

Yes.

HON A W SERFATY

This Government has nothing to do with the fact that the SGIT fares do not go to the Civil Aviation Authority. It may have been the previous administration, I really do not know. But I can assure this House that this Government has nothing to do with the fact that SGIT fares do not go to the Civil Aviation Authority.

HON J BOSSANO

Well, Mr Speaker, I accept **that fully** although it has undoubtedly happened when the Honourable Member opposite has been Minister for Tourism, Trade, Port and Economic Development. Nevertheless, it happened and the decision was taken at a previous hearing of the CAA where he was representing Gibraltar. He may have overlooked it and as I have said before, Mr Speaker, I try to be charitable in the House. I accept fully that he may have overlooked it in all innocence. He may not have attached the importance to it that it had but nevertheless that was part of the proposals at that specific time and although the Government - and he was called in as a witness at that hearing - objected to the fare increases and succeeded in reducing the fare increases and I am happy to commend him for his performance on that occasion without reservations about flight increases of bulk fares, nevertheless, at that same hearing it was decided that in future bulk fares would be completely at the discretion of the hearing of the airline without the CAA having an intervention on that and that is recorded on the decision of the CAA on that particular occasion. Now, I accept that the Honourable Member may have been more concerned with the air fares than with this particular minor point and now in retrospect it may look more important than it did then and anybody in his position might have come to the same conclusion, that I accept fully. I am not imputing any evil motives to the Member but the facts are that a decision was taken at that particular time and that decision left the door wide open for British Airways to raise the bulk fares whenever they chose to regardless of anything else that was happening. Now, in the CAA the submissions of the Trades Council have been aimed

exclusively at one thing and that has been at enabling the workers of Gibraltar to take a holiday in UK. In fact, Mr Speaker, we were challenged by British Airways on this particular issue of bulk fares. We were accused by British Airways of wanting to discuss bulk fares over which the CAA has got jurisdiction and British Airways on this particular point was overruled by the CAA because Lord Boyd-Carpenter did not accept that this was a submission of the Gibraltar Trades Council because the Gibraltar Trades Council stated that the 90 seats that were available were already fully taken up and what we were concerned with was that the others who were unable to get hold of those previous 90 seats should not have to pay an extortionate price for a holiday in UK. Now, whilst I fully support, Mr Speaker, the desire that bulk fares should not be increased and I fully support the desire that flight frequencies should not be reduced, what I cannot support is an attempt by the Government to imply in this amendment that if either of these two things happen it will be because the Gibraltar Trades Council looking after the rich men of Gibraltar after a great deal of considerable effort and expense has been to Britain to reduce, marginally, fares in their mistaken attitude that this was going to help the whole of Gibraltar and not just a select few. I wish, Mr Speaker, the Honourable Member opposite had advised the Gibraltar Trades Council before they went to UK that the fares which we are bound to object to he was not objecting to because they only affected rich people. Because I am sure the Gibraltar Trades Council would have thought differently about going to the UK. I think the Honourable Member in all sincerity has been less than charitable to the Gibraltar Trades Council.

HON P J ISOLA

Mr Speaker, I hope the Honourable Member having heard what has been said already will withdraw the first part of the amendment - I think we might even accept the second one if possible, but even that I believe there is opposition to - but, certainly I hope he will withdraw the first part of the amendment for two reasons. One, because it obviously does denigrate from the efforts of those who went to London in good faith to support the position of Gibraltar before the Civil Aviation Authority. And the second one of course is that it is one of the biggest acts of capitulation that I have seen. It is nouse my Honourable Friend the Minister for Tourism saying: "I am not the one who said you have got to depend on British Airways for Gibraltar" and that he is going to do this and to do that, and then he puts in an amendment that shows that he himself and the Government in their own



minds are totally and completely and utterly dependent on British Airways. A weak, feeble hope that this decision will not have adverse effect on flight frequency. What will British Airways and the executives dealing with Gibraltar/London do when they see that amendment whether it is passed, withdrawn or whatever have you? They will say: "We have got these chaps. All we have to tell him is your flight frequencies are in danger and they do what we tell them". This amendment is an abject surrender, Mr Speaker, and I hope the Minister will withdraw it because it can do nothing but harm to the cause that we are all trying to promote here, a proper policy on air communications. It is a clear criticism of the efforts of the Gibraltar Trades Council, it is an attempt to say: "Even though you have gone and you have succeeded and you got this, I only hope it doesn't bring us something worse in its train, Sir. What worse can it bring us, Mr Speaker, than what we have already got? What worse can it bring us that only 43% sleeper occupancy in our hotels? What worse can it bring us? This could make it worse, words like "that this decision will not have had adverse effect on flight frequencies." What an extraordinary amendment to bring in. Why not just say it in debate? Why actually write it into the motion? Is the Minister anxious to show British Airways that we are still keeping our agreement? What sort of agreement was entered into, Mr Speaker, that requires this reservation? What sort of agreement did Government enter in with British Airways that even at this stage having got themselves off the hook on three flights because Gibraltar Airways is doing them, they can still apparently because there has been a decrease ordered by the Civil Aviation Authority with no connivance of any sort from the Gibraltar Government can still apparently reduce the flight frequency? What sort of undertaking did the Government get? We ought to have a White Paper on whatever it is on this. Let us at least see what we have been let in for that requires an amendment of this nature. Or if the Government agreed to the increase of the fares the way it did with British Airways, what sort of agreement did it make with them that apparently still allows them to tinker with air fares? What the Civil Aviation Authority said in their judgment is obvious, surely. In other words they are asking for increases in all these sort of fares and they are going to keep SGIT fares at a particular level. What is the point of the Government making an agreement as to top limits and making no agreement as to the bulk fares which are I would have thought of abiding interest to the Tourist Office. Therefore, Mr Speaker, for the Government to press this amendment is an admission that they did not sign, seal or deliver any sort of agreement that could be a benefit for the people of Gibraltar because they have left themselves completely exposed in the question of the cost of bulk fares at the existing levels - and I am not one of those people who say

that they must be kept at those levels - because I think we must be realistic and must plan and that is why I want the matter to go back to the Select Committee. But, anyway, that agreement leaves us exposed on the question of bulk fares and apparently leaves us exposed on the question of flight frequencies as well. So what sort of agreement has the Government made? Wouldn't it be better for the Government to tell British Airways: "We did a deal with you and we maintain that deal. We didn't go to the Civil Aviation Authority objecting to your fare structures. We stuck to it and we defended it against the whole of the people of Gibraltar. We defended it and you jolly well will have to stick to it now. If you have gone down a few points with the Civil Aviation Authority it is probably because you did not put your case properly. But you stick to your agreement and as far as bulk fares are concerned we made these agreements on the understanding that bulk fares would be maintained at least for 1975/76 at the fare that we have agreed or that you have told us about." That I would have thought is the proper attitude of the Government with British Airways. There is no need for the Government to put in this amendment that only weakens their own position, weakens the position of Gibraltar, generally, in aviation matters and gives British Airways the opportunity to renege on their agreement. The opportunity to say: "Now the situation is different, now it is only 5 flights." I urge the Government to forget the obvious embarrassment that they have been subjected by the Civil Aviation Authority, an embarrassment to a certain extent I suppose also shared by the Opposition. We didn't go to the Civil Aviation Authority because we reckoned it was the job of the Government to do it. I hope that the Government and the Minister will feel able, in view of what has been said already, to just express these views but not to insist as indeed they can insist because they have got the majority, to have it in the motion to the detriment of the cause that I think we are all, generally, united in promoting.

HON MAJOR R. J. PELIZA

Mr Speaker, I would like to add my views to that too on the amendment. I think what we are debating here today is an extremely serious matter and I fully concur with the views expressed by my two friends and colleagues but I would like to emphasise the point even further and say that this is not an admission or surrendering, it is an invitation to the airlines concerned to increase their fares. And if we were to see this happening after today I think it would be fair to say that the Minister himself would have to share some of that blame. The



wording of the amendment shows a complete surrender, and suggests that in fact British Airways have now got a case to put up the fares. How can he possibly say that here when only yesterday he was admitting in this very House that the planes were absolutely chock-a-block already; that there was no possibility of further expansion.....

HON A W SERFATY

If the Honourable Member will give way. I never said such a thing yesterday. I never said that the planes were chock-a-block.

HON MAJOR R J PELIZA

I may correct myself if perhaps I am not using the words he said but when my Honourable Friend, Mr William Isola, was quoting figures from his own statistics at question time, the Honourable Minister admitted that there was little hope for expansion, let us put it this way, in Gibraltar which is the same thing. Well, my good friend here expounded just now that 85% capacity in the plane clearly meant chock-a-block and there was no dispute on that point from the Minister himself and I am sure he must agree. I seem to know the figures better than the Minister himself. Perhaps he should look at those figures before and then he might be able to argue with better figures and better facts and be more effective at the CAA next time he goes. I think the use of the word "hopes" in the amendment is an invitation to the very powerful airline to be tempted to say: "Here is a division in Gibraltar." Because this shows a clear division in Gibraltar. Whether it is purely for political reasons or whether it is because there is in fact a real division, there is a division in Gibraltar. No government who are supposed to be fighting for lower fares would when presented with a strong motion from the Opposition to fight harder for lower fares is going to come out in retreat now and say: "Let us put the word "hopes"". I think this is an extremely dangerous word and should be changed. At least if the Minister doesn't want to withdraw the whole amendment which I think is what he should do, I hope he finds a better word than "hopes". I hope however that he withdraws the whole amendment. As we go along the amendment we come across the use of the words "flight frequencies" of which he said that there was an undertaking by British Airways that happen what may those frequencies would not be reduced. He will recall I put a question as to whether there was any commitment for the future and he

categorically said "Yes". So if he has got that commitment what is the point of putting that amendment now when we know perfectly well that the flights cannot be reduced if there is in fact that commitment. But this I suppose has to be verified because it seems to me that the Minister hasn't got his facts right every time he stands up to speak. It has been proved here on a number of occasions already during this debate. And, therefore, if he has not got his facts right then, of course, this should be there but if he has got his facts right what is the point of having the amendment at all. What is the point? And I again invite and suggest that he withdraws the amendment because it is absolutely unnecessary to have it there. As to bulk fares - and one has to interconnect this with subsidies - first of all I would not like to give the interpretation which I think he has done rather hastily that subsidising the airlines means automatically.....

MR SPEAKER

We are not going to talk about that.

HON MAJOR R J PELIZA

Mr Speaker, he did mention this.

MR SPEAKER

Yes, but in the general debate not on the amendment.

HON MAJOR R J PELIZA

Didn't he speak on the amendment?

MR SPEAKER

No.



HON MAJOR R J PELIZA

Well, I can introduce it in this way even if I don't mention.....

MR SPEAKER

You will have an opportunity to do so in the general debate.

HON MAJOR R J PELIZA

Yes, but I think it is relevant here because the question of bulk fares is relevant to the amendment.

MR SPEAKER

Do continue and I will stop you if you are out of order.

HON MAJOR R J PELIZA

Well, I think that if it is a question that would have an adverse effect on bulk fares, it can only mean that this may increase the price of the bulk fares and one way of stopping that is through subsidy. So I think I have.....

MR SPEAKER

No.

HON R J PELIZA

But, Mr Speaker, if bulk fares are likely to go up.....

MR SPEAKER

What the Minister suggested was that the Civil Aviation

/on part of

Authority said that the actual decreases in the fares could result / the £7½m being used to subsidise that particular increase.

HON MAJOR R J PELIZA

I will refer to hulk fares but I will not refer to the statement that he made, that I will reserve for later if necessary. I think I am entitled to suggest now that already the Civil Aviation Authority have suggested the possibility of a subsidy and therefore if, in fact, the airlines were not to take compassion - let us put it this way although I don't think there is any need because I think they are making enough money on this and I shall have to say a few words on this later on - particularly of the workers in Gibraltar in which the Honourable Mr Serfaty is so interested also in enabling them to travel at a lower cost to Britain, then that subsidy could be introduced for this purpose but I don't think that this is necessary because at this stage why should we try and suggest to the airlines which is the way out of a problem which is theirs and not ours. The CAA have obviously seen right that the fares should come down by a percentage. In the decision I have little doubt that they have looked at the profit margins. Who are we then in this House to go beyond their views?

MR SPEAKER

I must warn you that I will not allow you to repeat yourself in the general debate. You cannot have it both ways.

HON MAJOR R J PELIZA

Mr Speaker, I will not repeat myself in the general debate I can assure you. But who then are we to come along and suggest to the airline as we are doing here that if they have to put up the fares the Government is more or less washing their hands off the whole affair? This is hardly the attitude of a responsible government and certainly I would say the attitude of a responsible Minister when he uses the word "hopes". If he had thought that this could happen seriously then he should have strengthened the situation and said: "We are grateful to the Gibraltar Trades Council for bringing down the fares and



we shall do our best to stop any increases along the line anywhere." That would have sounded much more sincere. Finally, I think coming back to the last two words "if possible", I just cannot understand how a Chief Minister who at the time when we came into Opposition was so diligent in inviting the Opposition to participate, including in the Planning Commission, and was to some extent upset because I could not accept at the time when I was the Leader of the Opposition.....

HON CHIEF MINISTER

I accept that I was diligent.

HON MAJOR R J PELIZA

Diligently, I said. Very quickly and very actively. Who very quickly came forward and suggested that we should try and cooperate with the Government in all matters that he thought were in the interest of Gibraltar. And here we have now a Select Committee which however much the Minister may not agree with the views expressed by the Opposition it is still a Committee which is intended to be constructive and produce a policy of air fares, all he can say after many months is to try and delay, because this is what it means by the words "if possible", because if it is not possible no one is going to grumble about it. Of course, the Opposition I think is sufficiently experienced and mature to understand that if it is not possible it is not possible. I am sure that the Minister himself if he is keen on going ahead with this he would not introduce those words "if possible" because he knew at least in all sincerity he would try to complete this as quickly as possible, the Opposition is anxious to go ahead, why then "if possible". The whole amendment, Mr Speaker, is hypocritical and dangerous. If it was hypocritical alone I suppose we could laugh at it to some extent but I think it is very dangerous. It could lead to an increase in the bulk fares, it could lead to a reduction in flights simply because of the show of weakness shown by the Government and if this happens it must now fall on their heads. Therefore I would strongly suggest to the Minister that he withdraws the amendment.

HON M XIBERRAS

One has seen Members of this House who act in various ways to motions couched in a variety of ways, and I must congratulate my Honourable and Learned Friend Mr Isola for couching his original motion in the most uncontroversial terms possible. There was substance here for a vote of censure, yet my Honourable Friend has not done what the Minister deserves, that is, have a vote of censure moved against him. In those circumstances the reaction of the Minister who in normal times is the most understanding and liberal of politicians has caught us all on the hop, completely by surprise. It is a peevish amendment, it is the amendment of a man who is now completely against the wall. He has been hit hard by the Opposition and he has given way, and now because he doesn't have the courage to attack the Gibraltar Trades Council directly, he does something which is even worse, he launches an attack against the same authority which has done us in Gibraltar proud. The Minister has read the recommendations of the Civil Aviation Authority and he knows in his experience that there is nothing there which Lord Boyd-Carpenter or the other members of the CAA can be criticised for. In the circumstances they have been most understanding of Gibraltar, yes, whether the reductions are minimal or not.

MR SPEAKER

No, we are not going to speak about the reductions now because otherwise we are going to repeat ourselves completely.

HON M XIBERRAS

The amendment, Mr Speaker, is ill-deserved by Lord Boyd-Carpenter, it is ill-deserved by the Civil Aviation Authority, I don't know how it can be explained or why it should be explained to British Airways, unless the Minister is blatantly out to protect their interests and the deal which he did with them, because there can be no other explanation to this. How can the Minister who has a special interest in Aviation hand it on a plate to the Civil Aviation Authority, to British Airways, to anybody who is an enemy of Gibraltar and say: "We are going on our hands and knees on this occasion, yet you do us more harm". A man who did not have the courage of his convictions to go to the Civil Aviation Authority in the first place, and a man who now will not recognise the virtue of others who did have the courage of their convictions and not only



had the courage but achieved a not insignificant result. It is a minimal decrease, yes, but the language that they have got out of the Civil Aviation Authority is at least as good as the Minister or previous Ministers have ever got and the rapport and the degree of sincerity of that Authority is there for all to see. Why then bring this amendment in? Mr Speaker, I would understand if under the pressure of debate Honourable Members opposite - because I don't believe this amendment comes from the Honourable Member, I cannot believe he is capable of it. I do not believe so. I do not believe it is his creation at all.

HON A W SERFATY

If the Honourable Member will give way. I can assure the House that this is my amendment. The Chief Minister did not even see it before he came into this Chamber.

HON M XIBERRAS

Maybe he should have consulted the Chief Minister and I did the Chief Minister an injustice. Because this sort of amendment, Mr Speaker, has no rhyme and has no reason to it. Why didn't he tell Mr Bossano that he was a fool to go to the Civil Aviation Authority, that he had upset the apple cart, that he had been meddling? Why? Because the Honourable Member respects my Honourable Friend too much and if he had consulted the Chief Minister, perhaps, the Chief Minister would also have told him that my Honourable Friend, Mr Bossano, is worthy of that respect in the House. No, he does not have the courage to attack the Gibraltar Trades Council but he does have the courage to attack the Civil Aviation Authority. He hasn't got the magnanimity - a word I have often used of him - to praise the recommendation of the Civil Aviation Authority. And then, Mr Speaker, he talks how foolishly, Mr Speaker, he talks about Mr Bossano going to defend the interests of the rich men.

MR SPEAKER

No, not now.

HON M XIBERRAS

Mr Speaker, I shall have another opportunity, but how foolish it is nonetheless. And then, Mr Speaker - I will address myself to the two words "if possible" - he talks about cooperation, he talks about finding a solution to problems and he tells us on this side that the reason why he did not refer the matter in the first place and the reason why, no doubt, he has so little faith in the Select Committee which he chairs is that we said that unless we had some action and some real action and some reference to the Committee of the important issue, we would consider our position in that Committee. Well, what did he expect us to do, to sit there and attend on him while he decides what issues are important and relevant to the Committee? Does he accept my Honourable Friend and his Honourable Friends, Mr Peter Isola and Mr Willie Isola, to sit in attendance to him as Chairman of the Committee whilst he does all the important things somewhere else and does them not at all well, may I add? I question the sincerity of what the Minister said. I don't think this is the case at all. I think it was necessary if the Minister and the Government were to do a deal with British Airways that the Committee should be informed about this. - And shame upon the Minister that he should attribute to us - shame, yes, it is a word we shall not hear as often in the future in this House - but, perhaps, it should be used now. Shame on the Minister for accusing this side of the House of trying to belittle the work of the Select Committee and giving him the opportunity or a valid reason for not taking these matters to the Select Committee. The amendment has been described as capitulation. It may have been just a reaction of a man who has seen himself bested by this representation by the Gibraltar Trades Council, who has seen his policy proved wrong nonetheless. It may have been a natural way of displaying his fighting spirit, but on reconsideration how mistaken a way - I see the Minister smile - does the Minister not agree how mistaken a way? How would he have liked to have walked into a Government with this amendment hanging over his head moved by his predecessor as Minister with possibly next year or the year after the same issues to fight all over again? I ask the Minister to reconsider his position and take this amendment back. Surely, nothing can be said in its favour which would benefit Gibraltar.

MR SPEAKER

While the Minister is considering the suggestions which have been put to him I think we should recess for a little while and have some tea.



The House recessed at 5.15 p.m.

The House resumed at 5.35 p.m.

HON A W SERFATY

Mr Speaker, I have been discussing this matter with members of the Opposition and first of all I would request leave to withdraw the amendment as it has been put completely - the first part of it - and I would like to replace it by another.

MR SPEAKER

Has the Honourable Member the leave of the House to withdraw the first part of the amendment?

Leave was granted.

HON A W SERFATY

Before I propose an alternative amendment may I say a few words Mr Speaker?

MR SPEAKER

Do you mean as a preamble to your new amendment?

HON A W SERFATY

Well, in reply to what the Honourable Members of the Opposition have been saying and that is that it was never, never, my intention to denigrate the efforts of the Gibraltar Trades Council or the Civil Aviation Authority who, don't I know it, are always very favourably disposed to Gibraltar. It was never my intention, but of course I had my fears which I still have on these alterations by a third party, if you want to call it that, and that is why I was proposing this amendment which will now be replaced by another one which has been agreed. That the motion be amended

by inserting the following words between the words "authority" and "and" in the fourth line: "would condemn any attempt by British Airways to use this decision to increase the cost of bulk fares and/or to reduce flight frequencies contrary to the firm commitment given to the Gibraltar Government".

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

HON M XIBERRAS

Mr Speaker, there are a few points on this second amendment by the Honourable Mr Serfaty. The first is one which has just struck us now in respect of the words "British Airways" in this amendment. We would condemn any attempt not only by British Airways but by anybody else. Could we please have a copy of the amendment?

The first point is the one about British Airways. What struck me was that the ruling of the Authority could be used not only by British Airways but in the future might be used by anybody else, including Gibair or anybody else.

HON CHIEF MINISTER

Well, the decision was taken by British Airways.

HON M XIBERRAS

It was done by British Airways but I think the reference is to the decision of the Civil Aviation Authority.

MR SPEAKER

It refers to the agreement entered into by the Gibraltar Government and British Airways.

HON M XIBERRAS

Well the other point is what is going to happen in the future and that is the work of the Select Committee. The



Minister had some rather unacceptable things to say about the work of the Select Committee.....

MR SPEAKER

No, let there be no misunderstanding about this. Once we have taken this amendment we go back to the original motion. You follow what I mean? We are now only amending the motion and there is still time to speak on the original motion.

HON M XIBERRAS

Mr Speaker, there are two words still contained in Mr Serfaty's second amendment, namely, the two words "if possible". And in our view this reflects upon Mr Serfaty's attitude to the Select Committee which he chairs. We would move an amendment for the deletion of these two words because we feel that these two words still carry this reflection of Mr Serfaty's attitude. And in moving this amendment, Mr Speaker.....

MR SPEAKER

I understood that there had been agreement on the amendment now being proposed.

HON M XIBERRAS

Mr Speaker, we have agreed on that and we have spoken about the two words "if possible". The Government is unable to accept the deletion of these two words. Now, Mr Speaker, the original motion was drafted in such a way as not to put an unnecessary constraint on the Committee whilst at the same time making sure that the Committee would attempt to do its work as quickly as possible and within a fairly reasonable period. The words used in the original motion were "with a view to" and these were put there to signify that we did not necessarily expect as a matter of life or death that the Committee should finish its deliberations by the date specified but that the Committee should try its best to do the work by the date specified. The introduction of this amendment has, however, strengthened the suspicion of the Opposition that the Minister will not try to do the work or

might not try as hard as one might wish to get the work done by then particularly bearing in mind the record of the Committee. Therefore, I beg to move, Mr Speaker, the deletion of the words "if possible" from the Honourable Mr Serfaty's second amendment.

MR SPEAKER

There is no question of a second amendment. It is a question of an amendment to the original motion to which you are now proposing an amendment. The amendment is a complete one by the insertion of certain words between the words "authority" and "and", and two words between the words "house" and "before". Now, you are entitled to amend the amendment.

HON A W SERFATY

Mr Speaker, if I am not committed, and the Select Committee is not committed.....

MR SPEAKER

No, we are not going to discuss the merits of the motion. If you are going to say that you are prepared to withdraw the words then fair enough.

HON A W SERFATY

I was going to say that I am prepared to withdraw the words "if possible" from the amendment if the Select Committee is not committed to finalising its deliberations by the end of the year. All sorts of things can happen. We all know how long it took the Foreign and Commonwealth Office to reply to the questionnaire. All sorts of things can happen. We'll do our best - I am sure I am speaking for all members of the Select Committee - but we are not committing ourselves.

MR SPEAKER

Do I understand then that you withdraw that part of the amendment?



HON A W SERFATY

I withdraw the words "if possible".

MR SPEAKER

Has the Honourable Member the leave of the House to withdraw the words "if possible". (Leave was granted.)

Mr Speaker then put the question in the terms of the Honourable A W Serfaty's amendment which was resolved in the affirmative.

HON J BOSSANO

Mr Speaker, I would just like to say in view of what occurred in the previous abortive amendment that I think it is most welcome from the point of view of everybody concerned that the House should be completely united in defending the interests of Gibraltar in respect of air communications with UK and I think this is something that Gibraltar needs not only in this important field but in many others. The unanimity in standing firm on any attempt to use the representations of the Gibraltar Trades Council as an excuse which would be totally unjustified and I think this is the message that we would wish; notwithstanding anything that has been said beforehand, there is unanimity in the House that any attempt to use the effective representations of the Trades Council as a justification for any change in the present air communications with UK to the detriment of the people of Gibraltar will be resisted most strongly by both sides of the House and I am sure by the Trade Union Movement as an important representative body of a good section of the people of Gibraltar, and this is a message that I think is important should be recorded and I am sure that British Airways will be made aware of.

MR SPEAKER

Does the mover wish to reply?

HON P J ISOLA

Mr Speaker, I have very little further to add to what has been said. I am glad that the Government accepts the motion as presented. I am sorry we had this unfortunate situation in the middle of the debate, and I hope that if nothing else it will have served to convince the House that the problem of air communications in Gibraltar is something which has to be analysed, solutions thought out and put into effect. But we cannot in this modern technological age, we cannot allow ourselves on this subject to drift in between different applications from the airlines concerned. We must take the initiative, we must see the problems as it affects us in Gibraltar, we must recognise the problems as the airlines see them and we must also see the other problems and the other factors that are operating on the Gibraltar/London route. And there is no question in my mind at all that the Select Committee now has sufficient information to proceed with its deliberations. The Chairman will recall that a long time ago the Select Committee invited British Airways, among others, to present to it facts and figures about its Gibraltar/London operation and that it never got a reply. Well, fortunately now as a result of the recent discussions the Gibraltar Government has had with British Airways and as a result of the intervention of the Gibraltar Trades Council before the Civil Aviation Authority, both sides or rather the Government and the Trades Council, and we hope the Opposition very soon, will, in fact, have the figures that British Airways has been reluctant to present to the Select Committee over the last few years. And, therefore, it seems to me that we have all learnt enormously in the last three months from all the problems as it affects Gibraltar in a full debate in this House, I think we all know what we want and I think that the Select Committee is now in a position to move fairly quickly to its recommendations. In my own mind I am very clear as to what those recommendations should be. And I think it should not be difficult for the Select Committee to present a report to this House which we hope will enshrine policy on the part of Gibraltar on Air Communications in Gibraltar. To that extent I think we will all be thankful that, hopefully, the House will hear nothing more about air communications and about its problems until the Select Committee reports before the end of the current year. Thank you.

MR SPEAKER

I will then put the question which is: "that this House welcomes the recent decision of the Civil Aviation Authority



on the Gibraltar/London route fare structures and in particular the sympathy and understanding shown for the people of Gibraltar by the Authority, would condemn any attempt by British Airways to use this decision to increase the cost of bulk fares and/or to reduce flight frequencies contrary to the firm commitment given to the Gibraltar Government and calls on the Chairman of the Select Committee on Air Communications to resume without delay meetings of the Committee with a view to reporting its recommendations on the House before the end of the current year.

The question was unanimously resolved in the affirmative and the motion was accordingly carried.

HON CHIEF MINISTER

I now propose the adjournment.

MR SPEAKER

I will remind the House that there are two notices, one from the Honourable the Leader of the Opposition, and one from the Honourable William Isola to raise matters on the adjournment. I now call on the Honourable M Xiberras.

HON M XIBERRAS

Mr Speaker thank you. There are three matters which the Opposition wish to raise.

MR SPEAKER

Three matters cannot be raised on the adjournment, only two matters.

HON M XIBERRAS

We wish to raise the third matter not necessarily on the

HON CHIEF MINISTER:

I now propose the adjournment.

Mr Speaker proposed the question that the House should adjourn sine die.

MR SPEAKER:

I will remind the House that there are two notices, one from the Hon the Leader of the Opposition, and one from the Hon William Isola to raise matters on the adjournment. I now call on the Hon Mr Xiberras.

HON M XIBERRAS:

Mr Speaker, thank you. There are three matters which the Opposition wish to raise.

MR SPEAKER:

Three matters cannot be raised on the adjournment, only two matters.

HON M XIBERRAS:

We wish to raise the third matter not necessarily on the adjournment.

MR SPEAKER:

But when then?

HON M XIBERRAS:

As a matter of public importance.

MR SPEAKER:

I am afraid I haven't got the authority to allow you.

HON M XIBERRAS:

Yes, I appreciate that, I just mentioned the fact.

MR SPEAKER:

I thought you said you had three matters to raise.

HON M XIBERRAS:

I am not going to add another debate against the wishes of the Chair, of course not. I trust that the other matter will not bother the minds of ministers in the course of the summer recess and that they will be able to enjoy their vacation. Mr Speaker, the matter to which I now address myself is the question of the report of the investigation of the stability of the foundations of Penney House. This very nicely done document which I received only shortly, a little while back perhaps about 10 days or so ago, maybe two weeks. I have the letter. It doesn't matter, Mr Speaker, because the report was forwarded to me by the Minister shortly after I think it was received by himself. Now, Mr Speaker, it is not only a nicely bound report, it seems to me, I am not an expert, but it seems to be the most careful of all the reports presented on Penney House. It is done by Ove Arup and Partners and is dated April 1975. The House will recall that in answer to one of



the questions earlier on in the meeting, the Minister intimated when I suggested that this factor of subsidence in the Penney House area had now obviously entered very firmly into the Government's mind, the Minister intimated that he himself had not been in agreement with the original report by Rom River to the effect, or giving it to understand that the cause of the damage to Penney House was aggregate failure due to the content of chlorine in the aggregate and in which report there was no reference to subsidence, to slipping of the land. Now, to anybody who knows the area, even cursorily, this was a most surprising factor and it was pointed out to the Minister at that stage, and my recollection of his reaction was that he was not prepared to stick his neck out and to say that subsidence could be a factor. Now, at no stage do I recall the Government giving this House any firm indication that subsidence was something that must really be a danger and which might have to be investigated, certainly not in the early stages and I have met people from Penney House - the representative body which they have - and their indication was that the cracks in the columns were caused by the chloride and that this was the only factor involved. Now, if the prompting of the Opposition on this matter has led or encouraged the Minister's suspicions that the original report by Rom River was not complete, I am very glad. But that is water under the bridge and now I think the House should consider, however briefly and because the recess is coming on, this report. If one looks at any of the very comprehensive and impressive diagrams shown here of the area one will see a number of arrows indicating where there has been movement of land and I think without fear of being terribly inaccurate I would be right in saying that the arrows stop short on the southern side at Penney House or just short of Penney House and on the side facing the Bay, that is, on the side under Penney House it falls short at two buildings there just below the level of the road running north to south. There are indications of movement just above Penney House, that is, on the rock side of Penney House, there is no indication of movement apparently either in Penney House itself or in the two neighbouring buildings to the north of Penney House. Mr Speaker, the conclusions of the report are that repairs, however extensive, can be carried out to Penney House because the foundations are strong enough. But there is a part here which against the background of debate on this issue in the House has drawn my attention and which I think is important that the Minister should explain his reaction on. And that is the phrase which appears on page 10 of this report I am talking about under the heading of: Overall Stability paragraph 1 "because of the clear indications of movement only 20 ft away from Penney House, overall stability also has to be examined." So we have a house which has certain defects which

we accept as due to the chloride and which at the same time it is now confirmed by Ove Arup and Partners, is in an area in which there is quite substantial movement. The greater movement of earth is away from the building, it is true, but it has affected to my knowledge the two houses immediately below the road on which Penney House stands. Now, there it is my information that there are quite substantial cracks and the appearance of similar cracks in these two houses to the ones found in Penney House - I don't know whether they were constructed with the same aggregate or not - gives sufficient prima facie ground to ask the Minister for some sort of assurance that he has carefully investigated and considered this report and its implications.

Mr Speaker, we on this side of the House have been pressing the Government to get on with their decision as regards Penney House. We would not, however, like this decision to be the wrong decision, and this subsidence is a factor which any decision must take into account. I am most grateful to the Minister for his diligence in sending me the reports which he has been receiving, I am most grateful for that, and I am talking about this because I think it is an important decision which he has to make. We on this side of the House would like to help him make it if only by drawing attention to one or two things.

Now, there are many problems concerned with Penney House, and I am sure, Mr Speaker, you would rule me out of order if I had to go into all of them, but there are other things which the Minister might take this indication now just before the recess of dwelling upon, however lightly, namely, if he is going to do something about it what is he going to do, make it a bit clearer, and by when does he expect the work to be started or finished, or really, what is the situation? Let him take this opportunity to inform the tenants of Penney House as to the situation. I get representations, no doubt he gets them as well, all the time. Almost every two or three days I get particular people coming to me sometimes to my house and saying: "Could we please know what is happening? We are in a state of uncertainty about this." There are burglaries or things in that area, the question of compensation and they are really most concerned and it is unsatisfactory for these tenants who have been there for a very long time to be living in a place where, however good the house, they do not wish to stay forever or if they have to stay forever they want to know they have to stay there for a long time. They don't want to be between two stools.

Mr Speaker, there are certain factors and one factor in particular which I hope the Minister will be able to enlarge



upon and that is the creeping of land I think it is called, that is, the movement of land directly behind Penney House. There were some small landfalls I seem to recall the report said that it was not important but those working in the area assured me that there was something rather bigger than I have interpreted from reading this report and I hope he can satisfy the House that there is no risk from that. Whatever is done, obviously I need not tell the Minister, must be on a safety first basis. This is quite clear. I do not envy the Minister his task and as I said we offer our support in order to arrive at a quick and equitable solution to this problem.

HON LT COL J L HOARE

Mr Speaker, I am grateful for the helpful tone of that submission but let me assure him and all members on the other side that we on this side are as anxious to see the end of this saga as anybody else. We want the people who left there to go back, those who want to go back. Some, I understand don't particularly wish to go back because they are quite happy where they are but the remainder want to go back. I am anxious to see this matter settled so that this is one chapter that I can write off my books which has given me quite a lot of headaches.

Firstly, I must say that the assessment of the <sup>whole</sup> ~~total~~ situation by the technical and professional staff of the PWD has been substantiated utterly and completely by the second report. Members will recall that another firm submitted a couple of reports, one, I think, in October 1973 and then in February 1974. This was by a firm called Rom River which varied tremendously from our own assessment of the situation. In particular, they had not mentioned the question of the foundations and they had overlooked completely the fact that Penney House has been tied from the very beginning to a huge outcrop of rock behind it. We then persuaded ODM to bring their own Consultants because we couldn't afford the money on our own and they did so. They engaged Ove Arup who then sent a report which was sent to the Honourable the Leader of the Opposition in December as the result of the question that was asked by the Honourable J Caruana a few days before that. And before I come to the second report which I will deal with in due course, I did give an indication of it in replying to the Honourable J Caruana (Question No. 59 of 1975 on the 12th May 1975) where he asked: "Can Government now state positively whether Penney House will be ready for resumption etc, etc," and I said: "No such indication can be given. The present position is that the consultants have completed an additional

foundation and soil investigation and will shortly be submitting their final detailed report together with recommendations for the restoration of the building and a list of suitable specialist contractors for the type of work involved." So this second report should not have come as a surprise and it was because the first report contained nothing about the foundation about which we wanted to have a second opinion ~~and~~ we went to the ODM and said: "This report is not complete. They have not complied with your terms of reference" and they will have to do their job over again." This is, in fact, shown on the first page of the second report under the term "Introduction". And if I may read it says: "The continuation of any further exploratory work that may be necessary was part of the terms of reference". To us this meant checking the foundations and making sure all round that there was absolute safety for the tenants who would go back and live there. On this we are at idem, the first consideration is the safety of individuals. And therefore here we have an admission by Ove Arup that they didn't comply with that in their first report. When we got the first report my Director went to UK in November to sort out all these problems and discuss them. I continue quoting: "Following discussions with ODM and Ove Arup and Partners these terms of reference were extended with an additional engagement where the terms of reference were set out in the letter from the Minister of Overseas Development, etc, etc". They are quoted below: "to confirm that there are no foundation problems in connection with the above ground remedial works proposed for Penney House in reference I" - Reference I being, of course, the first report. Now, coming back to the question of the subsidence at No.4a and 4b Naval Hospital Road, which is already the subject of a further report ~~we~~ <sup>PKD</sup> have sent. I must quote here from ~~this~~ - Field work page 6 para.33 - Operation of site surroundings. "Because of the clear indications of ground movement in Nos 4 and 4A Naval Hospital Road, 20 feet in front of Penney House, it was necessary to consider the area surrounding the site in some detail. The area examined extended to South Barrack Road and to the junction with Europa Main Road and The Mount, because it was a very broad and wide survey. The buildings on these roads are at least 40 years old, they were all rendered, had many windows, and some had been recently decorated. All these features would have provided sensitive indication of any movement. There was no evidence observed of any distress in any of the buildings. This was also true of the garden walls of the houses which were also inspected." And then we come to their conclusion p.7, where once again they repeat that there is evidence of ground movement in No.4 and 4A Naval Hospital Road. In their conclusion if I may.....

Ove Arup  
last report



HON M XIBERRAS

If I may for a moment, I just want to clarify a point which I made. My question really is, if the first report of Rom Rivers said the failure was due to faulty aggregate and there are cracks in 4 and 4A Naval Hospital Road, are those cracks due to aggregate because if they are not due to aggregate then, perhaps, those in Penney House are due to ground movement.

HON LT COL J L HOARE

No, they are not due to aggregate they are due to ground movement but it is restricted to 4 and 4A Naval Hospital Road. They say: "Cracks shown at (a) and (b) is Naval Hospital Road. Crack (d) Fig.11 is at the junction of the garden wall and the footpath on the west side of Naval Hospital Road. There were no clear signs of movement here. Crack (e) Fig.11 is approximately in the centre of Naval Hospital Road in Public Buildings Nos.5 and 7. Crack (f) Fig.11 is at the kerb line adjacent to building No.7. Again there was no clear indication of movement." The cracks are limited to 4 and 4A, and this is finally stated here in the paragraph which the Honourable the Leader of the Opposition quoted on page 10, the last paragraph. "The evidence of movement behind Penney House is confined to one floor area and is probably due to creep of the soil down the slope of cliff face. This is just top surface being brought down by water and it could happen anywhere. It is not considered significant. There is therefore no overall stability problem regarding Penney House but alterations to the surroundings could influence the local and overall stability but if we go digging any holes anywhere around there we must make sure that we don't affect the foundations of Penney House. Now, for the last question. In the last report that came from the Consultants they give it in much more detail and it gives the form of contract, what should be done and they finally say: "If you would like to discuss any of these details or associated matters with us before instructing us to proceed we shall be pleased to visit you and finalise the matter. From that point we consider it would take us about 12 weeks to go out to tender." I think what the Honourable the Leader of the Opposition is not aware of is of a letter sent by my Department which I did mention in my report <sup>4.1.14</sup> had given the go ahead and though this could be tedious I think I ought to read it in full because it gives a complete picture.

"Thank you for your letter of the 4th instant. Your proposals for the remedial work to the superstructure of these buildings has been studied and found to be acceptable. You are therefore to proceed with the preparation of working drawings, specifications and tender documents." Then we go on to the forms of contract. The letter continues: "The contract for the reinstatement of the finishes and fittings will be prepared by this Department and will be treated as a separate issue." - In other words the remedial works will be carried out by the resident engineer of the consultant engineers, when they are finished and we are satisfied we will then go in and paint and do the final touches, because obviously there will be a lot of dirty work all over the place - and, finally, the last paragraph says: "As discussed, Atkinson/Sharratt, it was promised that when the bill of quantities was being produced estimate of cost would be prepared and such an estimate would be most useful." Now, working on that basis, Mr Speaker, and hoping that this unfortunate house will not meet with any more unforeseen difficulties, the timetable that we are working on at the moment is provided we go out to tender from now ~~would be~~ roundabout September/October. One month for contractors to submit tenders October/November; six months to complete December/June. Then PWD would have to go in and do the finishes, say another couple of months. So at the present time unless something completely ~~off the scene~~ happens - and we have taken every possible precaution, in fact, we have perhaps been over-cautious - I hope that people will be able to move back to Penney House and live happily ever after round about July/August next year.

MR SPEAKER

Right I call now on the Honourable William Isola.

HON W M ISOLA

Mr Speaker, by way of introduction I would like to tell the House what happened to me when I was responsible for the City Engineer's Department before the amalgamation of the Public Works Department and the Commissioner of Lands and Works Department, when at its early stage I was asked to view a site for the new refuse destructor and I was told about it and I said I wanted to have a look at it myself. Whereupon I was taken to Europa Point and right at the very, very end where there is a slope with some grass and couple of little houses and I was told that that was the ideal site for the new refuse



destructor. I personally thought that that would be an eyesore, that eventually that case could be put to use and I told the City Engineer that I was not prepared to give that place the go-ahead whereupon I was told by the then City Engineer that that was the only place available. And I said: "I am sorry I do not agree to that, you look for some other place. And as a result we have the new refuse destructor more or less hidden away from the public view. Which goes to show that, obviously, in any department what they want is to find the easiest way out. Now, I assumed that the present Government, like us when we were in Government, kept on continuously pressing the Ministry of Defence to give up land round Queensway so that members of the public would have open seashore space. It seems a shame, Mr Speaker, that when we have we are surrounded by sea that members of the public have very little open seashore space. In fact, between Camp Bay and Glacis there is practically no open seashore space for ordinary members of the public. And if we are asking the Ministry of Defence that when they don't need land that we should have it because we want open seashore space, it is inconceivable that when we have an opportunity of enlarging our open seashore that what should come around but a Public Works Department Workshop. In the answer that the Minister gave me to this question about the open space he said that land is very scarce in Gibraltar and I entirely agree with him that land is very scarce in Gibraltar, and that whenever we had the opportunity of having open seashore space we should grab it and not lose an opportunity not only for ourselves, Mr Speaker, but also for posterity. As the population gets bigger and bigger, unfortunately we require more and more open space. Next to the refuse destructor - and I am very glad to see it - the old Slaughter House is on the point of being demolished so that also would be another open space. So we would be having the slaughterhouse on one side as an open space and the refuse destructor as another open space. There is no doubt in my mind, Mr Speaker, that eventually the old desalination plant there will become unserviceable - there is a time limit to the desalination plant - and when that ceases to exist we'll have a very good open space area over there. We may not require it today, we may require it in 10 years time but once we build a place it is very difficult subsequently to pull it down bearing in mind the expense that it cost to build. But apart from that, Mr Speaker, is it not also a fact that what we should try to do is to improve Devil's Tower Road as much as possible? I cannot see for one moment that having a workshop there is going to improve Devil's Tower Road and especially, Mr Speaker, as it is a place which is used by all Gibraltarians going to the beaches at Catalan Bay and Sandy Bay. On the other hand, Mr Speaker, if the Minister goes

around there on a Sunday afternoon at about half past four, the amount of cars parked right up Devil's Tower Road because people can't get near Eastern Beach at least shows that at this particular moment if there is no particular reason why we should have recreational facilities there there is no doubt about it at all that that place could be well used by people using Eastern Beach as a parking area. But even if we have an open space, Mr Speaker, and that is only used by 20 or 30 people in the days when there is sun, people will enjoy it or, alternatively, when the sun goes down they will still enjoy it. What I say, Mr Speaker, is that it is a crying shame that an open space by the sea should be built up as a PWD workshop and I am quite convinced that if the Minister tries and his department tries there must be places hidden away in Gibraltar where the PWD workshop can be sited. I say that once this place is built as a workshop it will remain there for very many years and it is a great, great shame.

Mr Speaker, of course we all know that land is scarce and that very rarely if ever is it possible to site essential services in ideal conditions, of course it is, but I think one must get one's priorities right. And I think that a priority for us in Gibraltar is to have open seashore space. Again in the same way I say that it is vital for us when we are building flats and houses that we should also have open spaces around that area for the children to play around. It is no point having a built-up area without open space. And I think that even though at this particular moment of time the Minister may consider that this place is not suitable for recreational purposes, but what he told me was that the slaughterhouse area has never been considered suitable. I don't know why it has not been considered suitable. I can think of many reasons why the slaughterhouse area and that area could be used for suitable purpose and it is certainly most suitable as an open space. But all I am saying is this, that even if the Minister does not consider it at present, it may well be that in the future it may be a very suitable area for other recreational purposes such as parking, cafeteria, anything, Mr Speaker. Anything done there for the members of the public would be of greater benefit to the inhabitants of Gibraltar than having a PWD workshop, an eyesore, in a place which could be used for many other purposes. And I am quite convinced that if they go into it they will be able to site the PWD workshop the same way as we sited the Refuse Destructor away from the streets of Gibraltar, in the same way we could do that with the PWD workshop. And I urge the Minister to do his utmost to ensure that this particular area becomes open seashore space for the future or for the present benefit of all of us in Gibraltar. Thank you, Mr Speaker.



MR SPEAKER

Before the Minister replies does any other Member wish to speak on the matter before the House?

HON A W SERFATY

Mr Speaker, I agree with lots of the things said by my Honourable shadow. The trouble is, of course, when one is planning development that we have only got four and a quarter square miles most of which cannot be built upon. Mind you I don't want to start by attacking but I think I am in the mood today. I think there is a certain inconsistency in what Mr Isola has said about the improvement to Devil's Tower Road, inconsistency with improving Devil's Tower Road one of the approaches to some of our best tourist complexes and building a refuse destructor which on his own admission he himself built there. I am not criticising him for building the new refuse destructor where it has been built but this inconsistency in which he has in a way fallen into, highlights the difficulties with which every Minister for Development must find himself necessarily when designing development in Gibraltar. These are the hard facts of life when one is looking for sites. And there we have a combination of a naval base and a city and a tourist resort all into two and a quarter square miles. I doubt whether we can build on more than half that, and these are the difficulties we must face. Coming back to this Public Works Garage, and I don't want to use this as an excuse for a wrong decision because I do not think that the decision we have taken of building the Public Works garage at the site of the old refuse destructor was the wrong one, but one must try and go back to the problems with which one is faced. I told him before in one of the previous motions that the Honourable the Chief Minister went to England and brought back over £7m for development. Money which has to be spent in three years and which included a very large sum of money for a Girls Comprehensive School which we must or should - I have my doubts whether we will at the rate we are going - but anyhow we should complete within three years. Now, what site do we have for that school in Gibraltar? The House can take it from me that the only two possibilities as far as the plan is conceived were the Montagu Basin site and Grand Parade at Alameda. And Grand Parade at Alameda was hardly large enough according to the Chief Planner. It was obvious that the decision had to be to build the Girls Comprehensive School at Montagu Basin. The first difficulty was the Public Works Garage, and the Development and Planning Commission which meets every fortnight now under the present

Government, not every few months as in the previous administration - I am sorry but I must say this - looked around and studied the question, and I have the privilege of being an architect and a chartered engineer and it helps me in my work in the Development Commission, I think I have the right to say that - and we looked around and none of the sites that were available were anything like the size required for the Public Works Garage. After very careful consideration in the Development Commission we decided that that was the best possible site for the Public Works Garage. I don't care how much the Honourable and Learned Mr Isola laughs about it. This was the decision and it had to be a quick one because until that garage is rebuilt we cannot remove the present garage in Montagu Basin and until we remove the garage in Montagu Basin we cannot start building the Girls Comprehensive School. I hope the House will appreciate all the difficulties that have to be coped with when planning on this kind of scale in a place like Gibraltar. Regarding the sites open to the sea available to the people of Gibraltar, I entirely agree with my Honourable shadow. I wish he had been more successful than I have been in bringing some back to the civilian authority. It would have been a very good thing if the Honourable and Gallant Member who presided over the Development Commission had been more successful. I have been successful in committing the Ministry of Defence in declaring the Camber redundant for Ministry of Defence purposes and they are going to hand it over to the Government of Gibraltar for civilian use. But we need not worry unduly about this question of opening to the sea particularly when we are talking of a site like the old refuse destructor site. We technicians who look at this thing know of possibilities but they take time, e.g. there is the Halcrow report which if the talus operation starts as I am sure it will because we have the money, and other operations for using local sand and aggregate may become one day maybe not in my time, maybe in the time of the younger members opposite, will make the reclamation of 47 acres of land on the east coast a viable possibility. Why not? And that site all along the east coast from Catalan Bay to the end of Sandy Bay is a much better site than the one we are talking about. The site we are talking about has only got about 20 yards of beach, it is next to the desalination plant, it is really nothing and it is in the worst situation possible anywhere between the northern end of Eastern Beach right up to the southern end of Sandy Bay, I have no qualms about this decision, I think we have done the right thing and that in this way too we shall make the construction of the Girls Comprehensive School a much better thing than had we still been looking for a site for the garage. Thank you.

MR SPEAKER

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

This was agreed to and the House adjourned sine die at 6.45 o.m. on Tuesday the 15th July, 1975.