

HOUSE OF ASSEMBLY

HANSARD  
OF MEETING  
HELD ON 13 JANUARY 1976



Government Secretariat  
Gibraltar

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Clerk to the House of  
Assembly

Your reference:

Our reference: FDS

Date: 6 May 1976

HOUSE OF ASSEMBLY VERBATIM REPORT

I return herewith the first volume of the Verbatim Report of the House of Assembly meeting on January 13th.

2. I have noted the following typographical and transcription errors and I shall be grateful if ~~this~~ could be corrected in the final version.

Page 31 line 17 the word "had" should read "have".

Page 33 para 2 line 4 the words "charged a" should read "chargeable with".

Para 3 line 1 after the words "I gather" insert the word "from".

Line 2 after the word "representations" insert the words "from the trade" and insert a full-stop instead of the comma after the word "personally".

Line 3 delete the first four words reading "representations from the trade".

Line 5 delete the words "because we had in item 38 for the" and substitute "because we have in item 38 the words".

Line 6 for the words "purposes of an aerated water factory" substitute therefore the words "for the purposes of an aerated water factory".

Page 35 Para which begins with the words "Now all that sounds" insert a comma after the last word of the second line.

In the next paragraph delete the word "nos" and the comma; and replace the small "t" to the word "the" by a capital letter.

Line 3 of the same paragraph insert after the word "as" the indefinite article "a".

Next Paragraph Line 1 insert after the word "definition" a comma.

Page 37 para 3 line 11 delete the first word "are" and substitute the word "is".

Para 4 line 3 delete the words "port of call".

Page 40 para 3 line 3 delete the word "elsewhere" and substitute therefore the word "somewhere".

Para 5 line 3 delete the word "extend" and substitute therefor the word "extent".

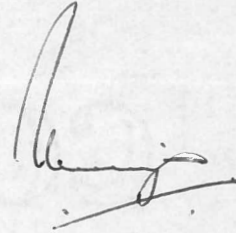
Page 67 para 1 line 11 delete the word "restrict" and substitute therefor the word "restricts".

Page 129 para 2 line 3 delete the word "purported" and substitute therefor "supported".

Para 4 line 9 after the words "Government itself" insert a colon and substitute a small "a" for the capital letter immediately following.

Para 5 line 7 delete the word "matters" and substitute therefor the word "method".

3. You will find my marginal marks helpful in identifying the various corrections.



Financial & Development  
Secretary

*Done*  
*[Signature]* 26/8/76

L 9/5(27)

4 May 1976

NO.....

The Clerk  
House of Assembly  
Gibraltar

Sir

HOUSE OF ASSEMBLY: VERBATIM REPORT OF THE MEETING HELD ON THE 13 1 76

I beg to give notice of the following amendments -

- i. page 3: last para: lines 9/10: Delete "the only case where we have taken away rights again" and substitute "there is only one case where we have taken away rights and".
- ii. page 4: first para: lines 14 and 15: Delete "specify" and substitute "sell".
- iii. page 45: second para: line 2: Delete "their" and substitute "the".
- iv. page 46: second para: line 5: Delete "if" and substitute "as".
- v. page 189: line 11: Delete "we" and substitute "he".

Yours faithfully

  
J K Havers  
Attorney-General



REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The twentysecond Meeting of the First Session of the Second House of Assembly held at the Assembly Chamber on Tuesday the 13th January 1976, 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 P Montegriffo, OBE, Minister for Medical and Health Services.  
The Hon A W Serfaty, OBE, JP, Minister for Tourism, Trade and Economic  
Development.  
The Hon M K Featherstone, Minister for Education.  
The Hon A J Canepa, Minister for Labour and Social Security.  
The Hon I Abecasis, Minister for Information and Postal Services.  
The Hon Lt Col J L Hoare, Minister for Public Works and Municipal Services.  
The Hon H J Zammitt, Minister for Sports and Housing.  
The Hon J K Havers, OBE, QC, Attorney General.  
The Hon A Collings, 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 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 25th November 1975, having been previously circulated, were taken as read and confirmed.

## DOCUMENTS LAID.

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

The Hospitals (Fees and Charges)(Amendment) Rules 1975.

Ordered to lie.

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

- (1) The Conditions of Employment (Annual and Public Holidays)(Amendment) Order 1975.
- (2) The Conditions of Employment (Retail Distributive Trade)(Amendment) (No.3) Order 1975.

Ordered to lie.

The Hon the Minister for Information and Postal Services laid on the table the following documents:

- (1) The British Commonwealth and Foreign Parcel Post (Amendment)(No.2) Regulations 1975.
- (2) The Postal Order (Amendment)(No.4) Regulations 1975.

Ordered to lie.

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

- (1) The Biological Weapons Act 1974 (Overseas Territories) Order 1975.
- (2) The Co-Operative Societies (Amendment) Rules 1975.

Ordered to lie.

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

- (1) The Licensing (Amendment) Rules 1975.
- (2) The Licensing (Amendment)(No.2) Rules 1975.
- (3) The Licensing (Amendment)(No.3) Rules 1975.
- (4) The Licensing (Procedure)(Amendment) Rules 1975.
- (5) The Entertainments (Licensing)(Amendment) Rules 1975.

Ordered to lie.

ANSWERS TO QUESTIONS

## MOTIONS.

HON ATTORNEY GENERAL:

Mr Speaker, Sir, I would ask the indulgence of the House in excusing me from reading the terms of my motion as it is one of considerable length and it is of course a motion which has been circulated to Members for some considerable time. If of course, Members will wish me to read I will certainly do so.

MR SPEAKER:

As Honourable Members know it is always the practice for me to insist on motions being read except on occasions when due to their length it would be unfair to burden the House with having them read particularly when Members have had the terms of the motion in their possession for some considerable time. In such cases, I normally ask the House whether we can dispense with the reading of the motion itself and if you all agree this will be done.

This was agreed.

HON ATTORNEY GENERAL:

I am very much obliged to my fellow members.

Mr Speaker, Sir, this motion seeks to repeal and replace the existing Shops (Times of closing and Sunday Opening) Order. The original Order which is in force at the present time, was passed in 1956.

There have been since that date some six amendments and I am afraid that there are in the Order certain anomalies and inconsistencies which need to be put right. I think it is preferable to do so by a repeal and replacement rather than by amendment. I think it is more easily comprehended if we tackle it this way. Members who have compared the new Order with the existing Order will however find that the existing Order does not vary very considerably from the existing Order and I think it fair to say that with one exception which I shall deal straight away there are no rights taken away under the existing Order in the new Order. The only case where we have taken away rights again I think it fair to say that it was never intended that these rights should exist. Under the existing Order it is provided that shops shall be closed at 8 p.m., that is on all days of the week except Saturdays when they have to close at 1.00 p.m. but again there are certain exceptions for extended hours. There is, however, nothing in the Order which says when they can open again. I have little doubt in my mind that it would be perfectly in order, although I am quite certain this was never intended originally, for a shop to open at midnight and it is at least arguable that provided it closes at 8 o'clock it can

open again at 5 past 8. It is closed at 8.00 p.m. but there is nothing that says it must be closed between certain hours. And so what we have done in the new Order is to say with the same exceptions as exist at the present, that the shop must be closed between 8 o'clock at night and 6 o'clock in the morning. Now, there are other certain anomalies in the Ordinance. If I open a small shop in which I sell fritters, fish and chips and those beginning with "b" which I cannot pronounce (Bunuelos), I have no restriction on the hours I can open except the shop cannot be opened between 1 and 3 o'clock. Now, if my friend, Mr Peter Isola, should open a shop next door and sell the same goods and then to do better than me starts selling hot pies and fried chicken, he doesn't get the benefit of the exception. It is purely restricted to those three items. That seems to Government to be absolutely nonsensical. So what we have done in the new Order is to provide that all shops which specify fish and chips, which specify fritters and any other ready dressed food for consumption on or off the premises, they are classified as restaurants and they can, if they want to, under the new Order, be open at any time except from 2.30 in the morning until 5 o'clock and weekends 3 o'clock in the morning until 5 o'clock. We have taken away the restriction which says they cannot be open at lunch time, they can be open now between 1.00 p.m. and 3.00 p.m. because this is considered to provide a service to the public. There is one further category which we have brought into the Order and these are establishments which until the 29 February this year, are classified as licensed eating houses. They are controlled under the Licensing Rules and in their case, until December of last year, they could be open at any time except between midnight and 5 o'clock. This was changed in December when they were given an extra 1½ hours on all days and an extra 2½ hours on Saturdays and Sundays. And then by further amendment they were merely required to be closed between 2.30 on weekdays and 5 o'clock and 3 o'clock and 6 on Saturdays and Sundays. They now will be classified as restaurants under the new Order and they will be in the same position as any other shop which sells ready dressed food for consumption on or off the premises. Except for these changes which I have mentioned I think all the rights conferred by the existing Order are transferred to the new Order and I do not think that there is anybody who is going to be prejudiced, are going to have less under the new Order than they have under the existing Order.

Mr Speaker, I commend the motion to this House.

MR SPEAKER:

Well, I now propose the question in the terms of the motion moved by the Hon the Attorney General.

HON W M ISOLA:

Mr Speaker, I would like to make something absolutely clear before I start. The object of the Shop Hours Ordinance which started quite rightly as the Hon the Attorney General said, in 1956, was basically carried to protect employees so that they would not do more hours than a certain amount. Fortunately now we have sufficient legislation to protect employees in



shops and I want to make this quite clear before I start making various comments on this motion and that is that I am quite satisfied and my colleagues are quite satisfied that there is ample protection in the protection of employees in shops in Gibraltar. I would also like to make another observation and that is that I wonder whether before bringing this new Order again the traders in Gibraltar have been consulted as to their views. I would also like to know whether the Chamber of Commerce has been consulted now that we have come along to bring this new Shop Hours Ordinance which comes into operation on the 1st of March. From my information, I may be wrong, the trade has not been consulted and I am also informed that the Chamber of Commerce has not been consulted. I wonder if Members of this

House are aware - and I think it is wrong in this modern world - that I on a Sunday in Gibraltar can go to a public house which has a wholesale licence and I can buy a bottle of scotch, I can buy a bottle of Vodka or any type of drink. But a housewife in Gibraltar on a Saturday at 1 o'clock by this Order is not allowed to buy the necessities like butter, vegetables, milk, etc, etc. In the days when this Order was passed and the subsequent amendments, it was perfectly alright. People would get in their car and go to Spain to buy these things. But the fact remains, Mr Speaker, that under this Order, for instance, a shop in Catalan Bay Village and Both Worlds between the 15th of May and the 30th of September, they can sell - and I agree with them, why shouldn't they - articles for the purpose of bailing and fishing, photographic requisites and souvenirs. But a normal housewife in Gibraltar cannot buy any necessities during the weekend and I think this is wrong. I also think it is wrong that if you have a small business in Gibraltar and if you still wish to make a little extra money over the weekend, why they should not be allowed to open. Or put it this way, why should they be forced to close when there is legislation at this particular moment of time to prevent the abuse of employees, of which I am very worried. Now, Mr Speaker, the Attorney General has been talking about service to the public, and I believe that service to the public is that a member of the public should be able to buy the bare necessities of food in the weekend far more than I should be allowed to buy a bottle of Scotch. If the Trade does not want it, or the Chamber of Commerce had been consulted and were dead against it, well then fair enough. But I have got a feeling that the Chamber of Commerce would not agree to the new Shop Hours Ordinance that has come about. If the Chamber of Commerce and trade have not been consulted and there is no need to hurry for these motions to take effect on the 30th of March I think this is the time when we should look a little more closely into the Shop Hours Ordinance and consult the various bodies. You may find, Mr Speaker, that the Housewives Association would welcome the fact that housewives should be allowed to buy the milk or the coffee or the butter over the weekend. In England, for instance, you can buy a pound of butter, you can buy vegetables but in Gibraltar at 1 o'clock on a Saturday we are forbidden by law to sell any of the necessities of life yet. Mr Speaker, you are allowed to buy drinks and you are allowed to buy photographic requisites in Both Worlds. I think this does not make sense. Under Section 3, on the question of the Pharmacy on duty, it states that any pharmacy which has been notified by the Minister for Medical and Health

Services as being the pharmacy that is to be open at such hours as the Minister may have stipulated, which I believe now is between 9 o'clock and 11 o'clock, they can remain open during such hours for the purpose of supplying prescriptions, medicines and drugs. I am informed that this is not correct, that they are allowed to sell anything they like in that shop between the hours of 9 and 11. They can sell perfume, they can sell soap. That in itself I think, Mr Speaker, is wrong.

What I am trying to get over, Mr Speaker, is whether it is really necessary to have this Shop Hours Ordinance, which is antiquated, brought into this period of 1976 just like this without consulting the various public bodies who are basically affected by this Order and to my information they have not been consulted at all. And I would feel, Mr Speaker, that before we are asked to approve this notion that the bodies involved in this like the Chamber of Commerce - to repeat myself - and trade and the Housewives Association should be consulted whether they consider that it would be a service to the public that the essential necessities of life should be allowed to be sold on Saturday afternoons whilst at the same time you are asking us to approve that in Both Worlds, for instance, you should be allowed to sell photographic equipment and souvenirs. I think the whole basis of a Shop Hours Ordinance is basically to protect the employees who I am informed are already protected and also that members of the public should get the service which they require. I think, Mr Speaker, with respect, that as this notion stands at present it does not achieve the purpose it sets out to achieve at all and I consider this on the whole to be somewhat antiquated.

HON J BOSSANO

Mr Speaker, I think the points made by the Honourable and Learned Mr William Isola are very valid. There are, in fact, three parties involved in this occasion, the consumer, the trader and the worker involved in the retail trade and I would have thought consultation with the three parties was a necessary element if we want to produce legislation not just for the sake of producing legislation but to meet the needs of those that are going to be affected by it. I am not familiar with the existing legislation that this is intended to replace but I am familiar with the existence at the moment of a number of small shops that sell after 1 o'clock and before 3 o'clock all sorts of things and apparently they are doing it quite openly. Now, if this is not going to be allowed on paper and it is going to be allowed to carry on in practice, then I certainly would not be in agreement because I do not believe it is a good thing to pass laws which either are unenforceable or which no attempt is made to enforce because it would create too much trodden toes which is politically unacceptable. I have no doubt that the people who make use of the small shops and I think it is particularly important nowadays when we have a lot of working housewives who have to do their shopping at unusual hours because they themselves are at work, that the traders should be trading at the hours that suit the needs of the consumer although I would want to see the employees protected. I believe the trade union movement in the area now of the retail trade is sufficiently well organised and the machinery for consultation and so on that exists between the Trade Union and the Chamber of Commerce is such

that there is to my knowledge a means of communication between the two sides to ensure that employees are protected by mutual agreement. I think it is preferable to protect employees by mutual agreement than to do it by legislation. One needs legislation when people in a sector of employment that are badly organised and they cannot look after their own interests. So I would have thought that from the point of view by looking after the employees there is machinery already in the private sector in the retail trade to look after the interests of employees if that is the object of the exercise. If it is not the object of the exercise to look after the employees then I would have thought limiting the hours that the shops should open or close by law must be justified with stronger arguments than the Honourable and Learned the Attorney General has put forward. All he has said, from what I recall, is that the present law allows somebody to close his shop at 8 o'clock and open it again at 5 past which does not appear to me to be such a particularly great tragedy unless, of course, one wants the shop to be closed from 8 o'clock until the following morning. But if one wants it to be closed after 8 o'clock then there must be a valid reason for wanting it closed and the same applies to the period between 1 and 3. I would certainly say from the point of view of maximising the economic return on the assets invested in shops that obviously the greater the turnover and consequently the greater the number of hours the shops are open, the better the economic benefit, generally speaking, to the community both to the shop owners, the consumer, who will have more flexibility in organising the shopping hours to meet with other commitments and, I would have thought, so long as employees get paid overtime if they work extra hours or get adequate opportunity to have their meal breaks and so on, their needs would be adequately catered for. I would have thought that stronger arguments need to be put in support of this than have been put so far. Since we are going to do something to change what is already there then we might as well do a good job about it and produce something that is superior to what there is there than simply to tighten up the existing legislation.

HON A W SERFATY

Sir, I think what should be made quite clear, as the Honourable and Learned Attorney General has said before is that this is nothing revolutionary as regards the question of shop hours. We are following the same old system that we had for so many years of controlling the opening hours of shops. This is just an effort of putting our house in order in following the same trends that we have been having for the past 15 years or so. I see the point of the two previous speakers that the situation has now changed because shop assistants are much more united and today I do not think the things that used to happen 20 years ago, do happen. I entirely agree with that. But it is also true that though shops can open till 8 o'clock in the evening most of them close at 7.00 p.m. I pondered over this problem as Minister for Trade for a long time on whether it was really worthwhile coming to this Honourable House and suggesting that there should be no legislation to control the opening hours of shops. In my own mind I have come to the conclusion that very little would be gained

because shops are already closing earlier - most of them at least - than the legislation stipulates. I know and perhaps the Honourable Mr Isola may be aware that the PA Consultants recommended from the point of view of Tourism that there should be no legislation limiting the opening hours of shops. If the Opposition is prepared to agree with the Government should Government so decide that we should do away with shop hours we shall look at it sympathetically, we shall study it. Though I really think nothing much is going to be gained because as I said before shops are closing even earlier than the Shop Hours Ordinance stipulate. And what this really is, is putting our house in order and that is why I believe this House should agree to this even if at a later stage we do away with shop hours altogether.

HON A P MONTEGRIFFO

Sir, I would like to make a very brief intervention on this to put the whole thing in the proper context. The origin of the shop hours and why they came into being was precisely to protect the workers. It was at the express request and pressure of the Trade Union movement that shop hours were introduced and it took us quite a considerable amount of time as it has taken in many nations. This is a subject that in many nations they are finding great difficulty in how to strike the right and proper balance. But eventually we came out with what we thought was best in the interest not only of the community so that the consumer would not suffer or at least suffer unduly, but also in order that there would be no abuses and that the workers would be protected. That is the historical background and the context in which law was enacted originally.

HON MAJOR R J PELIZA

Mr Speaker, I think my views are a bit more progressive than those of the Minister because whilst apparently he is content in bringing this long Order just for the sake of touching up here and there, I am standing up to suggest a few important changes now that I think it is unanimously agreed even by representatives of the Trade Unions that the purpose for which the original Order was created is now not so necessary as it was at the time. I am going to propose an amendment Mr Speaker, and then I will explain the reasons why I think this should be acceptable to this House. I beg to move, Mr Speaker that the

motion be amended by the deletion of sub sub-paragraphs (iii) and (iv) of paragraph 3 (1) and by the renumbering of sub sub-paragraph (iv) in that paragraph as sub sub-paragraph (iii). I think it is obvious and I think everyone agrees in this House that the shop assistants themselves and people employed in shops do not any longer require the protection of the law for their working hours. On the other hand I think that in certain categories of establishments there is a great desire on the part of the shop assistants themselves in finishing earlier during the day. I can refer with experience and perhaps even declare an interest with regard to shops selling electrical appliances whereby because of the present circumstances shops have to remain open rather late in the evening in most cases up to 7 o'clock. And there is little option but to do that because there is hardly any other time when people can go round to do their shopping other than perhaps between 5 and 7 in the evening because most people are working until 5 o'clock and because the nature of that particular kind of product and consumer goods are such that in many instances both husband and wife wish to go round to have a look at those particular items that they intend buying. This has happened in other more progressive societies. It is obviously what happens in most of the European countries where people go out shopping on Saturdays. And they do go around shopping on Saturdays precisely because both husband and wife do work and the day that is free for them to go round shopping is on Saturday. As things stand at present it is very very hard to ask shop assistants to remain every day until 7 o'clock in the evening and then expect them to come down on Saturday and carry on working for the whole day. The arrangements that are made between shop assistants and their employers of course are a matter for negotiation between themselves their employers and the Union, but by doing away with the closure of the shops between 1 and 3 and by allowing the opening of those shops all day on Saturday, it gives much more room for negotiation.

MR SPEAKER

Are you now speaking exclusively on the amendment or on the Order?

HON MAJOR R J PELIZA

On the amendment. I do not intend to speak generally on the order. Therefore, I think we are in no way depriving

anybody of any right. On the contrary, we are giving more rights both to the employer and the employee and to the Unions to be able to negotiate. I think this is a sensible move. I do not think we need worry all that much about unfair competition and long hours. It has been the practice certainly in the type of business that I am referring to of which I have some knowledge, for the shops to get together and more or less agree as to the hours of opening. It is not the type of business that is directed to purchasers who are not well known and therefore we do know their habits and it is possible to come to an agreement. So even from the employers point of view I do not see that there will be all that unnecessary competition. I think this is a sensible move. I have spoken about one particular type of business but I think there must be other types of business in Gibraltar who might welcome this. In fact I think the tendency will be if we do this for shops to remain open all day particularly because Gibraltar is such a small place, for people to go and have lunch for half an hour or so during the working day and then enjoying a long leisure in the evening for studies, for culture, for other things which unfortunately, are at present just not possible to do. In summer it would be a very good move, particularly for those engaged in working long hours, to be able to go to the beach in the same manner as most of the other employees in Gibraltar. So I think it is a good move. As I said before it is not depriving anyone of any rights and I think if anything it gives a lot of room for manoeuvrability to try and allow us to pick up and move with the times. I therefore propose the amendment.

MR SPEAKER

I will now put the question which is that the motion which stands in the name of the Attorney-General be amended by the deletion of sub sub-paragraph (iii) and (vi) of clause 3 (1) and by the renumbering of sub sub-paragraph (iv) in that clause as sub sub-paragraph (iii).

HON A J CANEPA

Mr Speaker, I am going to be very brief, but I have some responsibility in my Schedule of Ministerial responsibilities for the Shop Hours Ordinance and I am going to speak on the amendment, which is that shops can remain open

from 1 p.m. to 3 p.m. and on Saturday afternoons. After the Attorney General sat down questions were put as to whether the Chamber of Commerce had been consulted; as to whether other trade ~~of~~ interests had been consulted prior to introducing this motion in the House, ~~and I wonder,~~ *and, therefore,* Mr Speaker, ~~and~~ I wish to be satisfied, before I am prepared to consider voting in favour of the amendment, ~~I wish to be satisfied that~~ *amendment whether* the Trade Unions have been consulted and that they are in favour of such an amendment. I wish to be sure that the Transport and General Workers Union, which represents the shop assistants can feel that the degree to which shop assistants are today organised in that sector is sufficient to ensure their protection. I want to be completely satisfied whether the Honourable Mr Bossano, if he follows me and can speak on the amendment and can give such an assurance, whether he does so on his behalf or on behalf of the Branch Officer responsible for the private sector. Are the Honourable Mr Bossano and Mr Michael Feetham at idem, does the Union have a cohesive policy? Unless I am satisfied and I am given assurances in that respect, Mr Speaker, ~~I am not prepared~~ *I am not prepared* to recommend to my colleagues, seeing that I have got responsibility for this matter, ~~I am not prepared to recommend to my colleagues~~ that we vote in favour. That is all I have to say.

HON J BOSSANO

Mr Speaker, if the Honourable Member is so concerned about the views of the Trade Union movement on this ~~perhaps~~ he can inform the House whether he has consulted the Union Movement about the original motion.

MR SPEAKER

No, you cannot. But before you lose your right to speak on the amendment, do you want to say anything else. Now is the time.

HON J BOSSANO

Mr Speaker, I wanted to interrupt him to give him an opportunity of saying whether his consultation with the Trade Union movement had led him to believe that there would not be any opposition to the change. But if in fact he has not bothered to consult anybody then he must have assumed that people are indifferent. What I can

tell the Honourable Minister, in case he does not know, is that the Private Sector Branch is very well organised and that the consultations between the President of the Chamber of Commerce and the Branch Officer are such that I have no doubt at all in my mind that the two of them can reach agreement to protect the interests of workers without any help from the Minister for Labour.

HON CHIEF MINISTER

Mr Speaker, I wish to say something on the amendment only. It is certainly not acceptable at this stage and if necessary the whole matter could be left in abeyance because the general proposals brought by the Attorney-General did not deprive anybody of any rights as existing, except two businesses which are compelled to close at half past two instead of 4 o'clock on week days, and at 3 o'clock instead of at 4 o'clock on Saturdays and Sundays. For the rest it is just an adjustment and in fact no right has been taken away from anybody. If there were need, let me say, for those things on which individual traders had made representations, if there were need, as the Honourable Mr William Isola said, to have had consultations, this is essentially one in which there is need for consultation, because it needs a complete change of the pattern of lunch hours and other things. In many instances in Gibraltar in summer they close from 1 p.m. to 4 p.m. in order to be able to have a longer lunch hour and to have a swim. This would be the other way around. I am afraid, with the greatest respect, and I say this with no attempt at criticism, that the Honourable Major Peliza is out of touch with current life in Gibraltar today. In the colder climate, in places like England, it may be alright for people to have half an hour only since they do not have to go home for lunch, but in Gibraltar and in Mediterranean places, it is more likely that a break is required at lunch time. I am not prepared to allow this amendment to go through without further consultation. In the best interests of the community I am prepared to put the whole thing to the Chamber and to the Union and let us thrash it out. That is all I want to say. I will not allow a spontaneous amendment which goes much more to the root than the whole of the Order to upset our work. I will certainly not allow this even if he misses the next plane.



HON M D XIBERRAS

Mr Speaker, this has not been by any means a spontaneous amendment. If the Honourable and Learned the Chief Minister were not so rooted to Gibraltar as he appears to be, he might have noticed on Spanish Television that on Saturday night there was a press conference given by the Spanish Minister for Information who made a great play on the needs for "un horario flexible", a flexible time-table, and he went to great lengths to show the way his country was thinking of adopting European habits by referring to the model countries which were adopting a very flexible kind of time table, he quoted the United Kingdom, Holland, I think he must have quoted all the European countries, and I am sure that my Honourable Friend who has spent time in one of those European countries, cannot but have come to Gibraltar on this occasion with this idea in mind. But even though we welcome these ideas from outside I can assure the Honourable and Learned the Chief Minister that it was not his idea at all, that this was

meditated amendment following the general policy enunciated by my Honourable and Learned Friend Mr William Isola, and that is, that we should be as flexible as possible in the new and very welcome circumstances created by the organisation of labour in the private sector, particularly among shop assistants who already have quite substantial protection in law, the minimum wage of inflation, conditions of service, unfair dismissals, and what not, and, therefore, this was not an unpremeditated amendment, off the cuff as it were. The basic point which has come out of all this is that there has not been consultation; and in this matter, as the Honourable the Minister for Labour has said, who is more in touch with the situation than the Chief Minister is even though they are both in Gibraltar, I am sure that this is one of the issues on which consultation was absolutely necessary. Apparently there has been no consultation with the Chamber of Commerce, which one would have taken as traditional, because the Chamber of Commerce to my recollection, my knowledge, has always been consulted about these things, and there has been no consultation with the Union, and we are now in a position, as the Chief Minister has rightly said, where in all fairness we cannot carry on with this as doing what these people, for whose good we are supposed to be doing all this, before these people have been consulted.

The Chief Minister alluded to two establishments for which these laws could signify a change, and I would like

to mention these because I have received representations myself on this matter. One of them is vaguely related to me, and I declare that interest, as I have in speaking to the Crown Council and the Attorney-General about this matter in general terms, and that is the two establishments that sell late at night. And for consideration of the Government and the Honourable the Attorney-General, I would put the fact that one of these establishments has collected a number of signatures and petitions including - I do not know whether the Attorney-General has seen it or not - the Taxi Association, some hotels and so forth. So I would ask that the particular case of these two establishments that are affected where there has been substantial investment of money and . . . .

MR SPEAKER

You are now not talking on the amendment.

HON M D XIBERRAS

I shall give way, Mr Speaker, and then come back with the arguments. Or perhaps I could finish and not take part further in the debate.

These two establishments, as Honourable Members might be aware, were under an old licence that did not rigidly apply to their work and thereby their shops were supposed to close at 12 o'clock. In the last Government as the decision was taken in principle to liberalise on these hours. When the House considered at the last meeting the question of hotels, there was some sort of confusion, apparently, or some sort of misunderstanding, and the old terms of the licence were implemented quite rigidly overnight and the establishments were asked by the Police to close at 12 o'clock. After further consideration, after representations had been made, the Government said, I believe, that they could carry on until these rules came to this House, until 1.30, and then after that the law appeared saying that they could stay open until 2.30 on weekdays, and I think it is 3.00 a.m. on week-ends, that is the Friday night or Saturday morning and the Sunday morning. I have been approached once again, as I think Honourable Members on the other side of the House have been approached, and I am told that at least one of the shops would suffer considerably if the business were to close at 2.30. Therefore, I would ask Honourable Members opposite to bear in mind that these Rules, if they are

introduced will certainly introduce something quite new in respect of this particular establishment to my knowledge, and possibly in respect of others. I do not know whether fritters shops are affected or not.

There is provision in the Order for the Commissioner of Police to extend hours, but I would imagine that the extension would be an ad-hoc thing rather than a regular thing, which might or might not fit the bill. I think that as far as the establishments I am talking about are concerned it would meet their case. But whether it is the best way to do it legislatively or not is a different question.

The last point I might make is that since we are talking about the kind of criterion that governs this kind of legislation one might remark that at least one particular night club in town closes at 4 o'clock where intoxicating liquor is sold, and obviously if one criterion is applied for a night club I would imagine that at least since the two businesses are apparently connected, there should be at least come comparable yardstick applied in the case of these two Establishments, whose livelihood, at least of one, is very much affected by this as has been made known to Honourable Members.

I would very much welcome a reconsideration of these Rules and I would very much welcome further consultation with all the interests concerned before the Rules are brought back to the House.

HON A P MONTEGRIFFO

I entirely endorse the remarks made by the Honourable the Chief Minister that perhaps the best thing would be that this matter should be discussed between the Union and the Chamber of Commerce, and that the Government would then consider whether or not, as the Government has the responsibility of protecting the whole trading community, the Government would accept such arrangement. I would like to warn the House of difficulties that we had originally when the Shop Hours Ordinance was introduced, and that is why more stringent hours was developed.

If the amendment that has been proposed were to be accepted and there were to be a free for all with negotiations as to which shop would open and at what time, you come across the family shop which has no employee. Experience has shown that we had very strong representations from the rest of the trade that whereas this type

of shop could open whenever it pleased, the others, precisely because they had to pay overtime to their employees were more reluctant to do so and, therefore, there was unfair competition. This is one of the difficulties that I want to highlight. The other one is just for the record. My Honourable Colleague on my right, the Minister for Labour and Social Security, at no stage said that he would have liked to have seen consultation on these particular Rules as presented to the House, because as has been emphasised time and again, it varies little from what we have now. What my Honourable Friend did say was that since the amendment was going to be a departure on what was already established, then there should be consultation between the Trade Union Movement and the Chamber of Commerce. And this is precisely what the Chief Minister himself said, and which I entirely endorse.

HON W M ISOLA

Mr Speaker, as I said earlier on in my opening remarks about prior consultations with the Chamber of Commerce, I entirely endorse what the Chief Minister has just said. My personal view is that before being asked to approve this motion or this amendment - and I agree entirely with the Chief Minister when he said that he has brought this with the best of interest to everybody in mind - and now that we have taken the trouble of reading the whole of this Shop Hours Ordinance, that before we are asked to approve it or amend it, the Attorney-General should withdraw this motion. There is no immediate hurry to get this motion through by the 1st of March. Let us have a look, let us see the Chamber of Commerce, let us hear their view, let us hear the Retail Trade, the Transport and General Workers Union, and then come along here with an Ordinance which will be to the benefit of the public as much as to the traders. There is no immediate hurry and I urge Her Majesty's Attorney-General to withdraw this motion and have another look at the whole situation rather than rush into something where basically speaking we might well find that the Chamber of Commerce, the Retail Trade and the small family business would like to remain open on Saturdays and many other hours because . . . .

Mr SPEAKER

Let us not talk about the general motion.

HON W M ISOLA

I am talking about the amendment, Sir. It is so relevant.

MR SPEAKER

Yes, what you have said so far is alright but you should not go any further.

HON W M ISOLA

What I am trying to get at is this, Mr Speaker. The Chief Minister said that he would not agree to this amendment without consulting the Chamber of Commerce or the various bodies and that is fair enough. Let us not pass this motion, let the Government consult the retail trade, consult the Chamber of Commerce, consult the transport and General Workers Union, and then when we come here we will most probably find that we will be bringing in something which is good for 1976, because if it was good in 1956 it does not necessarily mean that it is good enough in 1976. Times change and we must change with the times. As to the argument, Mr Speaker, that because in 1956 there was a lot of trouble . . . .

MR SPEAKER

Now you are going to the general debate and that is what I do not want you to do.

HON W M ISOLA

What I am trying to get at is this . . . .

MR SPEAKER

You have said what you wanted to say.

HON W M ISOLA

What was good in 1956 does not necessarily mean that it is good enough in 1976. And if we are going to take the trouble of bringing up this whole motion and amendments, there is no immediate hurry in getting this motion through . . . .

MR SPEAKER

Now you are getting on to the motion and I will not allow you, otherwise we are having a debate within a debate and I am going to stop it now.

HON W M ISOLA

There is no immediate hurry Mr Speaker in getting this amendment through today any more than there is any hurry to get this motion through today.

HON LT COL J L HOARE

There is one little point, Mr Speaker, which I think seems to have been overlooked. We are throwing overboard a very important factor, and that is the fixed early closing day. At the moment it is Saturday but there is absolutely no reason why it should not be any other day of the week, but it is guaranteed that every employee knew that he was going to have a half-day on a certain day of the week and he then made his plans accordingly months ahead if necessary. This, by the amendment, will go overboard completely and the employee would be entirely in the hands of the employer from one day to the next, from one hour to the next. I would like to make this point clear.

HON P J ISOLA

I would like to take up the point made by the Honourable and Gallant Minister in saying that the employee would be at the mercy of the employer . . . .

MR SPEAKER

It would perhaps shorten the proceedings if we were to hear the views of the . . . .

HON P J ISOLA

Before I would like to give my views because it is likely that this debate will be adjourned, I would hope. I would like to say it now because when it comes back people will have made up their minds. Really, the

Honourable and Gallant Colonel must not forget what the Honourable Mr Bossano has just said about the excellent relationship that exists between the employers and the employees in the private sector and he will no doubt be conscious of the power that is wielded on behalf of the employees. I do not think it is a question of commiserating that the employee is likely to lose his half-day, I think there is more call in present circumstances for commiseration with the employers on occasions because of the power that is wielded, in this modern democratic society, by my friend on my left here.

Mr Speaker, I think the sensible answer to all this would be obviously to adjourn the debate so that consultations can take place. It seems to me that the lunch hour, especially in the winter months, two hours, is now completely out of tune with the times. I think there is a tendency for a shorter lunch break, and a lot of classes of business in Gibraltar, excepting the shops, are tending to allow shorter hours and be able to finish sooner, especially in the winter months, which enables people to enjoy the sun and so forth.

As far as the point of having an early closing day, again I would have thought that there was room here for negotiation between employers and employees as to when that particular day should fall on. On the other hand one must accept the strong argument that as most people now stop work on Friday evening until Monday, there should be an opportunity for them to shop. Accordingly, I think on this side of the House we would not press our amendment to a vote if we could receive assurances that the whole debate could be adjourned to a subsequent meeting of the House when perhaps we can hear have more representative views of what other people think about it.

MR SPEAKER

Perhaps Her Majesty's Attorney-General might have something to say on the proposal that has been made that the matter should be left to another meeting. But of course it can only be done by the withdrawal of the motion and by presenting it at another meeting.

HON ATTORNEY GENERAL

No, I do not wish to withdraw the motion. I would ask

my Honourable and Gallant Friend to withdraw his amendment. At first sight it is quite a simple amendment as far as drafting goes, but there are at least three other provisions of the motion which would have to be changed. I am not very keen on re-drafting at short notice consequential amendments. Now, the amendment was, do away with the provision to close between 1 and 3 and do away with the provision to close at 1 o'clock on Saturday. This would mean consequential amendments to Clause 5, Clause 6, Clause 9, and having been given the undertaking that Government will consider the matter, and will consult, let us leave this, and if Government should feel, as a result of consultations, that it can either go along wholly or partly with the suggestion of the Honourable and Gallant Member there would still be time to make the other necessary and consequential amendments to the Order, and time to do it rather than hurriedly.

HON MAJOR R J PELIZA

I do not quite follow the argument of the Honourable the Attorney-General.

MR SPEAKER

May I say that you are now exercising your right to reply.

HON MAJOR R J PELIZA

Well, perhaps I could just clear one point.

MR SPEAKER

No, we cannot do that.

HON MAJOR R J PELIZA

Well, then, Mr Speaker, I would tend not to withdraw the amendment and I want to clear one point.

MR SPEAKER

No, no. Have you finished Mr Attorney-General?



HON ATTORNEY GENERAL

For example, Clause 6 says: "shops may be open for the sale of bread, flour, confectionery, and sugar confectionery, on every day between 1 p.m. and 3 p.m.".

HON MAJOR R J PELIZA

Delete that one.

HON ATTORNEY GENERAL

I expect that would mean a deletion, but then we are getting down to amending the motion fairly generally. It is the re-numbering of all other clauses, it is not the only one that goes out, the provisions about the shops at Catalan Bay will have to be amended.

HON MAJOR R J PELIZA

If the Honourable Member will give way I just want to clarify one point, Mr Speaker. This was all I wanted to do before. The way he is talking now he is implying that he is prepared to accept the amendment . . . .

MR SPEAKER

No. May I clarify the matter. What Her Majesty's Attorney-General is now saying is this: will you withdraw your amendment, let the Shops Hours Order go through as it is presented to the House, and in due course consideration will be given to the amendment which can be brought to the House at a later stage. That is what he is saying.

Is Her Majesty's Attorney-General finished?

HON ATTORNEY GENERAL

Yes.

MR SPEAKER

Then I will ask the mover to reply.

HON MAJOR R J PELIZA

Quite honestly, Mr Speaker, this is not the impression that I got when the Honourable and Learned the Chief Minister spoke and when the Honourable the Minister for Labour, who said he had a direct interest in the matter, spoke as well, and much more so the Minister for Health, The Honourable Mr Montegriffo. So I think all those three Ministers whom I have mentioned, have made it quite clear, and I think it will be made clear when the Hansard is produced, that they were prepared to reconsider the whole motion and put it back for consultation to the Chamber of Commerce and the Trade Unions, if I were prepared to withdraw my amendment. Now it transpires that that is not the case, that what is required is for us to withdraw the amendment and then the Honourable and Learned Attorney-General will look into the matter separately, and then perhaps at a given date, we do not know when, he may bring back another motion - I hope I am corrected, Sir, if I am wrong in my assumption - which would again amend the present motion, to include something, if it were found acceptable, of what I have today proposed here in the House. That of course is not acceptable to me. I think that is just the way of dilydallying which I certainly cannot be a party to, and, therefore, I intend to go ahead with the motion.

I can always tell the importance of my proposals by the height of the jump of the Chief Minister when he stands up to answer me, and I notice that today he jumped very high. I do not know why, because he suggested that by doing this I was removing some rights from somebody, and this is not the case. What we are going is we are giving more rights to more people. The legislation as it stands today was taking away rights, taking away the lawful right of opening a shop within certain hours. And that right was taken away because of the insecurity and weakness of the employees of those establishments. But it is accepted by everybody in this House that that is not the case, and I can tell you from my own personal experience that today the boot is very much in the other foot. I think that there is no doubt about that now, that there is ample protection for the employee.

What I am trying to do by introducing this amendment is to give more powers to the Chamber and more powers to the Union, not less, because before they could not negotiate about opening on Saturday afternoons. Now there is. There is much more flexibility, as my Honourable Friend here on my left said, which conforms with all the other

progressive societies in Europe anyway, and to which my Honourable friend alluded when referring to a television programme in Spain in which the Minister who had just come back from Europe was trying to say: we have got to follow this line, to get in line with the rest of Europe. But here we are, the Government of Gibraltar seems to be the more backwards than the Spanish Government at this very moment. (Laughter). Yoy may laugh but that is a fact, and there is a public renouncement by them to that effect, and here we have the Chief Minister laughing at the suggestion. That Minister in Spain was very serious about the change.

Then we have the other Honourable Member who said that there should only be early closing on one day. Well, again there is no need for that if the Unions are strong enough, because this can easily be sorted out. The best way to do this is not by firm legislation: everybody will close on Wednesday afternoon any other afternoon, it is much better for the establishments concerned to group themselves together, as is done in many places, and arrive at a time which suits them. And by leaving things open as we have proposed today, this is possible. There is nothing to stop that.

MR SPEAKER

No, no, I am not going <sup>to</sup>/allow any interruptions.

HON MAJOR R J PELIZA

I think what the Honourable Member wanted to ask is whether in Britain there are certain half-days laid down. Well, I think there are, I do not think it is a question of legislation, because I have noticed that in different places they close on different days, and, therefore, it suits the particular town, the particular place, but some shops do open in fact on those days. And it is possible to have closing days and there are still a lot of shops open. It is just purely an agreement, as far as I can see, between the shops. Or if there is no agreement then nobody takes any notice of the law because they do open I can assure the Honourable Member. I do know about Gibraltar and now I know something about England as well, whatever the Chief Minister may say. And if anybody comes to this House not knowing what the House wants, it is the Chief Minister himself who time and time again . . . .

MR SPEAKER

No, no. We must keep to the point.

HON MAJOR R J PELIZA

I was accused, Mr Speaker, of not knowing what the people of Gibraltar really wanted, of being ignorant of the situation in Gibraltar, and I

am trying to argue that I am not. That if anybody is, it is himself, as we have seen by the number of Bills that have been brought into this House and which have had to go back for complete change. . .

MR SPEAKER

No, no, no. I am calling people to order now.

HON MAJOR R J PELIZA

Mr Speaker, perhaps we have the indication on this particular one. There have been no consultations at all, a very useful proposal is being brought forward by myself, and the suggestion has immediately come: we have to consult the Union, we have to consult the Chamber of Commerce. Something that has never been done apparently, or hardly ever done by the Government.

I think, Mr Speaker, I have spoken long enough. I seldom like to repeat myself. The arguments are very strong, I think, and very logical. I do hope that the Government will take this seriously, and even if this notion is defeated, which perhaps it will be because I am afraid in certain cases whatever it is said in this House falls on deaf ears, but maybe they will have to listen after this debate. I hope I have planted thoughts in many people's mind and maybe they will have to listen after this debate to the Bodies concerned and then perhaps the Bodies concerned will come along. Unfortunately this is the wrong way round because it should be the other way round. I think it should be the Government who should have the initiative and make the proposals, not the other way round, but I do hope anyway that even if this amendment is defeated in the House, sufficient has been done already to bring about changes. If the Government does not take the initiative but other Bodies do, to try and bring more flexibility into the opening and closing hours of shops in Gibraltar.

I propose the amendment.

MR SPEAKER then put the question, and on a division being taken the following Honourable Members voted in favour :

The Hon P J ISOLA  
 The Hon W M ISOLA  
 The Hon Major R J PELIZA  
 The Hon M XIBERRAS

The following Honourable Members voted against :

The Hon A J CANEPA  
 The Hon M K FEATHERSTONE  
 The Hon Sir Joshua HASSAN  
 The Hon Lt Col J L HOARE  
 The Hon A W SERFATY  
 The Hon H J ZAMMITT  
 The Hon J K HAVERS  
 The Hon A Collings

The following Honourable Members were not present in the Chamber:

The Hon I Abecasis  
 The Hon J Bossano  
 The Hon L Devicenzi  
 The Hon A P Montegriffo

The amendment was accordingly defeated.

MR SPEAKER

The motion before the House stands as moved by the Honourable the Attorney-General and if anyone else wishes to contribute.

HON P J ISOLA

I beg to move a further amendment to the Order. I beg to move that Clause 7, sub-paragraphs (1) and (2) of the Order be amended by the deletion of the figures 2.30 a.m. and 3.00 a.m. where these appear and the substitution for them by the figure 4.00 a.m. in both cases.

MR SPEAKER then proposed the amendment.

HON P J ISOLA

Mr Speaker, I am moving this particular amendment having regard to what was said in the last amendment by the Minister for Labour. When this motion was put forward by Her Majesty's Attorney-General, and as explained by the Minister for Labour, the intention in the motion was to more or less repeat in substance what was already in the law and we have been told that these changes should not take place without full consultation with all affected parties. It seems to me that if the Government have now given us an assurance that they are going to consult with the parties affected it seems to me that this Order should not contain a provision that is obviously contrary to the interests of a small section, however small it might be, of the community, a small section of business, until these consultations have taken place. And it would seem to me more logical to allow these particular take-away places, restaurants, I think they are called, or fritters shops, to allow them to operate more or less as they have been doing until now,

that is until about 4 a.m. in the morning, until it has been possible to have these matters also fully considered and their representation also considered. Whilst it is true that the big boys have to be consulted - the Chamber of Commerce and the Trade Union - obviously it is also fair that any small fish that are also affected in the renewal of this order should also be consulted, and the House should have the benefit of hearing the result of these consultations before we are asked to pass an Order in the form before the House. I would accordingly, in the spirit in which the Government has answered our representations on a more general change in the law, that these should not be done until there has been full consultation, I would hope that they should also go into this section as well, and that we should look at a new Order, possibly at the next meeting of the House, in which the results of all these consultations can be brought before the House. It would seem to me unfair in these circumstances to cut down existing rights of people without proper consultation or consideration. I commend the amendment to the House.

MR SPEAKER then proposed the question.

MR SPEAKER

Before I invite anyone to say anything on the matter we shall have a short recess.

The House recessed at 5.30 p.m.

The House resumed at 6.00 p.m.

MR SPEAKER

We are now at the stage where there is a proposal to amend the motion, but I understand that the Chief Minister has something to say on the subject.

CHIEF MINISTER

Mr Speaker, I would like to make a statement. I think we have had a not particularly quiet debate, if I may say so, from either side, but I think that at times we seem to have been at cross purposes. I think enough has been said to give a lot of food for thought on various aspects of the matter. As I said in my initial contribution we want to do what is right, and that does not mean that consultation means that we are going to do what some people want us to do, but what we think is in the best interests of the community. But enough has been said in one or two of the arguments put forward to warrant further consideration without going through the whole proceedings again, and

what I now propose, which I understand is acceptable to you, Mr Speaker, is to move that further consideration of the motion be adjourned to the next meeting of the House.

If that is acceptable I hope that in that time we shall certainly take into account the amendment that has been moved by the Honourable Major Peliza and test the opinion on this matter. If there is a very strong opinion in favour we will certainly not have any objection to do that.

MR SPEAKER

I will propose the question which is now before the House, which is that further consideration of the motion which has been moved be adjourned until the next sitting of the House.

HON W M ISOLA

I would very much welcome what the Chief Minister has proposed.

MR SPEAKER

Does the Honourable the Leader of the Opposition wish to say something?

HON M D XIBERRAS

I just want to say what my Honourable Friend who has been defending our view has just said. We do welcome the holding off of the motion and I am rather sorry that the confusion actually arose because we on this side were for some time labouring under the idea that this was the intention of the Government.

MR SPEAKER then put the question which was resolved in the affirmative.

HON M D XIBERRAS

Am I to understand that the Honourable and Gallant Member has not got to withdraw his amendment?

MR SPEAKER

The other amendment was defeated and the position now is that when we next consider the motion, at motion time, we will take over from where we left, that is the amendment proposed by the Honourable Mr Peter Isola to Clause 7.

HON MAJOR R J PELIZA

But if I understood it rightly the Honourable and Learned the Chief Minister said that he would be taking into account even the amendment which was defeated.

HON CHIEF MINISTER

What I said was that if there is time for consultation, as I promised before and if there is time for consultation in the period now, we will look at that suggestion. If it is generally acceptable we might bring it ourselves or invite you to do so.

HON MAJOR R J PELIZA

It will be looked into obviously?

HON CHIEF MINISTER

Yes, of course.

HON M D XIBERRAS

Mr Speaker, confusions are very difficult to stop once they occur.

MR SPEAKER

May I explain what the position is and then you can start firing questions. The position is simple. We have a motion before the House and, to the motion moved by the Honourable the Attorney-General, Mr William Isola and Mr Bossano, Mr Serfaty, Mr Montegriffo, Major Peliza, have spoken, Mr Isola is still holding the floor. Those gentlemen will be debarred from speaking on the general motion. However, there is an amendment which is being moved by the Honourable Mr Peter Isola to Clause 7: we will start with that amendment and whoever wishes to speak on that amendment can have a word, and that means the whole House because no one has.



And then the motion will go through in the normal procedure at the next meeting.

HON MAJOR R J PELIZA

Mr Speaker, I did not hear very clearly. Did you say that I would be debarred from speaking on the motion?

MR SPEAKER

You will be debarred from speaking on the general motion but you will be able to speak on the Honourable Mr Isola's amendment, or any other amendment.

HON MAJOR R J PELIZA

I do not think I have really spoken on the motion itself.

MR SPEAKER

I have no doubt that you have because otherwise you would not have been able to move the amendment you moved.

MOTION RE IMPORTS AND EXPORTS ORDINANCE

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move the suspension of Standing Order No.19 in respect of this motion.

MR SPEAKER put the question which was resolved in the affirmative.

Standing Order No.19 was suspended.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that in exercise of the powers conferred by Section 43 of the Imports and Exports Ordinance this House resolves that the First Part of the First Schedule of the Ordinance be amended as follows :-

(a) by the insertion, immediately after item 33 of a new item as follows:-

"33A. Christmas cards which are imported and declared to be imported solely for sale in Gibraltar to aid a charity or cause approved by the Financial and Development Secretary, free"; and

(b) by the addition at the end of item 33 of the following words -

"and CO2 Gas imported for use in the preparation of beer for bottling and for sale."

MR SPEAKER

In fairness to the Opposition, since this motion has not been circulated before and there has been no notice, I think it is only right that they should be given a written copy. You will be getting a copy of the motion in writing within the next 5 minutes.

You can proceed.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Thank you, Mr Speaker.

Sir, the First Schedule of the Imports and Exports Ordinance which is in effect, and indeed in fact, the customs tariff in Gibraltar, is a very short and indeed attenuated one by comparison with most customs tariffs. Inevitably, therefore, there arise from time to time questions of interpretations as much as anything, and the first insertion which I have referred to is precisely this question of interpretation, because we have no item in the tariff as it stands about Christmas cards, nor do we have anything approaching an item which can be described as a Christmas card. All we have is newspaper, item 32, and other publications, written or pictorial. Now, it is very difficult indeed perhaps to say that another publication, whether written or pictorial could be a Christmas card. And the question has arisen of interpretation that Christmas cards themselves, which are imported solely by charitable organisations or imported by other people for sale in

Gibraltar in aid of a charity or cause which has been approved by myself on behalf of the Government should be dutiable. Now, this seems to us to be wrong. That kind of Christmas card should be admitted duty free. And in order to put the matter beyond doubt the object of this insertion of the first item is to spell out that such Christmas card will be admitted free of import duty.

The second one is also largely a matter of interpretation as a result of the contraction of the descriptions of many of the items and it relates to item 38, which I will read -

" CO2 gas. Non-alcoholic essences, preservatives and colouring matter, imported by and for the purposes of an aerated water factory."

Now those are the crucial words: "an aerated water factory." So what happens when we have CO2 gas imported for the sale and bottling of beer, and this does not come under that at all? So where does it come, for the simple reason that it is not an aerated water factory. And in order therefore to bring this item within the scope of 38 we propose to add at the end of item 38, the following words which I read before and which I will repeat:

"and CO2 gas imported for use in the preparation of beer for bottling and sale".

So there is then again no doubt that CO2 gas for this purpose comes in under item 38. This, I might add, Sir, is made all the more necessary by the fact that the gas is only exempted from duty if it falls within 38 as is now defined: by the addition of the words CO2 gas imported for the bottling of beer will also be admitted duty free. There can be no question about it.

I commend the motion to the House.

MR SPEAKER then proposed the motion.

HON W M ISOLA

I would like to make one observation Mr Speaker, if I may. I entirely agree that anything charitable should be free, but did I hear the Honourable the Financial and Development Secretary say that if a Christmas card is

imported as a charitable Christmas card it can be sold by a newsagency, or is it only charitable organisations who can sell it?

MR SPEAKER

No, it is the importation.

HON W M ISOLA

The importation becomes duty free, fair enough, but does that mean that a newsagency could sell those Christmas cards? Can the Honourable the Financial and Development Secretary give the reason why this has been brought about? Have there been representations by the charitable institutions, or the reason behind this? We are obviously going to support it but I would like to know the reasons why.

MR SPEAKER

Are there any other contributors. You will have a right to reply in due course.

HON M D XIBERRAS

I gather that CO2 for bottling beer would be duty free. It will become duty free. I would welcome when the Financial and Development Secretary replies to the notion, or some other Minister, if he will explain the reason why he fears that it is necessary to do this.

MR SPEAKER

Any other contributors?

HON MAJOR R J PELIZA

It is not clear to me how this will benefit the organisations concerned. I am just trying to work it out in my mind: coming in they do not pay duty it goes to the shop, so what I am trying to say is at what point does the 10% go to the Organisation. Because if a Christmas card published by a charitable organisation is sold for the same price in town as any other and the profit goes to the retailer or the wholesaler, what benefit goes to the Organisation? This is what I would like to see, and I wonder whether the Honourable the Financial and Development Secretary could explain, because this just does not make sense to me.

MR SPEAKER

Does the mover wish to reply?

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I must beg the indulgence of the House in that I am not as familiar as I hope I shall become with our present customs tariff. But at the present moment Christmas cards - and my Learned Friend confirms this - Christmas cards ~~charged~~ a duty under item 25. Now this is an omnibus item, goods not otherwise enumerated, which as you can see covers just about anything almost that you would like to mention which is not specifically spelt out. Now, it is felt that these cards which are imported, and as the notion says, imported solely for sale in Gibraltar to aid a charity or cause which is approved by the Financial and Development Secretary, should be imported free of duty. And the reason is naturally, Sir, to give the organisation the benefit of maximum sale, because the proceeds of these cards go to the Charitable Organisation, for example UNICEF. And if, therefore, they can sell 5,000 in Gibraltar because they are admitted duty free, and are, therefore price competitive, as opposed to 2,000 if they had to pay duty, clearly that is a benefit going to the charitable organisations.

*from the trade*  
*for the*  
 Now, Sir, in the case of the CO2 Gas, this follows, I gather, *from* representations, although they were not made to me personally, ~~representations from the trade~~. And the reason, as the Honourable the leader of the Opposition has quite rightly asked me about, is precisely the same one. That because we ~~had~~ in item 38 *for the* purposes of an aerated water factory, CO2 gas imported for the purposes of bottling beer gets caught under item 25 and therefore pays duty. The trade has represented, as I said not to me personally but I am informed that representations were made, that the two processes, that of manufacturing aerated water and that in connection with the sale and bottling of beer, are very closely related and, therefore, the Government proposes to make 38 precisely clear and allow for the importation of CO2 gas, imported for the sale and bottling of beer.

MR SPEAKER then put the question which was resolved in the affirmative.

The notion was accordingly carried.

MR SPEAKER

We are having some difficulty with our recording and I think we are going to have to recess for about 5 minutes to see what is happening otherwise we will not be able to produce a record. I am not a technician but when I was told that there was a noise coming

through the recording apparatus I realised that we had switched on the Public Gallery lights, so I asked <sup>for</sup> them to be switched off and it seems that we are now recording properly. So we ask the indulgence of the Public Gallery in leaving them in the dark and we will proceed.

MOTION RE IMPORTS AND EXPORTS ORDINANCE

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move the suspension of Standing Order No.19 in respect of this motion.

MR SPEAKER then put the question.

HON M D XIBERRAS

Which is the motion, Mr Speaker?

MR SPEAKER

You will find out when it is moved!

HON M D XIBERRAS

I do not know, Mr Speaker, whether we agree or not to suspend Standing Order No.19 until we know what it is.

MR SPEAKER

There is no reason why the Honourable Financial and Development Secretary should not declare the context of his motion, and there is no reason why he should either, if he does not want to.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, it is a further amendment to the Imports and Exports Schedule.

Standing Order No.19 was suspended.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I beg to move that in exercise of the powers conferred by Section 48 of the Imports and Exports Ordinance this House resolves

that the Second Part of the First Schedule of the Ordinance be amended as follows :-

- (a) by the deletion of sub-iten (1)(a)(iv) appearing therein and by the substitution therefor of a new sub-iten as follows :-

"(iv) Motorcycles and sidecars therefore whether imported together or separately; ad valorem 20%; and X 20%

- (b) by the insertion, immediately after sub-iten 1 (a)(vi), of a new sub-iten as follows :-

"(vii) other vehicles, including trailers, not mechanically propelled: ad valorem .... 10%"

Now all that sounds, if the Chair does not haul me up, gobbledegook without reference to either the amendment which is now coming round, or to the Schedule itself. For some reason which I am unable to explain, the duties payable on the importation of vehicle spare parts and so on, are shown as a separate part of what I am going to refer to as the customs tariff. I cannot understand why, but there it is, and item 1 defines motor vehicles of various kinds. Now, these were amended, and indeed I see they were increased. I do not have the actual date; anyway they were increased from the old rate of 10%, and in doing so what happened was that when a sidecar is imported attached to a motorcycle it carries a duty rate of 20%; but if for some reason the sidecar comes in detached, i.e. it is a separate importation to the motorcycle to which it will be subsequently attached, it carries a duty rate at the moment of 22½%. Now, this does not seem to us on this side to be particularly logical. It is, therefore, proposed to spell out that when imported separately the sidecar shall carry duty at the same rate as if it had been imported together with the motorcycle, i.e. both will come in at 20%.

*dutied* ~~Now~~, The second one, Sir. The present tariff defines a motor vehicle, and it defines it - please forgive me if I read, I must get this right - as a mechanically built vehicle intended or adapted for use on roads and includes a trailer. Now, until 1974 all motor vehicles were charged a flat rate percentage duty ad valorem. But this in the 1974 amendment was changed and motor cars, private motor cars are now *dutied* according to the cubic capacity of the engine. They are also separately *dutied* if they are commercial vehicles or if they are motorcycles, but what was not foreseen was whether any special treatment was required for things like trailers and caravans, which in fact have no engines.

So as a result, according to the definition, those vehicles, and they are vehicles, are charged a rate of duty at the moment applicable to the particular vehicle which happens to tow them. Quite clearly in the case of a trailer it can be towed by a number of different vehicles, and hence the question mark is what should be the duty. Again this is a matter for interpretation and sorting out and it is,

therefore, now proposed to provide specifically for caravans and trailers, and the payment of a uniform rate of duty at 10% whether they are imported separately or with the vehicle which at the outset is designed to tow them.

I so move,

MR SPEAKER then proposed the question.

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

The motion was accordingly carried.

MOTION RE IMPORTS AND EXPORTS ORDINANCE

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move the suspension of Standing Order No.19 in respect of this motion.

I might perhaps add that it is in similar vein.

MR SPEAKER then put the question which was resolved in the affirmative.

Standing Order No.19 was accordingly suspended.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that in exercise of the powers conferred by Section 48 of the Imports and Exports Ordinance this House resolves that the First Part of the First Schedule to the Ordinance be amended by the addition, immediately after Item 39 of a new item as follows -

"40. Ships and Boats.

Vessels and houseboats, whether powered by engines or not, of a gross tonnage less than 80 tons .....10%

Other ships and boats ..... FREE

Spare parts which the Financial and Development Secretary is satisfied are imported for a particular vessel which is not chargeable with duty ..... FREE



Other spare parts not elsewhere enumerated ..... 10%"

Sir, I must, and I do so with some trepidation and some hesitation, that the brief I have is that the practice at the moment is to admit ships and large boats, such as cabin cruisers, free of duty, and to charge a 10% duty on smaller boats, dinghies, and on part for ships and boats.

The Government has given a considerable amount of thought as to what should be done in this connection, and has decided that we had better follow the United Kingdom practice which is to charge vessels of under 80 tons which are imported as distinct from those which are brought temporarily by non-residents, in respect of which separate provisions are necessary. The item as far as I can see, and I think my Learned Friend confirms this, the tariff makes no mention whatsoever of these kinds of boats. So basically what is proposed now is to define just what boats are dutiable and what boats are not dutiable and Item 40 is intended to serve that purpose. We will have, therefore, the vessels and houseboats whether powered by engines or not, if they are less than 80 tons they will attract a duty of 10%. Other ships and boats will be admitted duty free.

Similarly it is intended to tidy up the question of spare parts which are imported for boats. Now if the spare part is for a vessel which itself is not chargeable to duty, the spare part will be allowed in free of duty. If on the other hand it is a unit for a large vessel - have I got that right, - no. I have got it the wrong way round, I do apologise, Mr Speaker. Spare parts which I consider are imported for a particular vessel which itself is not chargeable with duty, we will admit free of duty also, but other spare parts which are not elsewhere enumerated in the tariff - and we must not forget, Mr Speaker, that in the case of diesel engines, a certain range of items I believe ~~are~~ interchangeable between a marine type diesel and a land type diesel, so that one has got to have some distinction. Other spare parts which are not elsewhere enumerated in the tariff will carry 10%.

The only other thing I wish to say is that in order to protect boats which are already in Gibraltar, and those which are imported temporarily by non-residents of Gibraltar, ~~port of call~~, they will be protected specifically and no import duty will be collected from them by means of Regulations made under this Ordinance, and those Regulations should be issued I think tomorrow or Thursday. Those Regulations will come out on Thursday, I am told.

MR SPEAKER then proposed the question.

HON W M ISOLA

I think, Sir, that if people buy a car in Gibraltar and are subjected to import duty there is no reason why if a resident in Gibraltar imports

a boat that they should also be liable to import duty. So as far as that is concerned, I think that is fair enough. But what I cannot understand is this, why is it that ships over 80 tons imported into Gibraltar are exempt from import duty? That is the first question I would like to ask.

The other one is the question of regulations, Mr Speaker. Obviously if persons come into Gibraltar temporarily they should not pay any import duty, but obviously since we do not know what the regulations are going to be, when does a person come to Gibraltar temporarily or not? Perhaps the Financial and Development Secretary can also answer this question. For instance a person may come here temporarily and take up employment say for six months or a year: would he be caught by this 10%? He may come here for three months, would he be caught? There must obviously be a period when he ceases to be a temporary resident, or a point by which he becomes a resident. Let us assume that a person comes here for three months, and the Regulations say three months then he is alright. But what if he stays longer would these Regulations catch him then and he is liable to pay import duty. I would like an explanation on that because obviously if we are being asked to approve Legislature measures, equally important as the Rules, because they dealt hand in hand. Obviously we are going to vote that vessels and house-boats should pay import duty, but I would also like to know why, if a boat is over 30 tons, it is to be imported free.

#### HON ATTORNEY GENERAL

Mr Speaker, on the regulations point. One would look at the period which the importer has spent in Gibraltar before the importation, and if in the three years before importation he has spent an average of at least six months per year in Gibraltar, then he will be deemed to be resident here and he will not get the concession. Equally, after importation, if in any period of 3 years he spends an average of 6 months in Gibraltar in any year, then again he would lose the benefit he originally had and would become liable to duties. I think it is the same criterion as is used in the United Kingdom and we have adopted it here. It apparently works there quite satisfactorily and so this is what we propose to use here.

HON P J ISOLA

Mr Speaker, this is a motion that has been put forward without notice and there is of course some substance to this motion because it seeks to put import duty on yachts and so forth in Gibraltar. I am interested in the assurance given by the Financial and Development Secretary, and I hope he will be able to make this absolutely clear in his reply, and that is that I hope I understood him correctly when he said that provision in the Regulations is being made in respect of boats which are already in Gibraltar. Because I can think of a number of yachts that are in Gibraltar, and have been in ownership of some considerable time, by residents and non-residents, of Gibraltar, that have paid no duty, and it would seem to be wrong that after he has had it for a couple of years someone should come along and charge duty. So I hope in his reply the Financial and Development Secretary will be able to assure us that the Regulations will apply for the future in respect of new importation as opposed to yachts that are already in Gibraltar, and that provision will be made to enable boat owners possibly to register with the Revenue Department to show that they had this yacht in the year 1975, 31st December, whatever date it is. Otherwise this could create an injustice.

Now, the other question of temporary importation of course we agree with, but I wonder whether there would be provision to cover a yacht that is here but whose owner is not here: who spends only 10 months in Gibraltar and he has his yacht based in Gibraltar, put it that way. Is it intended that that yacht should attract import duty? I think that would be dangerous, I think it would affect the Marina developments, obviously.

The other point I wish to make is that I am not quite clear why spare parts are being exempted from duty. Will that not result in an unacceptable loss of revenue. As I understand the position Gibraltar is a port and spare parts are sold by people in Gibraltar to vessels and so forth, and it seems to me that one should not be in a position whereby somebody can fly a spare part out for a particular yacht or vessel and not paying any import duty, whereas the man who buys it from a dealer in Gibraltar who has it in stock or which has paid import duty. I would have thought that there was more sense in making all spare parts liable to import duty, because after all part of the business of the Port must be to sell its wares to vessels. I would have thought that that would be more sensible, and perhaps allow drawbacks

in particular circumstances. I do not know, but it seems to me that by putting this provision in there might well be an unacceptable loss of revenue in the importation of spare parts. As I understand the position spare parts are a good provider of revenue. So I do not know whether more thought might be given to this point.

HON M D XIBERRAS

Mr Speaker, there is one question I would like to ask the Honourable the Financial and Development Secretary, and that is why the present distinction between ships or boats of under 80 tons and above 80 tons.

MR SPEAKER

Well, if there are no further contributors I will now ask the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, let me deal first with the question of 80 tons over or under. One has got to draw the line <sup>somehere</sup> ~~elsewhere~~, and in the United Kingdom the practice is 80 tons, and basically a vessel of 80 gross tonnage is quite a large vessel which in all probability, and in many cases, is in fact more likely to be a commercial type vessel than one which is under 80 tons. But as I say, basically it is a question of where does one draw the line. Well, the United Kingdom, which has had a great deal of experience and practice in this matter, has drawn it at this figure and we do not feel that we can improve on a different line. So that is the basic reason for the dividing line between 80 tons and over.

I can assure the Honourable - I think it was the Honourable Mr William Isola or was it his brother - who asked for a categorical assurance that boats in Gibraltar will not be caught by this amendment. I can give that assurance: there is no retrospection at all.

Temporary importation. Now, the question was raised whether a boat which is kept here, but whose owner is to a large extent not resident in Gibraltar, would be caught or not, and I am advised that the criteria is the individual, the owner, whether he is here, not whether the boat is. The criteria will apply to the owner of the boat and not to the boat itself.

Finally, Sir, spare parts. This I admit is a difficult one. But I think where the owner of a boat in Gibraltar which is itself outside the scope of these Regulations chooses to order a spare part and can satisfy me that that spare part is for his boat and no other, the boat being itself free of duty, we feel that that spare part should come in duty free. The difficulty with allowing a person to buy in a shop is the difficulty of tying it from the retailer to the purchaser to the boat in question. And I think, Sir, that if I might say so, there is as much logic in what we propose in this respect as there is in the fundamental logic of having a dividing line between boats of two different categories.

MR SPEAKER then put the question which was resolved in the affirmative.

The motion was accordingly carried.

MR SPEAKER

I have been asked by the Minister for Medical and Health Services for leave to make a statement in explanation of some figures he gave this morning in answer to a question so under Standing Order No.46 (8) I will allow him to do that, but may I remind members that there is no debate on anything that may arise out of this explanation.

HON A P MONTEGRIFFO

Mr Speaker, I would like to give some figures, which I promised that I would give this morning if they were available today, in reply to a question by the Honourable Mr Bossano on the number of premises registered for the accommodation of alien labour. And in doing so, Sir, that I would like to pay tribute to the members of the staff who worked throughout the day, forfeiting their lunch, in order to produce these figures. I gave this morning a total of 4,344 beds available, as against the figure I am quoting now of 3,632, and this is because they took into account in the original figure I gave this morning bunk beds. In other words, instead of having single beds if you have bunk beds, you estimate 1/5th more beds. If you divide the 3,632 beds by 5 you will find that you get 4,358 and I gave the figure of 4,344. But the actual bed occupancy, which is what the House was interested in, is 3,076.

Thank you, Mr Speaker.

MR SPEAKER

Right, we will proceed now.

## BILLS

### FIRST AND SECOND READINGS

#### THE PRICE CONTROL (AMENDMENT) ORDINANCE, 1976.

The Honourable the Minister for Labour and Social Security moved that a Bill for an Ordinance to amend the Price Control Ordinance (Chapter 177) be read a first time.

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

The Bill was read a first time.

HON A J CANEPA

Sir, I have the honour to move that the Bill be now read a second time. Mr Speaker, on this short Bill I propose to explain in detail, not just the main principle of the Bill but also the background to its introduction. I feel that this is necessary since the Bill was only published as a supplement to an Extraordinary Gazette just over a week ago, and also it is intended of course to take the Bill through all stages at this meeting.

Sir, in recent discussions which the Consumer Protection Officer has had with the Gibraltar Meat Traders Association, the latter asked that the frozen beef price controls should distinguish between the normal supplies which are usually imported from Australia or New Zealand, and more expensive young beef which was being imported from Poland. The Association readily accepted that if a higher price were to be fixed for the Polish beef, then there would have to be a safeguard for the consumer.

For instance, the higher price should only be payable for beef that was clearly marked "Polish" and then only if an adequate supply of the cheaper frozen beef were also displayed for sale at the same time. The need for such conditions, Sir, I think are obvious. Although it is more tender, I understand than the Australian or New Zealand beef, and usually it is used as if it were veal, the Polish beef is red meat.

MR SPEAKER

Understandably so.

HON A J CANEPA

If this were to be displayed for sale alone it would not necessarily be easily distinguishable by appearance from other frozen beef. If we were, therefore, Sir, to require that other frozen beef is displayed at the same time, a dual purpose would be served. As well as helping the consumer to discriminate between the two kinds of meat, it would rule out the possibility that they would be told that none but the more expensive frozen beef was available.

Provision for a requirement, Sir, to have compulsory marking at the place of origin will also enable the consumers to protect themselves since then only the lower prices would be payable for that beef which was not marked "Polish".

Now, Sir, whilst the Price Control Ordinance permits the fixing of different maximum prices for the same product, emanating from different origins, there is no provision at present whereby traders would be required to comply with the conditions envisaged. And in fact since the Polish beef was put on sale some weeks ago there has been a gentleman's agreement in this respect which I think has been honoured.

So the need, Mr Speaker, to have this legislative power has highlighted at the same time certain deficiencies with regard to other matters. For instance, price per unit quantity: weight, measure, number, grade, size. There are deficiencies in this respect in our legislation, and in some circumstances they could be of equal or even greater importance to the consumer. And therefore we are taking the opportunity, Mr Speaker, to amend the

Ordinance now for the marking powers to be extended on all these matters as well.

Clause 2 (2) of the Bill, Sir, seeks to amend Section 3 of the principal Ordinance by creating a general power to impose conditions as to the sales of supplies which are the subject of a price control notice.

Clause 2 (3) (a) will ensure that the general power will extend to requiring that when price controlled supplies are exposed for sale, at least the same quantity of other cheaper price controlled supplies must also be so exposed.

Clause 2 (3) (b) will also ensure that the general part will permit firstly a requirement that price controlled supplies exposed for sale must be marked with a true indication of such matters ~~that~~ their price, price per unit quantity, for instance 50p a lb, weight, measure, number, grade, size and/or place of origin; and secondly the specification of the manner in which that marking should take place. For instance in writing, in letters not less than 10 centimetres high, that sort of thing.

Clause 3, Sir, seeks to amend Section 4 of the principal Ordinance to make it an offence to fail to comply with any condition which is imposed under the new powers conferred by the amendment of Section 3.

Sir, I commend this Bill to the House.

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

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

The Bill was read a second time.

HON A J CANEPA

Sir, may I give notice that it is intended to take the Bill through Committee Stage and Third Reading, if all members are agreed, today, otherwise tomorrow.

This was agreed to.



## THE IMMIGRATION CONTROL (AMENDMENT) ORDINANCE, 1975

The Honourable the Attorney General moved that a Bill for an Ordinance to amend the Immigration Control Ordinance (Chapter 74) be read a first time.

MR SPEAKER then put the question which was resolved in the affirmative.

The Bill was read a first time.

## HON ATTORNEY GENERAL

Mr Speaker, I have the honour to move that this Bill be now read a second time. Until the end of 1972 no one had a right to a certificate of permanent residence, that is to a certificate allowing him to reside in Gibraltar permanently. Gibraltarians did not need such a certificate, they had a right of residence automatically.

Other persons could be granted a certificate of permanent residence at their discretion. Towards the end of 1972, with the approach of the application, if I might put it that way, of European Economic Community to Gibraltar, we had to grant a right of permanent residence to certain EEC nationals who fulfilled certain conditions, relating mainly to employment in Gibraltar, reaching of retirement age, and the period they had been in Gibraltar. That we had to put in, and it is in the Immigration Control Ordinance. At the same time although it was not, I repeat not, obligatory we considered that it was appropriate that certain other persons with a close connection in Gibraltar should be given the rights of permanent residence here.

Those persons were in all cases citizens of the United Kingdom and Colonies, either who or whose father was born in Gibraltar, or who or whose father was registered or naturalised in Gibraltar. Members will recall that the matter was very keenly debated by both sides of the House, and although it was accepted that citizens of the United Kingdom and Colonies born here at any time should have the right of permanent residence, it would probably be opening the door too wide if persons who or whose father was registered or naturalised here at any time should have the right of permanent residence. So for that reason at the Committee Stage an amendment was introduced providing that it was only in cases of persons registered or naturalised before the 1st January 1973 who

would have the right of permanent residence in Gibraltar.

That then is the position at the moment. Now, we have run into the problem. As Honourable Members will know, and this is a matter which is very keenly felt on both sides of the House, naturalisation is a very important subject. At the moment, applications for naturalisation are submitted to the Governor, but until the approval of the Secretary of State has been granted the naturalisation does not take effect. The approval of the Secretary of State is imperative. We have now been told that the Secretary of State is not prepared to issue a certificate of naturalisation unless the person naturalised has a right of residence in Gibraltar, flowing from his naturalisation. I think it fair to say, and I said when I spoke in this House in 1972, that every other country as far as I am aware gives a right of permanent residence to any subject who is naturalised, and Gibraltar was - if I may put it that way - the odd man out. Be that as it may we have now been told: I am sorry, we cannot grant naturalisation unless there is a right of permanent residence. For this reason we have now removed the present restrictions, that is naturalisation before the 1st January 1973, and have said: naturalisation at any time will give a consequent right of permanent residence in Gibraltar. Subject of course that if the naturalisation is withdrawn, and it could only be withdrawn for various very stringent reasons set out which is the Nationality Act, then of course the right of permanent residence goes.

Now, if we are going to give the right of permanent residence to persons naturalised, it seems to Government only right that similar rights of permanent residence should be given to persons who are registered as citizens of the United Kingdom and Colonies. Now, ~~if~~ members will recall the difference between registration as a citizen and naturalisation as a citizen is that a British subject, that is perhaps a subject of a country which recognise the Queen as Head of the Commonwealth, they become citizens of the United Kingdom and Colonies by registration, aliens become citizens by naturalisation. We are therefore giving the same right of permanent residence to citizens of the United Kingdom and Colonies, who are registered in Gibraltar.

Now, I think I should give this reassurance to the House. In view of what we now have to do, we will take a very close and careful look at any application for naturalisation or registration. It is not of right, with one exception, a married woman has a right of registration. Naturalisation is not a right, nor is registration except for a

married woman, and applications for both naturalisation and registration will not be approved unless we are satisfied that in the particular case, the person to be registered or naturalised is likely to be of benefit to Gibraltar.

It may not be palatable perhaps to do this but perhaps it is a necessity if we are to have any more naturalisation.

I would commend the Bill to this House.

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

HON P J ISOLA

We are grateful to the Honourable and Learned Attorney-General for his explanation of the reasons for the introduction of this Bill, and we are particularly glad to receive the assurances given on the question of registration and naturalisation. You will remember that when this Bill was brought before the House in 1972 originally it was a fairly traumatic experience that we had because at the stroke of the pen we gave a right of entry into Gibraltar - I forget what the number was - to about 200 million people in Europe, and we thought that we should, as far as people registered and naturalised in Gibraltar are concerned, try to exercise some control. It is of course clear that people who have close connection with Gibraltar, who have been naturalised here and so forth, have a moral right to be here. They have probably grown up in the majority of cases in the community and so forth. But our anxiety then was to ensure that we should have some discretion on this as decisions on naturalisation were made in London. And that is why we are glad to receive the assurances about how applications are to be dealt with.

I think that the position as set out by the Secretary of State that he will not grant naturalisation to anybody in Gibraltar unless that person will also have a right of residence in Gibraltar reinforces the view that we expressed here - and I think it was generally agreed in this House - that the question of naturalisation and registration was a two way sort of business. Gibraltar should have, and obviously does have, a say in it, because it is clear that the Secretary of State will not naturalise anybody unless he is assured that that person is able to reside in Gibraltar. And, therefore, we think that possibly some machinery should be set up under which you can have some liaison between Gibraltar and London on who get naturalised. But we are reassured by the assurances that we have been given on this matter.

Mr Speaker, now that we are dealing with the Immigration Control Ordinance, and dealing with an Ordinance that regulates who can reside and who cannot reside in Gibraltar, we in the Opposition would like to take this opportunity to propose further amendments to the Bill which we will do in Committee Stage. You will recall, Mr Speaker, that I think it was at the last meeting of the House, or

the last but one, we asked questions about the position of alien husbands of Gibraltar women, and we asked that consideration should be given to recognising the rights, or giving more privilege to Gibraltar women to transmit the right they have as Gibraltar women to husbands. It is clear to us that we cannot give Gibraltar women the right to transmit their Gibraltar status to their husbands, because in a lot of cases these husbands are not British Subjects, and the root of our Gibraltar Status Ordinance is that for a person to be a Gibraltar he should of course be a British Subject. But I think we can do the next best and we are proposing an amendment to this particular Bill before the House under which we propose that the Provisions of Part IX of the Immigration Control Ordinance, which relate to Community Nationals, should be extended to alien husbands of Gibraltar women registered as Gibraltar under the Gibraltar Status Ordinance - and we have to make a proviso - and who are neither separated or divorced from such Gibraltar women. We are proposing that the provisions relating to Community Nationals should apply to such alien husbands. In this way, Mr Speaker, the alien husband of a Gibraltar woman would have the same right to enter Gibraltar and work and obtain the permit of residence, and eventually permanent residence once he has done his 5 year stint under the Ordinance. No problem of course arises where Gibraltar women are married to UK subjects because they are Community Nationals, but in the case of Gibraltar women married to alien husbands, if there were objections of public policy or public security or public health applicable to exclude such a person from Gibraltar, the provisions of Part IX would be available to the Principal Immigration Officer. So, briefly, we are proposing an amendment and I have got it written out and I will be giving it to you, for circulation, an amendment that proposes that the same rights should attach to alien husbands of Gibraltar women, who are cohabiting of course not separated or divorced as attached to Community Nationals. We think that when you consider the way we have developed in Gibraltar in the last five or six years, especially in the last four years, when we have given rights to people who have absolutely no connection with Gibraltar at all except that they are connected by the common bond of Europe, we think it is time that we should recognise the rights of a Gibraltar woman, who has resided for example all her life in Gibraltar, the rights if she wishes to bring her husband to Gibraltar, or come with her husband to Gibraltar and give him the right to work in Gibraltar under the same conditions as Community Nationals, eventually being able to obtain permanent residence. And of course if he stays long enough, since he is an alien there is of course naturalisation and so forth, which is another matter. We feel that this is the right opportunity - we are sorry it did not come during the International Women's Year - but anyway I think it has come very soon after and I think this would be the right time and the right Bill in which to produce this amendment.

The amendment is just an additional clause, Mr Speaker, which will come in time, but briefly seeks to apply the provisions of Part IX of the Immigration Control Ordinance for alien husbands, apply the provisions relating to Community Nationals therein contained mutatis mutandis, to such alien husbands.

HON CHIEF MINISTER

Mr Speaker, Sir, with regard to the main subject of the Bill, I will deal with the proposals generally now and then with the amendment, at the amendment stage, I think in fairness one should say that in practice, except for very extreme cases, people who have been naturalised in Gibraltar have always been considered as belongers to Gibraltar and have been given permits of residence. Because the principle of whether a person was naturalised or not, at the time when this was considered, it was obvious that you could not allow him to be naturalised in Gibraltar and then send him away. They have always been considered as belongers, but it is a fact that unless this Bill is passed, you can say that by naturalising somebody in Gibraltar, and if he loses as he is bound to lose his original nationality, he has really, if he loses his original nationality by permission of country of origin or whatever it is, you could say that that person has got the right of residence anywhere in the world. He might have a right in the moon but not in this world, because he would not have a right of residence in Gibraltar, he would not have a right of residence in England because of the Immigration Act, he would not have a right of residence in England if he is naturalised in Gibraltar because he does not belong to Gibraltar strictly speaking and therefore it has always been the practice to give permits of residence to people who have been naturalised here and rightly so.

It is a fact that this point which has been made by the last speaker was made use of by me when complaining about the great delays that there have been about the very hard cases of naturalisation of people who really belong, and nobody would say except for a technicality that they do not belong to Gibraltar, because they were born out of wedlock somewhere else of Gibraltarian parents or for any other technicality; for all intents and purposes they are the same, and yet they have been held up for over two years without a certificate of naturalisation.

On the amendment which has now been mentioned and which will be moved at a later stage, I think we would like to see the form of it: the principle of it is accepted and I think the Honourable the Attorney-General would like to see how it fits into the Ordinance. If dealing with the second reading now we can leave the Committee Stage for first thing tomorrow morning.

MR SPEAKER

We will recess after the second reading of this Bill, until tomorrow morning when we can do the committee stage.

HON CHIEF MINISTER

That is what I mean.

MR SPEAKER:

And I have given instructions for the amendment to be circulated.

HON CHIEF MINISTER:

That is why I feel that the Bill deserves support of all members of the House.

HON M D XIBERRAS

Mr Speaker, my Honourable and Learned Colleague Mr Isola, has put very clearly our views, and I rise mainly to thank the Attorney-General for bringing this Bill forward. I shall now be able to tear up a letter which I had written to him on the question of registration and naturalisation. I am grateful for those assurances which when raised in this House on various occasions, I think, enjoyed the support of all members.

Mr Speaker, I think it is an important point to have been made that Gibraltarians should have a say in the question of who has the rights in Gibraltar, and that the present amendment to the law introduced by the Attorney-General does just that.

I think that my Honourable Friend has not emphasised enough that this further amendment that has been proposed is taken by us from the point of view, or with the idea in mind, of the International Woman's Year, giving real concrete rights to women in Gibraltar. The amendment if proposed will give I think an important part of those rights which women are gradually acquiring, and more of which may be heard and I hope will be heard in the course of this year of 1976. I think that the House is united in this provision, and even though a lot of us would like to go further and say that the woman being a British Subject has exactly the same rights of transmission of rights to not only her husband but her children as the man enjoys, we are in fact curtailed by the United Kingdom legislation, and we do not of course propose to go beyond the UK legislation which in fact in a way delimits our own Gibraltarians status.

I am most grateful to the Attorney-General and I do hope that the Government will see its way to accepting the further amendment eloquently proposed by my Honourable and Learned Colleague.

HON J BOSSANO

Mr Speaker, I am against the proposals of the Honourable

and Learned Attorney General, and I am astonished that in spite of the apparent anticipation of the Honourable and Learned the Attorney-General that his proposals will be unpalatable to members of the House, there has been so far no indications that they are unpalatable to anybody. As far as I can gather from what he has said, nothing has changed from the situation as it was three years ago, when the Honourable and Learned the Attorney-General originally proposed and made statements similar to the ones he has made today, that it is unheard of that any country should give the right of nationality to an individual and refuse him the right of residence. And I can only echo his words by repeating my answer of three years ago to the Honourable Member, that Gibraltar is not a country and that the country that gives the nationality is Britain, and the responsibility is Britain's. And it may well be that the Honourable and Learned the Attorney-General has got no choice but to do in the House of Assembly what the Secretary of State of Britain tells him: but the elected members of the House do not have to do things that are unpalatable because the Secretary of State issues an ultimatum. The elected members of the House have to do what they consider to be in the best interest of the people of Gibraltar, and I cannot accept that if a foreigner comes to settle in Gibraltar and is given the right of nationality by Britain we, who are Gibraltarians and British Citizens by birth, and are denied free movement in and out of UK, should be held responsible for their right of residence. I cannot understand what the Honourable and Learned the Chief Minister had to say about these persons becoming stateless individuals without residence anywhere. Is he suggesting . . . .

HON CHIEF MINISTER

I did not say stateless, I said they had a nationality that they had nowhere as a right to reside.

HON J BOSSANO

Well, Mr Speaker, I would have thought from my knowledge of the Commonwealth Immigration Act that a naturalised citizen of the United Kingdom and Colonies, was not subject to the restrictions of entry into the United Kingdom that a Gibraltarian is, and certainly, to my knowledge, when a naturalised citizen of the United Kingdom and Colonies arrives in UK he is channelled through the correct channels, whereas the Gibraltarian

is shunted from the Commonwealth, to the EEC, to the British, until they finally decide what sort of animal he is before they let him in.

Now, I am against this provision, and I am particularly against the insinuation that we have no choice in the matter, because the Secretary of State has told us that he will refuse to naturalise anybody that lives in Gibraltar unless we make ourselves responsible for that person. I do not know to what extent we are able to control naturalisation, certainly the reference of the Honourable Mr Xiberras to the changes in the law, or the assurances in the law that we would have a say, puzzle me because I do not know what say we have in deciding whether the Secretary of State wants to naturalise somebody or not. I do not know whether it is just a rubber stamp, or whether it is in fact something that is exercised by the British Government or the representatives of the British Government in Gibraltar. If it is the Gibraltar Government that decides who gets naturalisation then I would accept that there is responsibility on the Gibraltar Government, but if it is the British Government that decides then the responsibility lies with the British Government. And if the Secretary of State does not like it then I do not see what concern it is of the elected members of the House of Assembly. I am not very sure about the nominated members, which is something that has puzzled me ever since I arrived in the House of Assembly, Mr Speaker. So I would certainly oppose this, and it is my intention to vote against it, and I would recommend to members of the House that they do likewise.

#### HON ATTORNEY-GENERAL

Mr Speaker, two points which I would deal with. The Honourable Mr Bossano said the responsibility for naturalisation is the United Kingdom they should have the right of residence in the United Kingdom. The point I must make is this: no application for naturalisation in Gibraltar can go to the Secretary of State unless it is permitted by the Governor, and that is the Governor as Governor of Gibraltar. If somebody in Gibraltar wishes to be naturalised and applies to the Secretary of State in the United Kingdom then any naturalisation does not count as naturalisation in Gibraltar, so he gets no rights here, it counts as naturalisation in the United Kingdom. So we have a complete control over the cases which are sent to the United Kingdom for approval.



HON M D XIBERRAS

Is there not a committee which advises on residence?

HON ATTORNEY-GENERAL

Now, the other point. The amendment which is going to be moved in Committee by my friend Mr Peter Isola. I do not wish to be critical, but one knows how time slips away: I think we did ask when this matter was discussed in this House last year, we said that Government would view with sympathy any suggestions put forward for alien husbands. This is in fact the first notice we have had, I sympathise entirely in principle but there could be one or two problems which will have to be ironed out. I am perfectly prepared to discuss this with my Learned Friend which may necessitate a slight delay. For example, the first one that came to my mind: what is the case of perhaps an alien husband married to a Gibraltar wife, they are living abroad, the wife dies. Can the husband then come here. Or if they are both here and the wife dies after perhaps a week, can he come here. These are the nuts and bolts which have got to be ironed out, but there is no doubt that both sides of the House are in complete agreement on this, and provided we can decide what we want, then there will be no problem. If we can do it by tomorrow, splendid, if not then I think I can give an undertaking from Government that if we pass the particular Bill which is before the House tomorrow, we will take legislation at the very first possible opportunity to bring in the provisions which are at the moment the possible subject of an amendment.

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

The Hon I Abecasis  
 The Hon A J Canopa  
 The Hon L Devicenzi  
 The Hon M K Featherstone  
 The Hon Sir Joshua Hassan  
 The Hon Lt Col J L Hoare  
 The Hon P J Isola  
 The Hon W M Isola  
 The Hon A P Montegriffo  
 The Hon Major R J Peliza  
 The Hon A W Serfaty  
 The Hon M Xiberras  
 The Hon H J Zammitt  
 The Hon J K Havers  
 The Hon A Collings

The following Hon Member voted against:

The Hon J Bossano

The Bill was accordingly 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 of this meeting.

MR SPEAKER

Which will be tomorrow morning at 10.30 and before I announce that we are going to recess I would like to put the House on notice that Mr Bossano has given notice under Standing Order 25 that he will be bringing up on the adjournment of the House, the final adjournment the question of the issue of a licence under the Wireless Telegraphy Ordinance for the purpose of the Radio Controlled taxis.

We will recess now until tomorrow morning at 10.30 a.m.

The House recessed at 7.30 p.m.

WEDNESDAY THE 14TH JANUARY 1976

The House resumed at 10.30 a.m.

HON CHIEF MINISTER

Mr Speaker the first item on the list of Bills for consideration in committee is the Notaries Public Bill, 1975. The Honourable the Leader of the Opposition has represented to me that his side of the House is looking a little further into the matter and would like this to be taken at a subsequent meeting. I have no objection, I have told him that we want to make sure that we provide the best possible legislation and perhaps their contribution can help. I do not mind if it is left for the next meeting so that will not be included in the list to be read out by the Attorney-General.

HON M D XIBERRAS

Mr Speaker, as the House knows, last time there was some reference to certain correspondence and representations made, and these are in fact in our power and I think they are sufficiently important to warrant a deferralment of the Committee Stage of this Bill.

MR SPEAKER

The Attorney-General will move then that we are going into Committee exclusively for the remaining three Bills.

HON ATTORNEY GENERAL

Mr Speaker, I beg to move that the House resolves itself into Committee to consider the following Bills, clause by clause -

the Imports and Exports (Amendment) Bill, 1975; the Immigration Control (Amendment) Bill, 1975; and the Price Control (Amendment) Bill, 1976.

THE HOUSE IN COMMITTEE

THE IMPORTS AND EXPORTS (AMENDMENT) BILL, 1975.

Clause 1

HON ATTORNEY GENERAL

Mr Speaker, I beg to move that Clause 1 of the Bill be amended by the deletion of the figure "1975" appearing therein and by the substitution therefor of the figure "1976".

MR SPEAKER put the question which was resolved in the affirmative.

Clause 1, as amended stood part of the Bill

Clause 2 was agreed to and stood part of the Bill.

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, I beg to move that Clause 3 of the Bill be amended by the insertion immediately after the words "has an interest" in the penultimate line of the proposed new section 2A (3) of the words "in the business". I might just add that this is a printing error in the Bill as tabled.

MR SPEAKER put the question which was resolved in the affirmative.

Clause 3, as amended, stood part of the Bill.

Clauses 4 to 13 were agreed to and stood part of the Bill.

New Clause 14

HON FINANCIAL AND DEVELOPMENT SECRETARY

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

"Amendment of First Schedule. 14. The First Schedule to the principal Ordinance is amended by the deletion of the words "for the purpose of this item, commercial vehicles means -

i. a vehicle built or adapted for the purpose of carrying goods; and

ii. a vehicle designed to carry 8 or more passengers."

appearing in the second part thereof and by the substitution therefor of the following -

"For the purpose of this item commercial vehicles means -

i. a vehicle primarily built or adapted for the purpose of carrying goods; and

ii. a motor bus or motor coach with a sitting capacity for 8 or more passengers."

Sir, the object of this amendment, and the addition of this additional clause, is to rectify an anomaly in the definition of "commercial vehicle" which appears in the second Part of the First Schedule of the Ordinance as it stands at the moment.

It has arisen because there was a recent case of a self-propelled caravan which had seats for 8 passengers and it qualified for duty at the rate of 15% as a "commercial vehicle" under the present definition, instead of 22½% which is chargeable for other than commercial vehicles of similar engine capacity. The lower rate of import duty on such types of vehicle could, we feel, serve to encourage their importation with consequent loss of revenue and it is accordingly, therefore, proposed to cover the point with this amendment.

MR SPEAKER then put the question which was resolved in the affirmative.

New Clause 14, was agreed to and stood part of the Bill.

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

THE IMMIGRATION CONTROL (AMENDMENT) BILL, 1975

Clause 1

HON ATTORNEY-GENERAL

Mr Chairman, I beg to move that Clause 1 of the Bill be amended by the deletion of the figures "1975" appearing therein and by substituting therefor the figure "1976".

MR SPEAKER then put the question which was resolved in the affirmative.

Clause 1, as amended, stood part of the Bill.

Clause 2, was agreed to and stood part of the Bill.

The Long Title

HON P J ISOLA

I had given notice of an amendment that I was going to move, a clause. I have had some discussions with the Honourable the Attorney-General, who has explained some practical problems that arise from it, although the Government agree the principle of Gibraltar women transmitting rights to alien husbands. The Honourable and Learned the Attorney-General has agreed that we should hold further discussions and has undertaken to introduce a Bill on this point at the next meeting, so I do not propose to move my amendment in those circumstances and will wait until the next meeting of the House.

MR SPEAKER

There is no need to withdraw the amendment because it has not been proposed.

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

THE PRICE CONTROL (AMENDMENT) BILL, 1976

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 HOUSE RESUMED

HON ATTORNEY-GENERAL

Mr Speaker, Sir, I have the honour to report that the Imports and Exports (Amendment) Bill, 1976; the Immigration Control (Amendment) Bill 1976; and the Price Control (Amendment) Bill, 1976, have been considered in committee and agreed to. In the case of the Imports and Exports (Amendment) Bill, 1976 and the Immigration Control (Amendment) Bill, 1976, with amendments. I now move that they be read a third time and be passed.

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

The Bills were read a third time and passed.

PRIVATE MEMBERS' MOTIONS

HON J BOSSANO

Mr Speaker, I beg to move that this House considers that Government should not use its position as a major client of the construction industry to influence pay negotiations in that sector and in view of the fact that the pay of Government's own employees is being reviewed retrospectively to October 1974, it should accept any backdated claim which may result from the payment of retrospection to construction workers and which are made under fluctuation clauses in Government contracts and associated with the operations of "the fair wages clause".

Mr Speaker. the position at the moment in the private sector is that the pay of virtually every sector within private industry has now been settled with the exception of the construction industry. In the past, I have raised

in the House the peculiar relationship that exists between the Government and private contractors, and in particular the link that there is between the wages of the Government workers and workers in the construction industry employed on Government contracts. My own experience of pay negotiations with the construction industry leaves me in no doubt that at some stage in the past Government was undoubtedly putting pressure on private contractors in the interest of a particular pay policy. I think that this was most obvious early on in the Biennial Review negotiations in 1974, when in fact the construction industry reached an agreement with a group of workers based on a percentage increase and signing this agreement for a period of two years. And it took a great deal of struggle subsequent to that, to ~~take~~ industrial action, it involved in fact the support of trade unionists outside Gibraltar, before the employers came back to the negotiating table and agreed to improve on the settlement that had been reached previously. And one of the major arguments that was repeated constantly by the employers was that they could not commit themselves to meeting even in part the demand of the Union for an improvement in wages because they were unable to recover the cost of the increase from their clients, and in particular from the Government as a client.

This was true in that particular instance not just of the retrospective element but of in fact the pay increase that was to have effect in the future. And at the time and subsequently the wages that were agreed produced an increase which sought to compensate to some extent the fact that there was no retrospection for construction workers. In fact I think the only sector of the private enterprise that did not pay the £60 lump sum for the first quarter of the interim was the construction industry. Virtually in every other case there was agreement, except for very small pockets of workers in virtually every other case there was agreement on the same interim as the Government had agreed. And it was because employers claimed that they were unable to recover this from many of their clients, but that this was particularly difficult to bear in the case of public sector clients because they provide the bulk of the construction work. And within the context of the negotiations which took place at the time in fact the Union had discussed with the employers the possibility that if any of the retrospective element could have been passed on to private sector clients but could not be recovered from small private sector clients, perhaps the amount produced could be spread amongst all

employers of building firms in order not to discriminate between those on one particular building site as opposed to those in another building site.

Subsequent to that we have had the enquiry and the Scamp Report, and the negotiations in the public sector, and what is undoubtedly a very difficult job of finding accurate and acceptable analogue in UK. And the negotiations although they are proceeding at a fairly intensive pace in the sense that meetings are being held up to twice a week in the JIC for industrial workers, are nevertheless proceeding slowly.

Now, in the construction industry the post-interim negotiations have not been started because the employers are in a position where, if they were to settle first, they would be unable, certainly as far as some of their contracts are concerned where the fair wages clause limits the amount that can be recovered under any escalation clauses, to a wage that is no higher than that negotiated in the public sector. Therefore, the construction employers cannot in fact precede the public sector because they would mean that they would be paying higher wages than the public sector and could not claim from their client in the public sector. On the other hand, if they wait until the public sector has settled its own negotiations, then up to now they have been unable to claim for pay increases that they introduced retrospectively, to coincide with pay increases in the public sector, although in fact there is no doubt in my mind at least that the spirit of the fair wages clause must of necessity require that one should look at the comparison of the wages in the construction industry and the wages in the public sector at the end of the day, when all the negotiations are completed, and, therefore, if one compares, for example, the wage of a labourer in the construction and the wage of a labourer in the Government employment at the moment, the worker in the construction industry is probably higher paid. But when the worker in the Government is paid his wage increase retrospectively then we will see that in retrospect, as it were, the Government worker was being paid more at that particular point in time which we were previously analysing in the context of one not having had a pay increase and the other one having had it.

Now, this situation is one where there is apparently no room for movement on the part of the employers. in the sense that when they tender for contracts they base their prices on a particular level of wages in the industry.



And although they can obviously cut down their profit margin and absorb some wage costs, there is a limit to how far this process can go. The Government, in having a fair wages clause in Gibraltar, is following a UK practice and there is a dual purpose to this: one is to protect the worker in the industry, and the other one is to protect the worker in Government against what would be unfair competition. And, therefore, although I am bringing the motion initially at the request of members of the private sector branch of the Transport and General Workers Union who are employed in the construction industry, I feel that it also has a bearing on the public sector membership for which I have the responsibility as the Union negotiator. And I think this is particularly true where we are moving into a situation which has been I think carried fairly successfully in the case of the Gibraltar Government, where the Government workers are tendering for Government work in competition with the private sector.

Now, the fair wages clause provides protection for Government's employees in the sense that if Government were to agree to a wage increase in the public sector and it were possible for a private contractor to pay lower wages, then Government would be in a position that in the discharge of their responsibility of getting the best value for the expenditure of public money, they would be inclined to give work to the outside contractor in preference to their own employees, say in the Public Works Department, because the private contractor would be able to effectively undercut the cost of the direct labour if they are paying lower wages. The fair wages clause in fact, Mr Speaker, does not just cover wages, it talks about wages and conditions. And although I do not think we have yet reached the stage in the private sector where we can effectively press for the sort of security and side benefits that go with public sector employment, there is implicit in the fair wages clause, the desire on the part of Government as a client, to see what are in effect indirect employees of the Government, since essentially their wages come from the Government through a private employer, to see that these workers are no less well treated than those that the Government has on its own pay roll. I can appreciate that within Government it is sometimes only too easy to approach different aspects of one problem wearing different hats and look at it in a particular way with a narrow interest reflecting the approach that is conditioned by the responsibilities that the individual is discharging at that particular time. But I think in an area as

important for Gibraltar as the construction industry, a failure on the part of Government to recognise the reality of the situation can be, as it has led in the past, to industrial unrest, with delays in the implementation of the development programme and real losses to Government itself and to the community which are difficult to quantify and which may well be more expensive than a realistic approach to the responsibilities that Government has got to private sector construction workers which are no less important in providing a public service than Government's own employees. When I raised this matter in two questions, numbers 41 and 42 in May of last year, Mr Speaker, I brought it forward to the House precisely because at that time the position was one of deadlock between the employers and the employees in the construction industry over this question of the operation of the fair wages clause. And I asked in question number 42 what were the constraints placed on the contractors and on the Government as a result of this clause, and the Honourable and Learned the Attorney-General explained that the fair wages clause placed no constraint or duty on Government. It prohibits a contractor from paying less wages, observing less favourable hours, or conditions of labour, than those established by agreement, negotiation, or arbitrations for the relevant industry in Gibraltar. Or if they have not been so established those paid or observed by the Government. I would deduce from this explanation, Mr Speaker, that if in fact negotiations break down in the construction industry, and the Union is unable to reach agreement with the employers, then all those firms who are doing Government work will be required to pay wages that are no less favourable than those paid by Government because it has been impossible to reach agreement on a wage that is different from Government's. So that therefore, the wage agreement for the public sector becomes the minimum wage in the industry in the absence of any agreement, and all Government contractors will be bound by the fair wages clause in their contract to pay this wage, unless, as I said, they reach agreement on a different wage.

I cannot see, therefore, how the Government can at the same time deny that it has any responsibility for reimbursing the contractor that is carrying out work for Government, for reimbursing that contractor for paying wages that the Government itself has agreed are fair and reasonable wages because the Government itself is paying those wages to its own employees and the Government is requiring the contractor to pay those wages. Now, the position is that when the negotiations in JIC are completed, we will have agreed wages which are different

from those at present in operation and which will be effective from the 1st October 1974, and another scale of wages which will be effective from the 1st October 1975. Now, on the basis of my knowledge of the fair wages clause, and on the basis of the answer given by the Honourable and Learned the Attorney-General in May, it would seem that the moment that the new rates of pay are agreed, if there is no agreement in the private sector covering that period, the Government has got an obligation to enforce the fair wages clause and require its contractors to pay those wages which have not been paid previously because they did not exist previously. So the essence of the problem is created in fact by the delay in the negotiations of the public sector and the element of retrospection. Because the industry cannot agree wages before the public sector and is required in fact by the fair wages clause to pay at least the same wages after agreement is reached in the public sector.

The motion that I have before the House asks that Government should not use its position as a major client of the construction industry to influence pay negotiations in that sector. I know that the Honourable Minister for Labour and Social Security has previously on other occasions denied that this happens, and in fact, although in May he admitted that the unwillingness of Government to meet any retrospective claims under escalation clauses was a factor, he claimed that that was not the only factor behind the deadlock situation in the construction industry. Well I can assure the Minister that on this occasion, as indeed was the case in the last one from my knowledge of the situation, on this occasion the only possible factor that could prevent agreement in the construction industry would be a repetition of the circumstances of the last pay negotiations where Government made it quite clear beforehand to the employers, that although they were free to negotiate whatever wages they liked, they could not expect to get a penny of it back.

Now, if Government gives an indication of this nature, in its capacity as client, to the contractors, it is as good as telling them what is expected of them in terms of the wages in the industry. And I think that this goes completely contrary to the purpose of the fair wages clause in Government contracts, because the purpose of the fair wages clause in that Government should in fact pressure employers in the industry, through its weight as

a client, but that it should pressure them towards improving wages, not towards containing them.

I am hopeful, Mr Speaker, that the Government will be able to adopt a different approach now, because in the post-Scamp era the Government no longer appears to consider that wage restraint, indeed wage freeze I would say considering how the pay negotiations started with 5%, no longer considers that that is desirable or necessary for Gibraltar's economic viability. The Government having itself accepted for its own employees that realistic wages are the best spur to economic development and to higher productivity for its own employees, must of necessity be adopting this policy in its view of pay negotiations throughout Gibraltar. And in the case of the construction industry it has a clear moral obligation to see that its own views of the way wages should be arrived at in the public sector, that its own view should be as acceptable in the industry. And if they are acceptable to the employers that any claims based on the implementation in the industry of the Scamp recommendations which Government has accepted for itself, in context of course where escalation clauses exist enabling contractors to obtain reimbursement, should meet with no opposition.

Now, I can understand that there is a problem in making retrospective elements, and I can understand the Government not wanting to set up precedent in this area, but we are, Mr Speaker, in a peculiar situation in that we have never had such a complex exercise to carry out, and once it is done, it should not be repeated again. There is no reason to suppose, Mr Speaker, that the wage increases that are due to take effect in October, 1976, there is no reason to suppose that agreement on those will not be reached before October 1976, and there is no reason to suppose that as far as wage increases that are due to take place in October, 1977, agreement on those will not be reached before October 1977, because in fact the view of the Trade Union Side in JIC on this matter is that pay negotiations should start about three months before the new rate is due to come into effect, so that one starts negotiating about July for the increases that are to be implemented in October. And with these annual reviews, once the major exercise has been arrived at, the subsequent changes are likely to be limited to the introduction in Gibraltar of changes that have occurred in the UK wages structure in the preceding twelve months, which is an on-going thing, but there will be considerably less argument about the appropriate

analogue once the framework is agreed this year. So the delay is coming this year, and I do not think that Government runs the risk of facing for all eternity a list of backdated claims from the construction industry. But this year, I think the Government has either got to accept that the construction industry should precede its own negotiations, and be willing to meet the cost, where it is obliged to by escalation clauses, even if this apparently at this stage is based on higher wages than the public sector. Because it is only because the private sector has not itself concluded its own negotiations, that the wages will be apparently higher. Or else it must make it quite clear that it will not stand in the way of agreement in the industry by refusing to meet part of the cost of any backdated payments made to construction workers.

I think it is most important that Government should make its position clear on this matter because I can assure Government that it is the view of the Union that the requirements of the fair wages clause, as explained by the Attorney-General in May of last year, are so clear cut that all that has to be done is for the Union to fail to reach agreement with the employers and to take the matter to the courts to get a ruling obliging Government to implement the fair wages clause and requiring contractors to pay at least the wages that have been agreed for Government workers with effect from the date that they have been agreed for Government workers.

Now, I think an explanation for members of Government of how they see the problem, that they recognise that there is a problem, and the degree of sympathy that there is on the Government side on this matter could help to produce a solution to the position which will otherwise lead to deadlock, possibly to industrial action, and certainly to the matter being taken to the courts for a ruling.

MR SPEAKER then proposed the question.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, the first part of the motion which is before us, asks this House to consider and indeed to decide, that Government should not use its position as the major client of the construction industry to

influence pay negotiations in that sector. In the course of speaking to this motion the mover said, if I heard him correctly, that it was his view and of those he represents, that the Government should pressure employers to improve wages. I myself find that somewhat difficult to reconcile with the sentiments expressed in the first part of the motion. But now . . . .

MR SPEAKER

No, no, I am afraid that we are not going to <sup>have an</sup> interruption. You will have your right of reply later on.

HON FINANCIAL AND DEVELOPMENT SECRETARY

The second part of the motion asks the Government to notify employers that it will accept any backdated claims which may result from the payment of retrospection to construction workers.

Sir, I think that perhaps the motion has been framed very precisely within the particular context of matters which are in issue today and which are the subject of on-going negotiations. This side of the House could readily agree with the first part of the motion, but I think that the Honourable Mover has effectively torpedoed the sentiments expressed in that part of the second part. And indeed the second part implies that the Government should in fact, and I think this was given extra weight by what he has said in speaking to the motion, that the Government should do in fact precisely what he claims by the first part it should not do.

Mr Speaker, Sir, the two clauses in Government contracts which -

- a. enable the contractor to apply for an increase in the contract price as a result of increased wages; and
- b. the operation of what is generally referred to as the fair wages clause.

are two entirely separate issues. The first which is sometimes known as the fluctuation clause, allows the cost of labour to be adjusted in line with wage increases in the industry. But whether or not the payment for an

individual contract can be adjusted depends on the terms of that contract and the wage rates paid to the majority of employees within the industry at the time. The fair wages clause is included in all contracts, as the mover himself explained, to ensure that all contractors do in fact pay fair wages to their employees. Under this clause all contractors to the Government in Gibraltar must pay basic rates of pay no less favourable than the Government itself would pay to its own employees. Again the mover fully explained that. But neither of these two clauses in any way restricts the freedom of individual companies or the industry as a whole to reach negotiated wage agreements, and it is the Government's policy not to inhibit such negotiations.

To adopt the second part of the motion would be contrary to the first because to agree to accept retrospective payment under the variable price clause of the contract would be, must be, to influence wage negotiations in the whole industry of which Government contracts form only a part. It is for this reason that the two issues must remain separate: wage rates to be determined by free collective bargaining; and reimbursement to be settled by the terms of each individual contract. It is only at the end of each contract, and when the wages within the construction industry are known, that reimbursement can be calculated. And to adopt this motion as it stands would be tantamount to Government interference in what the Government considers must remain an area of free collective bargaining.

HON M D XIBERRAS

Mr Speaker, we feel that it is highly desirable to get settlements, not only in the construction industry which plays a most important part in our economy, and which sets, or has set in the past, the climate of labour relation overall to a large extent, but also in any other situation which broadly falls under that category. For example, Honourable Members may have noticed that we would welcome an early settlement of the Scamp issue as it appertains to the Official Employers. And, therefore, the spirit of the Honourable Mover's motion is entirely in harmony with our views. However, we have difficulty, and I feel that other people both within this House and the industry will have difficulty in accepting the motion as moved. I think it is true to say that there is something of an inconsistency between the first part and the

second part of the motion, insofar as although the special responsibility and interest of the Government clearly emanates from the fair wages clause and from the fluctuation clause which have been mentioned by the Financial and Development Secretary, it would have been very much easier to have accepted more of this motion had the Scamp recommendations already been accepted. The fair wages clause also implies, broadly speaking, that Government, or the Official Employers, should lead in establishment wage rates, and that then the industry should follow. Now, this is not always the case and of late negotiations on biennial review have dragged out so long that the situation is completely changed, and this aspect of the fair wages clause concept should not apply as it applied in the past. Nonetheless it would be irresponsible, considering the importance of the sector as well put by the Honourable Mover, to place obstacles in the way of a speedy conclusion of negotiations in that sector, particularly if they are well advanced, the builders and the Union have done a lot of the work already.

The issue of retrospection is a very touchy one in the private sector and it is one not without implications for the community at large, because as the Honourable Mover has implied from his reference to the construction industry, traders generally might feel inclined to make up for any payment of retrospection that they might have to make by increasing prices. Now, there can be reasonable and unreasonable calculation in off setting beforehand the likely cost of any retrospection, and I feel that in this particular problem the difficulties of seeing to it that a trader, talking generally now, will not abuse his position or overstate the amount of money that he was due to pay in compensation and increase prices over and above what was justified, is very great.

Now, there is undoubtedly a risk that other sectors, other industries rather, might seek to act as it were by imitation of anything that might be done in the construction industry. It would be completely wrong, however, to assume that there is a case for all industries to follow the construction industry, or whatever is decided for the construction industry, because there is this special responsibility of the Government, recognised in law, emanating from the fair wages and fluctuation clauses.

And this is a responsibility that the Government, a major partner in that industry, cannot afford to ignore, Although Government contracts form the greatest part of



the industry, not all contractors work for the Government. By and large I think it is true to say that contractors will pay the Government rate once this is established, but so far it has not been established. If the House were to go along with the word "accept any claims, and the claims of those contractors who have Government work were to include retrospection, then contractors not working for the Government would be placed in a difficult position because they would have to increase their prices, the rate of the job, along with everybody else, and I would imagine that the Union would seek, and would be under pressure in fact, to see to it that all workers in the construction industry, irrespective of whether their employers work for the Government or were going to be compensated by the Government or not, should get absolutely the same deal out of the negotiations. This would be unfair on people not doing Government work. I do not know the extent of this, or the number of people who would be in this position, but it is something to bear in mind especially when we are trying to set some sort of set way or principle whereby these negotiations, and presumably other negotiations, may be conducted. Therefore, we could not go along with the word "accept", for that reason.

There is another reason why we could not go along with the word "accept", and that is that we have not been informed, nor do I think it is possible to inform the House, as to what people are to be paid. I hope that the Scamp negotiations have proceeded sufficiently to be able to determine what the workers involved, or who have equivalence in the construction industry, will be paid. But I do not know for sure what they are going to be paid and, therefore, to ask the Government, which by implication or in this case is the British Government, to accept a liability which has not been defined is in our view unreasonable. If it were a question of the House being asked to adjust or to vote extra funds of a specific nature for individual contracts after the negotiations have been concluded, this would be a proposition which the House could consider fairly: but not a blank cheque.

I have spent some time on the difficulties and I have done so because we wish to make clear why it is that we cannot support certain words in the motion. But I should be giving the wrong impression if I did not emphasise the other part of our thoughts, and that is that it is necessary for Gibraltar to have settlements.

It is not a good position when wage claims affecting large sectors of the economy are dragged on for a long time, and I have first hand experience of the difficulties of negotiations, and I know it is not an easy matter to get these very broad very complicated settlements. But if we do not, then difficulties of the kind contained in this Motion will inevitably arrive.

Mr Speaker, talking about blank cheques, there is going to be an effect on prices overall, and I think that the House should not agree to propositions the general results of which are not calculable. If the Honourable Mover could give us an indication of what is envisaged and what the effects would be, then of course we would be in a better position to support more of his motion.

Mr Speaker, I would like to move an amendment to the motion, in the following terms -

"The motion should be amended by the deletion of all the words following "sector" in the third line and by the substitution therefor of the following words -  
 "It recognises Government's special position in relation to the industry emanating from the "fair wage clause".and calls on Government to consider, taking into account the general situation of the industry, any backdated claim which may result from the payment of retrospection to construction workers".

Now, that we feel . . . .

MR SPEAKER

Are you moving that amendment, if so, may I have it please.

HON M D XIBERRAS

Yes, Mr Speaker.

That we feel covers both the spirit of the motion, which we support, and at the same time provides sufficient safeguards for the general public, other industries, and this House. I think all Honourable Members will be in agreement that there is a special responsibility arising out of the fair wage and fluctuation clauses.

HON CHIEF MINISTER

If the Honourable Member will give way. Sir, this is a very important amendment and we would want, as soon as possible, the actual text so that we can consider it before the Minister of Labour speaks.

MR SPEAKER

As is the usual practice I am allowing the mover to finish his support of the amendment. I will then read the amendment and propose the amendment for discussion.

HON CHIEF MINISTER

I would appreciate that since it is rather complicated. Is there an extra copy?

MR SPEAKER

Perhaps it might be useful that I should suggest here in the House now that at Budget meeting it might be thought convenient to recommend the purchase of a photocopying machine for the House and we could then produce copies immediately for the convenience of members.

HON M D XIBERRAS

I was saying that I think all Members will recognise that Government has a special responsibility for the construction industry and this emanates from the two clauses that I have mentioned. I think it is difficult to accept the word "accept" because we do not know what we are accepting exactly, how much of a liability, and in the motion also is implied, because we say that Government has a special responsibility for the construction industry, that this sort of arrangement is specific to the construction industry, special for the construction industry, and should not be applied, until the House otherwise decides obviously but not by virtue of what we have said today, to other industries who might claim an equal right. The subclause about the general needs of the industry is intended to convey or to safeguard the position of those contractors who are not doing work for

the Government. And small as they may be I think they are entitled to consideration.

I think all Members now have . . . .

MR SPEAKER

Have you finished.

HON M D XIBERRAS

I have said enough in support of the amendment and perhaps Honourable Members might respond to it.

MR SPEAKER

I will now propose the question, which is that the **question** before the House as moved by the Honourable Mr Joseph Bossano should be amended as follows -

"By the deletion of all the words following "sector" in the third line and by the substitution therefor of the following words -

"it recognises Government's special position in relation to the industry emanating from the fair wages clause and calls on the Government to consider taking into account the general situation of the industry any back dated claims which may result from the payment of retrospection to construction workers".

I may perhaps invite Mr Bossano, who is entitled to speak on the amendment, to have a say on it. Anyone can do so but would you like to have a first word, or would you rather wait. Since it is an amendment to your motion, I thought perhaps you would wish to have first say.

HON J BOSSANO

Do we not delete the "and".

MR SPEAKER

I had my doubts as to what Mr Bossano is saying. You are deleting the word "and" after "sector": is that necessary?

HON M D XIBERRAS

Not necessary. We will leave it in.

MR SPEAKER

So that the motion should read: the deletion of the words appearing after the word "and" in the third line. Mr Bossano would you like to have the first bite at the cherry or would you rather wait.

HON J BOSSANO

Perhaps if we could have some indication of how the Government feels about this change, it might condition my own reaction to this.

HON CHIEF MINISTER

It seems as if there is something missing here: it does not read well, certainly not the copy I have.

MR SPEAKER

The amendment should read:

"it recognises Government...." in other words the deletion of all the words after "and" in the third line: "it recognises Government's special position in relation to the industry emanating from the fair wages clause and calls on the Government to consider taking into account the general situation of the industry, any backdated claims which may result from the payment of retrospection to construction workers".

May I say that the difference between one motion and the other is that whereas in the motion moved by Mr Bossano there is a firm commitment by Government to accept, in this one there is a firm commitment to consider.

HON A P MONTEGRIFFO

I hope it may not be necessary for you to call my attention if I perhaps appear to be talking on the motion, that is not my intention, but inevitably the . . . .

MR SPEAKER

I would rather you say that it is not your intention to speak on the motion afterwards. I do not care what you say now.

HON A P MONTEGRIFFO

The very fears that have given rise, and which I share with the Honourable the Leader of the Opposition, and which have given rise to the amendment, are not done away with but may create in the long run more problems that it is trying to solve. Because though as you very rightly pointed out in explaining the difference between the two motions, in the first one we would have been bound by a legal obligation to pay retrospection, in the amendment it is left very much in the air as to what sort of retrospection any Government would be prepared to pay. But there is no doubt about it that the way this is phrased does impose at least a political obligation on the Government. If we were to accept this amendment we would have to consider what sort, if any, retrospection would be paid, and if I were in the position of the Trade Union Side I would obviously claim what the original motion was trying to do, backdated to 1974. And what would come out of this situation if a confrontation a worse confrontation than would come about if we were to come clean and say: we do not accept discussion for 1974. I feel that this, in a way is skirting the issue in an effort to try and agree with sentiments, which are also up to a point shared by this side of the House, but for the very reasons expressed by the Honourable Leader of the Opposition, there are difficulties why Government cannot accept the principle of retrospection in any shape or form. And the reasons, that would result, and that is why I want to say I am not talking on the original motion, that would result out of this is that Government, in accepting this recommendation, this amendment and the recommendation contained in the motion now before the House, which is the amended one, cannot forget that most of its small contracts, apart from the big ones, are fixed price contracts so the very real danger and unfairness that the Honourable Leader of the Opposition mentioned could affect the workers employed in the private sector with contractors who cannot claim retrospection could precisely happen to workers for whom the Government have responsibility but no responsibility to pay any more than what is laid down on the fixed price contract. And of course, Sir, it is

valid in a free society for some employers in certain circumstances to pay retrospection. Of course, that is so, and one again shares the sentiment of the Honourable Leader of the Opposition that one should have wage settlements as quickly as possible; not only in the interest of the workers, but in the interest of the employers and in the interest of the community, as far as the Government is concerned, because one wants to know how much one is going to pay. But it is precisely because there is this element of retrospection - and I am not saying this just to put the Unions in a bad light, because if I were a Trade Unionist I would probably do the same - it tends to make the Unions drag their feet and wait in the hope of getting more and more. If we were to accept this I would again express the fear expressed by the Leader of the Opposition, and that is that other sectors in the private industry, and I say this with knowledge because already a sector of the trade for whom the Government has got no responsibility, are already telling us that if we are prepared to pay retrospection they would not claim for a price increase now but will do so in May payable from January if the wage settlement takes place in May.

So there are a lot of difficulties and it would create a lot of unfairness, not only as between workers in the industry but also as among contractors themselves, since Government has got no responsibility towards some of them, either because they are contractors who are operating on fixed price contract or because the contractor in a particular sector of the private industry has not been doing any work for the Government.

It is for this reason that we oppose the principle of retrospection. We would, however, like to hear more about what the Honourable the Leader of the Opposition expects the Government to do as a result of this particular amendment.

Perhaps we would obtain more information as to what liability this Government would undertake if we were to accept this particular amendment. We would welcome some clarification and explanation on that particular issue.

HON MAJOR R J PELIZA

Mr Speaker, I think it is rather a pity that the Government finds it impossible to be more accommodating with regard to the situation that now exists in Gibraltar in relation with the settlement of Scamp, of which obviously this is one instance, and the construction industry.

MR SPEAKER

We are now considering an amendment to the motion and we must relate our discussion to the amendment.

HON MAJOR R J PELIZA

Yes, Mr Speaker, but even the amendment to the motion is a motion in itself.

I think it is rather a pity and the attitude of the Government is really one of sweeping the question under the carpet. Because like it or not when Scamp is settled the situation that we are now looking ahead to and trying to solve will present itself. So this is not really skirting round the issue, as the Honourable Member the Minister for Health, said when he stood up just now. Far from it. It is facing reality. There is a problem, and the problem has to be faced, and the problem has to be solved. When the time comes, and if some work has not been done in preparation, the problem can escalate and then I think the losses to the community can be greater than the amount of money that would have to be paid out would represent. I, therefore, urge the Government to be realistic now. And to start with, if it is impossible to quantify the exact amount, which I believe is the greatest problem of the lot, as I think has been pointed out by speakers on the other side, I think it is possible, knowing the figures which the Government obviously have, to make a fairly accurate estimate, give or take, of how much it would cost the Government at least with regard to its own contracts.

MR SPEAKER

May I have an undertaking by the Honourable Member that he is not going to speak on the general debate.

HON MAJOR R J PELIZA

I will not be speaking on the general debate, Mr Speaker.

MR SPEAKER

I know it is difficult to establish a dividing line, but on the other hand . . . .

HON MAJOR R J PELIZA

I do not intend speaking again, Mr Speaker.



HON A P MONTEGRIFFO

Mr Speaker, if I may obtain some clarification. What we want to know from this side is whether/the amendment intend<sup>s</sup> to achieve is that Government should pay retrospection from 1974. This is what we want to get out of the Opposition as regards their amendment, because if that is the case there was no need to amend the motion as it stood.

HON MAJOR R J PELIZA

We are not saying that the Government has to do this: there are problems but I think it fair that the Government should start by showing goodwill and say that they will consider all these problems. By rejecting this at this stage the Government is indicating that it is not prepared even to consider the spirit of the motion.

MR SPEAKER

No, we are not going to talk across the House. Say what you have to say and they will all have a chance to reply to you in due course.

HON MAJOR R J PELIZA

And I feel that a sign of co-operation from the Government now could prevent what I would think may well take place if at the time, at the moment of truth, the Government remains as adamant as it seems to be at the moment.

I think we are very fortunate to have in this House an Honourable Member, Mr Bossano, who is well acquainted with the problems of labour in industry. We are very fortunate in this because we are in a position now to be able to hear in this House the genuine feelings of the causes that bring about industrial strife, and the possibility of minimising the stresses that inevitably arise from an industrial dispute. I think we should make the best of his contribution and although, as we can see in this case, it is impossible to go the whole way with his objective, I think it is possible, in a genuine spirit of compromise to meet him half way, which will sooner or later I am sure have to come about. Why not start early, therefore, and prevent unpleasantness. Make the full use of the opportunity. The opportunity is now. I think - I may be wrong - but I think that the impression that Mr Bossano gives me is that if the Government were to show some inclination of co-operation as from now he might accept the amendment. If he did, then there would be unanimity in this House: if the Government did so and if he did so - and the Opposition obviously does - then I think we would have from now a new spirit injected into this, as we can see, coming dispute.

As we all know, prevention is much better than cure, and I would say the Government should give a little bit of more thought, as it does sometimes, and see if it is possible to arrive at a compromise here today, if it is acceptable to all the members of the House.

HON CHIEF MINISTER

Sir, there has been a reference by the last speaker about not allowing these matters to be swept under the carpet. And if I may say so with respect, that is what the amendment proposes to do. And that is to sweep away the problem, get some nice words which mean nothing, as we have been told "no commitments", and I am advised that it certainly has no legal implications in order that we should say formally, after a motion of much more importance and much more commitment, that we should say that we will consider any question of retrospection.

The Government has got a duty, without having to have an amendment to a motion, to consider anything that is brought to it by the people with whom it deals. It has a duty to do so in fairness and in justice, having regard to all the circumstances at the particular time. We do not need an amendment to a motion to be able to say that. That is the role Government looking after the interests of the community as a whole, including the workers in the construction industry, including the interests of the Unions, and including the interests of the construction industry and all others. It has a duty to consider anything that arises and that may well arise, but to try and do away with a substantive motion which is unacceptable to both sides of the House, and pretend by a form of words to say that we will consider, is to me sweeping the problem under the carpet and not just saying that we do not agree with the motion and that we cannot vote with it. And, therefore, what we do not want is half measures in this House that will give the wrong impression to both sides, because that is the sort of thing that creates conflict and misunderstanding at a later stage.

Our position with regard to the general motion will of course be dealt with, when we return to the general debate, by the Minister for Labour - apart from anything he may want to say on the amendment - because the matter has great implications and the Government must take a very considered view in the attitude it takes on these matters because of the effect on the community.

HON A J CANEPA

Mr Speaker, I think the amendment moved by the Leader of the Opposition is a sincere attempt on his part to try and bridge the obvious differences in the approach to the original motion moved by Mr Bossano, ~~in his approach~~ and the approach on this side of the House, clearly propounded in a fairly factual manner by the Financial and Development Secretary.

There are aspects of the amendment that I agree with. For instance it talked about taking into account the general situation of the industry, and I think that that must be the policy of the Government in its approach to wage settlements in the private sector. I dwelt on that aspect in answer to Question 41 in May last year, which is perfectly relevant to the amendment even, because I said that the wages policy of

the Government was to encourage the negotiation of wage settlements through the process of collective bargaining in the private sector, and that we hoped that such settlements would take account of the circumstances and the conditions in the industry concerned. That aspect I fully agree with.

I also agree with one or two other things that the Leader of the Opposition said in support of the amendment which I will return to in a moment. But basically, Mr Speaker, what I think the amendment does, as my Honourable Friend on my left put it very ably, is that it changes a contractual matter, which is one of legal interpretation, to perhaps what could become a moral or political issue.

At present, Mr Speaker, reimbursement is purely a matter of legal interpretation of an individual contract, and of course the problems in the last couple of years have been that the Gibraltar Master Builders Association has been seeking assurances which the Government has felt impossible to give, for a number of reasons, or even undesirable to give and the Leader of the Opposition has mentioned one or two of them ~~for instance~~. *Take, for instance the case of* Because other people, other contractors in the construction industry, ~~constructors~~ who would be working for private enterprise, and they could not possibly be expected to make retrospective payments on what are virtually fixed price contracts. So this is a consideration which we have had in mind. There is another wider consideration which has been mentioned, but which I wish to return to in a moment, but I must stress, Mr Speaker, that the present position was made clear, both by the Honourable Attorney-General and myself in May last year, and that was that the attitude of the Official Departments and the Government had to be in consonance with our contractual obligations under the terms of contracts which we have with the building contractors.

The matter is one which is subject to legal advice: all the facts have got to be available, not taking into account one particular industry, but also every aspect of an agreement which is arrived at with a contractor. It is not possible therefore to look at the matter in an all embracing manner. And my experience, Mr Speaker, in Gibraltar of any reply which includes the word, or any motion which includes the word, "consider", "calls on Government to consider", - when Government tells somebody in response to representations that it will consider the matter - the impression that people get is that they are going to get what they want. And I have a feeling that sincere as the amendment is it would give the impression to the employees in the private sector of the building industry that what they have been after for the last twelve months or so is well within sight, and that all their problems are over. That it is just a case of a political confrontation with the Government, not on a legal basis, but on other aspects.

The other point, Mr Speaker, ~~about~~ *concerns* the repercussions which even this would have, ~~is that~~ I think the Government, ~~which~~ also has a special position in relation to other industries in the private sector: for instance with regard . . . .

MR SPEAKER

That would be going to the general motion would it not?

HON A J CANEPA

I do not think so, Sir, because the amendment does refer to Government's special position in relation to that industry, and . . . .

MR SPEAKER

Precisely, but that is not altered and you will have an opportunity to talk about it, when you speak on the general motion, unless you do not want to speak on the general motion.

HON A J CANEPA

Our obligations in other wider aspects also preclude us, I think, from giving what may appear to be a blank cheque, if we accept this amendment.

HON J BOSSANO

Mr Speaker, on the amendment, I wish to say that I would have been prepared to accept the amendment as I think the Honourable and Gallant Major Peliza, accurately guessed from my reaction to what was being said. I would have been prepared to accept the amendment because the intention of the original motion was not in fact to dot the "i's" and cross the "t's", and tie the Government down completely to pay retrospection from October 1974. The original part of the motion that the amendment seeks to remove says: that in view of the fact that the Government itself is paying retrospection to October 1974, it should consider, or it should accept - those were my words - it should accept a claim or claims that may be put forward in respect of retrospection in the construction industry.

Now, in fact I mentioned in support of my original submission on the motion that in the last increase, in the first half of 1975 which was the last increase in the construction industry, I mentioned that there had been an increased payment which in the negotiation statements is recorded as being an element of compensation for loss of retrospection. So having mentioned that I think the Honourable Mr Montegriffo missed the point about thinking that in the original motion I was saying that there was a claim in the construction industry for retrospection until October 1974, because the last settlement in the industry was in the first part of May 1975, and that gave up the original claim for retrospection to October 1974. I am talking, Mr Speaker, about the pay increases from October 1975, where there have been settlements everywhere in the private sector, except in the construction industry. So again the fear that this might spread

to everybody else is not applicable, because everybody else is already settled. The only people who have not settled are the people in the construction industry.

For example, in the negotiations with the Chamber of Commerce a settlement was reached increasing wages from September 1975. Now, I think that the amendment that the Honourable Leader of the Opposition has suggested would meet what is required in this stage, which is an indication that the Government is willing to give consideration to a case that may be put before it. It is not enough for the Chief Minister to say that they are always willing to consider things, because in fact the construction industry have been told repeatedly that they will not entertain any claim. Now, if the position of the Government is that they will not entertain under any circumstances claims based on a payment, say to October 1975, then let them vote . . . .

HON A P MONTEGRIFFO

I may have misunderstood the wording of the motion: I said that Government could not entertain at all, would reject, any retrospection from October 1974, and that is why I was trying to draw the Opposition to tell us more or less what would be the commitments that we would enter into if that was agreed. It has had to be explained by somebody else, not by the mover of the amendment.

HON J BOSSANO

Well, the position is, Mr Speaker, that the last negotiations in the construction industry, as indeed throughout the private sector, were in respect of what one might call the first stage of the Scamp Report. And the latest round of negotiations in the private sector have implemented the October 1975 increase, except in the construction industry. We are now at the beginning of 1976. Either the workers in the construction industry will have to have a pay increase from now, rather than from last October, or else their wages will be able to be increased from last October. But there is no question about it, the employers will not consider, in the negotiating machinery, any claim to this effect from the Union unless they have an indication that their clients will consider claims from them. Of that there is no doubt, because that has been made crystal clear for a very long time. And as long as the Government say they will not consider it then the employers simply repeat the message to the Union.

Now, I do not think that the Government is right in thinking that this is an attempt to tie them down, as much as the original motion appeared to say, by putting forward a watered down version, nor do I think the Government is right in saying that it is being swept under the carpet, because I have brought it to the House, Mr Speaker, quite openly, and I have stated quite openly that I have been requested to

bring it to the House by the people affected because the people affected want to have a clear public statement of what is the Government position in this matter. One of the things that I think we have got to put right in Gibraltar, Mr Speaker, is the situation where one employer hides behind the other employer: where you go to the UK Departments and they say it is the Gibraltar Government, and the Gibraltar Government say it is the UK Departments. Or you go to the private sector and they say it is the Government, and the Gibraltar Government say it is the private sector. That situation is in nobody's interest, and if the Government are not prepared in fact, then they should say quite categorically that they are prepared and vote against it. Fair enough, then the people will know what action they need to take. If that is their view, fair enough, but I cannot accept that showing a willingness to give consideration to such a claim commits the Government to more than just that, their willingness to consider the claim.

Now, if in fact they are not willing to consider the claim then they should oppose the amendment, and certainly I would say that the way that the Financial and Development Secretary talked originally suggested unwillingness under any circumstances. He mentioned that it was the policy of the Government not to interfere. Now, obviously if giving consideration is considered to be interference, then certainly I would have thought, Mr Speaker, not being willing to give consideration is interfering. If accepting something is interfering, then rejecting it is interfering. So the Government cannot get away from interfering whatever they decide on this, whether the answer is yes or no, that answer, by the definition of the Financial and Development Secretary, is interference.

Now, I would hope that the Government could accept the amendment because I think that will open the way for a settlement. If there is a possibility of this doing so, Mr Speaker, then I think I can explain some of the considerations which will answer to a vary large extent the fears and the reservations that have been expressed by other speakers originally, and I would leave that for my rounding up of the original notion.

HON M K FEATHERSTONE

Sir, the amendment of the Honourable Mr Xiberras asked the Government to consider retrospection in the construction industry, and my Honourable Friend Mr Montegriffo tried to elicit from the other side information on the date they had in mind, 1974, what was it. Now, Mr Bossano has brought out quite clearly that he is referring to the present round of wage negotiations, which is the implementation of the Scamp 1975 section, and the Government is quite happy to consider this. But we would like to make it very clear by putting an amendment to the amendment, if we may, Sir, and this would be to put in the words: "to October 1975" after the words: "the payment of retrospection".

This will make it crystal clear that the Government is willing to

consider - I do not say that they are willing to implement - they are willing to consider retrospection back to October 1975.

I therefore, Sir, suggest the amendment to the amendment.

MR SPEAKER

As Speaker I am certainly going to use my discretion not to allow anyone to talk on this amendment to the amendment, but I am going to put it.

An amendment to the amendment is being proposed, that the words: "to October 1975" should be added to the amendment which is being debated and moved by the Honourable the Leader of the Opposition to the original motion moved by the Honourable Mr J Bossano, after the words: "retrospection", in the last line of the amendment.

The question was resolved in the affirmative.

The amendment to the amendment was accordingly carried.

MR SPEAKER

So we now have the amendment to the original motion which reads as follows - I am reading it not because we have finished the debate but so that the House will know what we are doing:

"That the motion which has been moved by the Honourable Mr Bossano be amended by the deletion of all the words following "and" in the third line, and by the substitution therefor of the following words "it recognises Government's special position in relation to the industry emanating from the fair wages clause and calls on the Government to consider, taking into account the general situation of the industry, any backdated claims which may result from the payment of retrospection to October 1975 to construction workers".

There are very few Members who can speak to this amendment, so I will put the question now, unless there is anyone else who wishes to speak to the the amendment.

HON A J CANEPA

For my guidance, Mr Speaker, do we then revert back to the original motion?

MR SPEAKER

We do indeed, yes.

You will be able now to reply to the amendment if you wish to do so.

HON M D XIBERRAS

Mr Speaker, I am very glad that the words that the Chief Minister described as just words or something, have been conducive to reaching a position which is acceptable to all Honourable Members in respect of this important problem. Since I understand that the Honourable Mover is prepared to accept the amendment - we have in fact voted on it - we have unanimity in the House, I am glad that this side of the House has been conducive in bringing about this unanimity and perhaps the Honourable and Learned the Chief Minister might reflect that words can be very powerful in certain situations.

Mr Speaker, I am glad about this because the problem does not arise from the words used in this House, it arises from the real situation in the construction industry. It is not because we in the House are playing around with words that we get problems, a number of them, but because there are problems outside this House which we are supposed to try and solve inside the House.

I think the notion, as amended, will give an indication of Government feeling. It does give as much indication as the Honourable Mover apparently wished from the Government, and this is all to the good in the negotiations which are to follow.

I disagree with the Honourable the Minister for Labour, though I thank him for the spirit in which he took up the amendment, that we were discussing a collegial obligation, for the same reason, as I said, that it is not the words in the House that create the problem.

In other words, there are obligations arising out of Government's general interest in the construction industry which must not be lost sight of.

I dare reflect, Mr Speaker, that the fair wages clause in a context of successive Biennial Reviews and delayed settlement, is fast becoming an imperfect instrument, without any contradiction to the notion, for the benevolent influence which Government should be able to exercise over this important industry, and I commend to Honourable Members the possibility of a further development both of the fluctuation clause and the fair wages clause, and also the policy as regards contracts, because we are in a situation where no sooner have we left one review we start on another, and it will be unfair that an industry for which past legislators considered that Government had a very special responsibility should find that the legal provisions which they made are in fact going to operate against the industry, if Government settlements are long in coming.

So, Mr Speaker, as I say, I am very glad that there has been unanimity on this important issue in this House.



MR SPEAKER

I will then put the question which is that the motion moved by the Honourable Mr Bossano be amended by the deletion of all the words following "and" in the third line, and by the substitution therefor of the following words:

"it recognises Government's special position in relation to the industry emanating from the fair wages clause and calls on the Government to consider, taking into account the general situation of the industry, any backdated claims which may result from the payment of retrospection to October 1975 to construction workers".

The question was resolved in the affirmative.

The amendment was accordingly passed.

MR SPEAKER

So now we have the original motion as amended, and if there are any contributors they may speak now.

HON A J CANEPA

What we are debating here this morning is a matter which was ~~of course~~ debated, I think, ~~it was~~ during last year's Budget. There was a debate under the Improvement and Development Fund. I have not been able to check of course because the Hansard of that particular meeting is the one which is outstanding. But I think the Honourable Mr Bossano did raise the matter and I had one or two things to say to him about attempting to use this House to solve industrial problems. But anyhow, I am glad that we seem to have made some progress since then. And of course it was also a subject that was dealt with at very considerable length in the two questions which I have made reference to.

It has been said here this morning, Mr Speaker, that perhaps collective bargaining, the process of negotiations to settle Biennial Review, is not the sort of tool<sup>1</sup> machinery, which is actually efficient and

which is working because of the delays. Of course they have been somewhat drawn out . . . .

HON M D XIBERRAS

I am sorry to interrupt, Mr Speaker, but if the Honourable Member will give way. I said that the fair wages clause was an imperfect influence, not the Biennial Review.

HON A J CANEPA

But many of the problems nevertheless also emanate from the delay in the settlement of the Biennial Review. Of course the situation is that since 1970, instead of having a Commissioner here with a report and more or less laying down the law, and employers and Unions by and large accepting that, ~~since the last 6 years~~, settlements have been through collective bargaining. But of course I hope that for the future the problem will not be as serious as it has been. I can appreciate, I understand, that the Unions should be all out during the course of the present negotiations to obtain the best deals for themselves with regard to the analogues, because this may well set the pattern for the future, ~~but~~ for the other percentage stages of Scamp. One appreciates that and if there is a good settlement this problem will not recur and, therefore, one would also be glad to see that in this particular industry, in the private sector of the building industry, the future in this respect may also be rather more rosy, quite apart from the amendment which the House has already accepted.

But I feel, Mr Speaker, that I must set the record right and make it quite clear that the Government cannot, by and large, give employers in the private sector a blank cheque on the question of retrospection. If it were to do so it might undoubtedly make life easier, very comfortable for employers and Unions in this industry, and in other industries, but it cannot do so. And it cannot do so precisely because it cannot take the narrow view that Mr Bossano was alleging that we took. We cannot take a narrow view, we are not just clients of this industry, we are not just concerned with controlling the price of bread, we have got other duties in the wider sense that, rightly I think Mr Xiberras spoke of, and which I had tended to narrow when I said that it was a

and not just

down

legal matter. It is not that of course, we do have wider responsibilities. And there could be very serious repercussions, Mr Speaker, from any policy of automatic reimbursement arising from payment of retrospection for the private sector generally. Other employers would want to be reimbursed, subsidised, by the Government when a settlement were to come a year after its operative date and they were forced to pay retrospection to that date.

During the course of 1975, Mr Speaker, there were three increases in the price of bread, by and large involving and by and large being as a result of wage increases and improvements in conditions. How can the Government possibly make arrangements for retrospection in such a case? ~~Who and in what manner are we~~ going to meet the cost which the industry has incurred, ~~and bearing in~~ mind that during that period of time hundreds of thousands of loaves of bread will have been sold, and during 1975 the increases were between 2p and 3p per loaf. How is there going to be such a settlement? How are we going to commit ourselves to subsidise such an industry?

and in what manner

These are the related problems and they colour the attitude and the approach which we have on this side of the House.

The Honourable, Mr Bossano, mentioned that the private sector of the building industry was the only industry that has not received the £60 lump sum, and I think that I told him in reply to Question 41 of May last year, that I did not consider that there was any reason why there had to be the same wage level throughout the whole of the private sector, nor indeed why wage levels or conditions, which were agreed by free negotiations, should be the same as in official employment. And that is what was at stake here, was it appropriate to pay a lump sum payment of £60 in all cases? I do not think it was, for very many reasons, and in this respect, Mr Speaker, again we could not adopt a purely narrow view.

I am sorry to say that in his own words it is the Honourable Mr Bossano, in introducing this motion, the original motion today, who has taken the narrow view. He said that he had introduced the motion in response to his members in that industry. Now, that is a narrow view. Because it was not the members of his Union in

that industry who put him in the House, who elected him. Of course not, because by and large the majority are aliens and they do not form part of the electorate. Of course he has got a duty <sup>to</sup> for those people, <sup>but</sup> in bringing this motion here he is taking purely a narrow view.

— What is in the best interest of my members? And that is not the view that we take on this side of the House: what is in the best interest of the community at large?

So that is the background to a problem which has been engaging our attention for the last fifteen months or so. And I hope, Mr Speaker, that the wrong impression will not be created by the Government having accepted the amendment to the motion. I can make it quite clear for the benefit of other employers in the private sector that I shall be as awkward on the extension which wage increases are passed on to the consumer, as I have been heretofore, regardless of what may happen as a result of Government's consideration of claims for retrospection in the private sector of the building industry.

MR SPEAKER

If there are no further contributors I shall call on the mover to reply.

HON J BOSSANO

Mr Speaker, if I may just take the final point, and devote very little time to it, that the Honourable Member has made a little political sniping at the end of his contribution. I make no secret of the way which I see my role in the House of Assembly. I am only concerned in the main with the welfare of the 70% of the population that belongs to the Transport and General Workers Union.

HON CHIEF MINISTER

You would have to have figures of that claim.

HON J BOSSANO

Well, Mr Speaker, I understand the Minister was in a recent visit at Transport House and he could have checked the records while he was there.

HON CHIEF MINISTER

You left all the records behind.

HON J BOSSANO

And I bring matters here because naturally the people who have contact with me ask me to bring them, and I think it is in the interest of the House that I should use my experience in the limited field that I have available to me, the field of trade unionism, to enlighten the House, just like other people who have got experience and knowledge of other areas can help the House in its deliberations in other matters, by putting their knowledge at the disposal of the House.

So I have brought this because there is concern by the people who are going to benefit if retrospection is achieved, and there is also concern, as I said, from my own side, from the Government's own employees, because we believe that the fair wages clause in Government contract is intended to serve also as protection for us against unfair competition. In addition to that because there is no possibility of moving forward in the negotiations in the construction industry unless the opportunity is seen to exist to reach agreement on this basis. Otherwise there is absolute deadlock. And I would like to explain why, because there is a very valid reason why the wages in the construction industry have to be the same as the wages in the public sector. The Honourable the Minister for Labour and Social Security said there was no reason why they should be the same, and he said that he had said so before. Well there is a very important reason why they have to be the same, and that is because the fair wages clause says that they cannot be less.

HON A J CANEPA

Mr Speaker, if the Honourable Member will give way. In that case once there is a settlement of the October 1975 agreement for the future, then there is no need for any negotiating machinery in the private sector and the Unions have outlived their usefulness in the building industry. *They would* just follow what happens in the private sector, if his interpretation of the fair wages clause is correct.

HON J BOSSANO

Mr Speaker, the fair wages clause provides a safety net in that if in the case of the private sector construction industry agreement is not reached then Government is required in its own contract, which accounts for perhaps 80% of the work of the industry, to impose a wage settlement, because it is required to ensure that Government wages are paid if no agreement is reached. That will provide no protection for the other 20% of industry, but it will protect the 80%. And because it is such an important proportion, collectively the employers are in a position where they have got an obligation, a contractual obligation to pay no less. Now, in at least one version of the fluctuation clause that I have seen in Government contracts it also says that claims based on higher wages than the Government pays will not be entertained.

So the employer cannot pay higher wages because if it pays higher wages it has got to come out of his pocket, he cannot put in a claim for it, and he cannot pay lower wages because he is required by the contract to pay wages that are no less favourable, unless agreement is reached with the Union for an inferior wage. But I mean, no Union in its right mind would accept an inferior wage if all it has got to do is refuse an inferior wage and then the Government will come in and say: in that case you have got to pay this. So that is the reason why it has got to be the same, because it cannot be more and cannot be less, for contractual reasons. Because those requirements are there. And I can assure the House, Mr Speaker, that this is something that can be verified by the Honourable member himself if he cares to look at these clauses.

Now, traditionally there has been a relationship between public sector wages and private sector wages in Gibraltar, which has not in fact been broken by the new method of negotiating wages after Scamp, because nobody has put a claim in the construction industry based on 72% of a UK construction worker's rate, which is £52 a week. Nobody has done that, but I suppose that could have been one interpretation of what Scamp recommended but it is not the interpretation that has been put by the Union on the matter. The claims have been made on the relativity that has traditionally existed between the industry and the public sector. Now, the position of the industry has been up to now that because on a number of contracts it was impossible to put in a claim if they agree on a pay increase before the Government, which was better than the Government's, because of that, they would not agree before the Government. And because the Government would not even consider claims based on retrospective payment they would not agree to pay retrospection. So the employers have been using this dual argument to get away with paying lower wages than they were obviously expected to pay under the provisions of the fair wages clause.

I do not know, Mr Speaker, whether the Financial and Development Sec Secretary still feels that there is a conflict in the notion as it is amended now between the first part that says that Government should not influence pay negotiations and the second part that says that Government should give an indication that it is prepared to consider, because as I

said earlier a refusal to give consideration to any claim for retrospectation which will in turn be transmitted into a refusal by the employers to entertain any claim for retrospectation, is to my mind clear interference in the industry. And in fact the second part of the motion, as it reads now, and as it read before, is a logical concomitant to the first part. In the past there has been interference because there has been constant tooting and frowning between the Government Secretariat and the Chamber of Commerce by the employers in between meetings with the Union. Yes, which is the place where the employers meet the Union, Mr Speaker. The normal venue for pay negotiations in the private sector is the Board Room of the Chamber of Commerce due to the good relations that the Union has with the President of the Chamber of Commerce.

I think, Mr Speaker, that the acceptance of the motion has paved the way for negotiations to take place within the industry where the Unions will be seeking not simply to revise wages from October 1975, but also it will be seeking of course to look at other areas of the construction industry: questions of safety, questions of amenities, and so on, which are still a very important role that Unions have to carry out even if there is a fairly automatic system for adjusting wages annually. And the removal of what was a guaranteed source of deadlock and conflict follows from the Government's clear indication that they are not throwing out of court the possibility that an element of retrospectation might be met in a claim which is drafted say on such a date the wages agreed were so and so. And if that claim arises three months after the date when the wages were agreed, in the case of a Government contract, that the Government will be prepared to look at that. The Government is not being asked to do more than that. But simply by supporting the motion and stating clearly that this is the case, that the Government will look at it, it removes the argument that has been used by the employers in the past in the industry to refuse to entertain any claim for retrospectation. Because the argument was that they could not entertain it unless the Government could consider it. Now that the Government has said that they can consider it the employers will be obliged to consider it themselves.

I mentioned, Mr Speaker, that the position of firms catering for the private sector of the industry was a difficult one, and that I recognised that myself, and it was a point made, I think, by the Honourable Mr Montegriffo. Now, I do not know in what way this will be tackled because I myself will not be involved in these negotiations, it will be my colleague Mr Feetham, but it was a problem that both the Union Side and the employers were conscious of in the past, and one possible solution to this problem that was discussed was that the element of retrospectation that it was possible to recover should be in fact distributed amongst all employees, giving perhaps a smaller proportion of retrospectation than if it had just been limited to those working on a particular site. Because it would obviously be unfair to employees, even within the same firm. If it appears that only the

people working on Government sites were going to get an element of retrospection then nobody would want to leave that site. The situation would be that people would refuse to work on any other site. So it would have an immediate effect on the construction industry as it is operating at the moment. And it would probably be impossible, certainly in the cases where the work has already been completed, in the private sector, and say a private dwelling has sold, to do anything to attempt to recover the additional cost. So I think these problems are recognised and I think that there is a desire from the Union to reach a fair settlement for the workers in the industry, not to try and create an impossible situation. The door must be open and the willingness must be there before any settlement can take place. I think the notion, Mr Speaker, as it stands, now which is an improvement on mine, opens the door, and I am grateful to the House for supporting it.

MR SPEAKER then put the question which was resolved in the affirmative.

The notion was accordingly carried.

MR SPEAKER

We will now recess until this afternoon at 3.00 o'clock.

The House recessed at 12.55 p.m.

The House resumed at 3.00 p.m.

HON P J ISOLA

Mr Speaker, I have the honour to move the motion standing in my name which reads that this House is concerned by the minimal provision of new housing in the present development programme and therefore by the Housing situation that will develop once the allocation at Varyl Begg Estate has been completed having regard to the numbers that will still be awaiting housing and calls on the Government now to take the initiative to avoid a critical housing problem arising later.

Mr Speaker, the reason why we have put this motion down in respect of housing is mainly because of the lack of provision that there appears to be in the field of houses once the Varyl Begg Estate has been completed. We know an additional block has been constructed at Varyl Begg but we also know that the Government in the development programme was putting heavy reliance on modernisation of housing in Gibraltar and rehabilitation of houses as part of an effective development programme. The reports that we are getting, the information that we are getting,



from time to time in this House, is that the modernisation programme of housing is not going anything like as fast or as effectively as was hoped for by the Government when it announced this modernisation programme. And accordingly we can see a big void arising once the Varyl Begg Estate has been completed. We only heard yesterday, for example, of the delay that is likely to be caused to the commencement of the Girls Comprehensive School. A school that was agreed on, a school that we were told all about some considerable time ago and yet construction will not commence until October 1977.

Well, Mr Speaker, for these reasons it is obviously essential that there should be planning now for housing the building of which may well not commence until 1979 or 1980. But we see a position arising, once the allocation of Varyl Begg Estate has been completed, where a great number of people will still be in the housing priority list and will not be able to look forward to accommodation within a reasonable period of time. And, therefore, we see that there is a need now to make decisions of where housing is to be put eventually, to start making plans for further housing development. It is a process that has just got to continue. The modernisation programme is clearly not going to fill in the blank, clearly this is going very much more slowly than I am sure the Government would have hoped, possibly for reasons well outside their control. But it is a fact and, therefore, we urge the Government to make a statement of how it plans to deal with this situation that is arising.

We have noticed as a result of an answer to a question yesterday that the plans for Rosia are now placing greater emphasis on housing for the public than on private housing as was originally envisaged. And it may be that the reasons for allocating far more area in Rosia for housing development for the general public is the realisation on the part of the Government that the modernisation programme, the rehabilitation programme, is not in fact going to fill the gap that will inevitably arise once Varyl Begg Estate has been completed.

So we put this notion down, Mr Speaker, in the hope that we may have a comprehensive statement made by the responsible Minister on the future plans the Government has for housing in Gibraltar, and an assurance that they will ensure that the impetus or the momentum of building new houses will continue after the Varyl Begg Estate has been built and will not allow any appreciable gap in the construction of housing to occur between the completion of the Varyl Begg development and the building of new houses.

Until we have a clear statement on this, a clear plan from the Government on this, we have to express concern at what appears to us to be very little provision for new housing for the future once Varyl Begg is completed.

I commend the Motion, Sir, to the House.

MR SPEAKER then proposed the question.

HON A W SERFATY

Mr Speaker may I start by saying that this development programme is a programme which is for a period of 3 years, and in this programme emphasis has been placed in a way on education. We are getting the Girls' Comprehensive School, a school at Varyl Begg, and other educational buildings including the Handicapped Children's School. So this must not be lost sight of when we talk of the aid programme of these three years. Education is taking a big share of the money and of the labour force available.

There has also been a departure, a new philosophy, on the question of housing. The Honourable and Learned Mr Peter Isola talks in his notion of new housing because, though he has mentioned modernisation too in his address, but I must stress the facts that modernisation forms part not <sup>of a</sup> new housing but of more houses that are going to become available to the general public, houses which without modernisation would have been lost to the people. And of course mention should also be made, because it also takes a share of the money and it takes a share of the labour force, of the large chunk of money that is going to be taken - over £650,000 - on repairs to old buildings. When we talk of new housing we must also not forget the repairs to the old buildings and modernisation.

Now the Varyl Begg scheme, which was a very ambitious scheme and which has taken a long time, about 6 years, to be complete if not more, from the primary date, the Consultants Report in 1970 some time in 1976. Now, this programme that we are talking about of these 3 years comprises only half the time, but will provide about 95 to 100 new houses, and about 200 modernised houses, plus the improvement to old housing which the expenditure of £650,000 on repairs represents. So we are talking really of nearly 200 coming in for allocation in the future.

Now, I have said so here before, this philosophy of modernisation is not an easy matter, it requires decanting and it is not like the Varyl Begg job which is a multi-million pound job on an open area with one big contractor and a large labour force. This question of modernisation is a slow process of repairing and adapting old buildings, and anybody who knows anything about building will tell you that there is nothing wrong in using an old wall in a new flat. Because as things are to be in Gibraltar, with the importation of stone aggregate, sand, building blocks, bricks, these take a very large share of the cost of a flat. So it does make sense to make use of old walls and old foundations in the provision of flats for the people. So I do not think we must be unduly pessimistic about the fact that within a period of about three years we shall have another 300 units available as a sequence to what has become, and is

becoming available in the Varyl Begg.

This brings me to a very interesting point which I think I should mention to the House, and that is that this aid programme should be prepared well in advance, well in advance of the period to which they refer. And in fact already now we are beginning to think that we should be preparing projects for the next aid programme. This I say for the benefit not only of this Government but of future Governments. Projects should be prepared well in advance so that when these projects, whichever are adopted in accordance with the philosophy of the Government in office, when these decisions are taken and when these projects are taken to England, to London, there should be the basic project already prepared to enable the Administration to get on with the job of implementation.

I think that is as far as I can go in informing the House of what our plans are in the development programme as regards new houses and modernisation.

The expenditure of £1,450,000 in new housing which should provide nearly 100 units; an expenditure of £1½m in modernisation which should provide about 200 units; and an expenditure of £650,000 on repairs, which is - this is a fact - a contribution to the quality of housing for the people.

HON MAJOR R J PELIZA

Mr Speaker, I am sorry to see that the Minister has very little to offer. If I got the figures right - I hope I am corrected if I did not - there are 100 new units, about 100 new units but it could be less. Could it? It could be less than 100, it could be more, we do not know, it could be less than 100. There are 200 being modernised. And then he says, therefore we have 300 more units in Gibraltar. I do not know where he learned his arithmetic but it does not seem to me to be like that. There are 100 new houses in Gibraltar not 300, and 200 houses which are going to be improved on.

So really there are going to be 100 families, or less than 100 families, they do not know; they might be able to improve their accommodation or have a home, but no more. Which means about 33 per year. With a population of 20,000 I think that is chicken feed. And I think

this is an appalling performance of the Government to come here today and tell us that. And all they can say is: well do not do what we are doing, you must not do that, you must prepare well in advance. That is all he is saying here today, a terrible excuse. Do not do what we are doing. We took so long in doing this, do not do it. You must plan well ahead if you want to have any housing. And then of course we had a lecture on why modernising houses was more convenient - because there was less aggregate, and less sand and less bricks required to perform that. Of course we all know that. But he is not going into the problem, however, caused by modernisation. That I believe tenants refuse to move. I wish he had told us what not to do in that respect as well. And to carry out a proper public relations exercise to ensure that the tenant can be moved in time so that if modernisation is going to be carried out it is done as quickly as possible, and with the full co-operation of the population, which I am sorry to say it seems the Minister has been unable to obtain.

So what can he show for houses. Nothing at all. As indeed he has nothing at all to show about any other economic development in Gibraltar. Where are the Marinas? Where are the hotels? Where are all these beautiful dreams he had when he was on this side of this House? He used to flog me every time we had a meeting here; every single day, I used to get it. What is happening to the Marinas? What is happening to the new hotels? He did not care very much about housing, I am afraid, perhaps because we were doing very well, and he could not flog us on that then. Well, I think in fairness, and in order to show that we too are keeping a watchful eye, I think it is fair that I should draw his attention to the miserable performance on the question of housing. And housing is by far, I would say, by far the most important item in the development, particularly in Gibraltar. It is even more important than education, if I may say so; it is vital to Gibraltar because education really starts in the home, the very habits of an individual are formed in the home. And it is in the conditions under which he lives, through the conditions that he lives, that the character of the individual is formed. That is environment. And environment, I should say, is 50% of the development of an individual.

So money spent on housing is a tremendous investment, a

tremendous investment which we should never, ever put aside. And I am sorry to say that the Government has been unable to do this! And one excuse is the labour force. Does he mean to say that we have not got the capacity to build. Is he associating himself with that suggestion. I do not think so. This is what we were told when we first went with the development programme to Britain: we have not got the capacity to build therefore you cannot have the money. This was our biggest argument. And because we succeeded we got it. Did he give in at the time, and is it because of that that he did not get the money: because then he said, but we have not got the money. Did he subscribe to that argument, that we did not have the capacity to build? Yes, yes, yes, Mr Minister, you said so. That we did not have the labour force. "If we had the labour available." Those were his words. "If we had the labour force available."

But the labour force can be made available, and if we had the plan, as we should have had it from the moment this Government took office they should have done so. They have been very nearly 4 years in office now, there is no excuse. We had no time when we came in, it is a question of weeks: and in a question of weeks we mounted a development programme. And this is why we are pleased to see that Varyl Begg is on the move. And all he can say is - 100 flats in 3 years, or less than 100 flats in 3 years.

As you know, Mr Speaker,<sup>I</sup> intended to raise the question of housing on the adjournment. I think this will be unnecessary because I feel that I can fit that in quite easily now. The lack of foresight and planning, which he is trying now to advise us that we should take seriously, is seen by the nebulous, and if I may say, evasive answers that the Minister gave earlier in this meeting on the question of Engineer House. Where was he going to spend his money then? Housing? No, he said, car parks. That is what he said. A beautiful site that one. One of the few sites left in Gibraltar. And he is thinking of car parks. "Density", he said. I think that Government have to accept quite a high density in Varyl Begg Estate because it is better to have a high density and a home than no home at all. And perhaps, if one were to ask the tenants of Varyl Begg Estate, whether they would live in the present density, which unfortunately when one compares that with the other

houses fairly near, on the other side of Reclamation, though it is sorry to see that density has to be emphasised on one side and on the other side unfortunately this is not so acute. But anyway, density is, whether we like it or not, a problem in Gibraltar. And the question is, what do we do: accept density as such, and it seems to me that whether we like it or not in Gibraltar, we have to, in fact I believe they do in places like Monaco, to which our Honourable Minister likes to compare Gibraltar on many occasions, where the density is perhaps even higher than in Gibraltar. Well, if he wants a Monaco I think perhaps we will have to accept that. And if he wants to encourage people from outside Gibraltar and add this to the local population, as I believe he once thought of doing, the density will have to be even higher. But now an excuse for his lack of performance he says "density". Is density the thing that is stopping building in Gibraltar? Because I believe that people of Gibraltar would rather accept density and proper housing than no housing at all.

And so I have got to go back to my point of Engineer House. What does he do there: car park! Amenities, we do not know what they are going to be. He did not have a clue. But housing, he could not commit himself to housing that he could not.

The Minister has no plans for the most important thing of any development in Gibraltar. The Minister who tells us that we have got to plan well ahead as otherwise we will never get it done. Well, if he feels that way, surely, whether he has got the money or whether he has not got the money, if he really believes in the gospel that he is trying to spread in this House now, of early planning, surely he would have said at least that he had plans of the housing that can be done whether they are in Government or not. We are going to build we are going to build, I have plans to build.

HON A W SERFATY

What I said was that we did not have any plans for Government housing in Engineer House, not that we did not have plans for Government houses elsewhere.

HON MAJOR R J PELIZA

I know, you had plans about which I am going to talk subsequently, which I think is 30 odd houses, and which I believe are part of the 100 hundred houses, or less than 100 houses. I obviously hope that you do have plans for that. Because if the Minister has not got plans for that he has not got a hope in hell to have them ready at any time. I hope that he has them, but I will talk about that too.

Let us concentrate on Engineer House at the moment: a good site, a good building site. One of the problems of building in Gibraltar is that there are few flat places on which to build. Even in flat

places like the Viaduct, which was the only site, according to experts some fairly quick progress could be made. After tremendous effort it was possible to acquire that flat piece of land which belonged to MOD. But if we look around now, there are very few other places which are flat to enable further cheaper and quick building. And one of those places is Engineer House. And I would have thought that the Minister, who apart from being the Minister responsible for that happens to have professional knowledge, would have grasped that place as a good place, where perhaps less money goes on retaining walls than in other places. But no, oh no! he does not know what he is going to do with that site up to now. At least he did not know when I asked him yesterday. Maybe he knows today. If he did he certainly did not say anything about it.

And so we find a good site wasting away, and people living in crowded conditions affecting the whole future. Children's futures are being deprived and, perhaps they will never be able to recover from that deprivation because the Minister did not have the initiative and the foresight of moving fast and doing something. Asking for more aid, more essential aid, at the time when the Government asked for money. This they were reminded of in this House time and time again, from the moment they arrived, but no, they had to give in some thought, and there was a long delay. If the Minister had realised the necessity for urgency, there certainly was not a sense of urgency at all at that time. And of course he has discovered this now, now when he sees the figures produced less than 100 new houses.

And now we go to another site, a precious site, because once a site goes in Gibraltar it is gone for ever, and it is practically impossible to replace. And if the replacement is there it is extremely expensive. If we go up to the cliffs the cost is I think perhaps unbearable, but if we go to places like the gasworks, I think the Minister said that he could do about 30 odd flats. Please correct me if I am wrong. . . .

HON A W SERFATY

Plans are not finalised for the development of the whole of the gasworks site. Part of that site would be devoted to the private sector, but there is room for a large number of flats, well over 100.

HON MAJOR R J PELIZA

I am glad that with the aid of the Honourable and Learned the Chief Minister we have been able to extract a bit of more information than we had before. So now we have another site of which I think the Honourable Minister yesterday was confusing multi-storeys with single storeyed houses. I just do not know what he really meant yesterday, but I think at the end of the answer we just did not know what he was going to do. One storeyed houses, two storeyed houses, three storeyed houses, he just did not know what he was going to do at the

end of the answer. And now we know that there might be a capacity there for about 100 flats, we do not know. The man who suggested that we should be planning ahead on this, one of the few sites in Gibraltar, is incapable today to tell us that he has got a good comprehensive plan for the area. Nothing at all on this vital issue.

Do what I say but do not do what I do, this is what he was trying to say today in this House. Now more important still, notwithstanding the lack of sites, the scarcity of sites, we now hear that in this area there might be private development. That I think is a very serious matter. And I think it is something that the public should listen to very carefully, because there is very little room left in Gibraltar now other than for Government development where it applies to the well-being of the people of Gibraltar, in the sort of Welfare State that we, I think, all accept here in Gibraltar today, as indeed the rest of the free West. And it is absolutely essential, therefore, that the Opposition keep a very close eye on this and presses the Government for more information about this matter of private building in that precious site. I was very surprised to hear that, because I am sure the Honourable Minister will accept without question that it is becoming more and more difficult to find sites in Gibraltar. Indeed he had the great problem of the garage for the Government in relation to which of course he had to go back on its plans. And he said very carefully how he had had to be so fervent in using that precious site for the garage because there was nowhere else to go. Now, notwithstanding his experience in the difficulties of finding places, in one of the few sites that he has left, he is going to sell out to private enterprise instead of keeping it for the people of Gibraltar. We do not know who is going to buy then, for all we know when he does build all those private houses there might be outsiders who will come here. Aliens we do not know.

I think the whole question of housing is very, very vital, and I am glad that my Honourable Friend, Mr Peter Isola, found it opportune to bring it here today. Because I think it is scandalous, the word I repeat is scandalous, that all we can have is 33 houses a year, perhaps less, for the next three years; that there are no definite plans; that there are a few precious sites available; and that for all we know those sites may well go to people who are not from Gibraltar.

HON H J ZAMMITT

Sir, I concur fully with the Honourable Major Peliza that housing probably tops the priority of our concern, and let me assure the Honourable Major that this Government gives very serious consideration and very hearty consideration to the housing problem.

I will try to be very brief, Mr Speaker, and to remind the Honourable Major Peliza, and to refer mainly to his emphasis on the question of foresight.



However, before doing that, Sir, I wonder if the Honourable Major Peliza, during one of his NAAFI breaks in Gibraltar, would care to walk along Flat Bastion Road and see that we have already one building, 59 Flat Bastion Road, I dare say nearly completed, and we have now vacated 57 Flat Bastion Road and 55 Flat Bastion Road, and I think, and I could be corrected here, Sir, something in the region of 38 flats will be available once completed.

Now, Mr Speaker, I obviously would like to see more new flats being built but one cannot forget the environment of Gibraltar. Some of these old flats which we are now modernising present much better living conditions than the modern flats. One finds that they have much more area space and the like, and many people in Gibraltar would much rather live in the areas, or their region if you would like to call it that way, that they have done for many years. I have myself many applications from people who want to go back to their old dwellings once modernised, and I think it is a good thing that for the first time ever a Government has taken the initiative of modernising what could easily be referred to as slums that have been totally abandoned for many years. No running water, no toilets, no bathrooms, etc. And I am sure that Members opposite will find that these houses, once modernised, present much higher living qualities than the modern houses which, although we know are modern and new are not as nice as some of the older buildings.

Mr Speaker, regarding foresight, I have always understood that foresight is very good, but you are right when the day comes, and you had decided rightly. But I would like to remind the Honourable Major Peliza that in new housing, particularly at Varyl Begg, we have tremendous blunders. I wonder whether the Honourable Major knows that in the next phase to be handed over at Varyl Begg, I will be receiving only six dwellings of 6 rooms kitchen and bathroom. There will be no more accommodation for that family requirement. There has been no 5 rooms, kitchen and bathroom flats for the last two allocations, and no more to come. In fact it was this Government, this side of the House, that had to partition three rooms, kitchen, bathroom flats into four rooms kitchen and bathroom flats to provide what is the Gibraltarian requirement. It is no good at all to build 100 blocks of flats with two rooms kitchen and bathroom. Very few Gibraltarians, thank God, are incapable of producing children, very few indeed, and the greater requirements here if for four rooms, three rooms, five and six room flats, and we will have none left for the larger families. That is foresight. That is the lack of foresight indeed. That is lack of planning, for we all know that it is not difficult in Gibraltar to find a family with two daughters and two sons, and that would require a six room or a five room kitchen and bathroom flat. But we have none. It is now, Mr Speaker, that one finds that there was lack of planning in an Estate of 700 odd flats. And what we must do, Mr Speaker, instead of coming and talking about all this rignarole of what we ought to do, it is a blatant example I am finding today in housing that I cannot accommodate people because I just have not got the accommodation for them. Mr Speaker when one is building an Estate of 700 flats, surely,

Mr Speaker, you should have a sample housing survey to find out what the requirements were on the waiting list and the statistics. They could have produced, I would have said, at least another 30 or 40 three room kitchen and bathroom flats, and there are 5 x 3 rooms, kitchen, bathroom flats which we drained off half way through the allocation. I repeat, Mr Speaker, we had to put partitions in the three rooms, kitchen and bathroom flats to provide four rooms, kitchen and bathroom flats. And I myself, Mr Speaker, wonder if members opposite have seen what a four roomed kitchen and bathroom flat is like. Some refer to it as a box room and rightly so. So, Mr Speaker, it is not a question of new housing. Of course we want new housing, particularly me. I would be delighted to have two more Varyl Beggs, but not with 2 rooms, kitchen, bathroom flats and bed-sitters, quite honestly, with proper planning. But there is a lot to say, Mr Speaker, a lot to say in favour of the pre war accommodation which can offer very adequate accommodation. And I say this, Mr Speaker, very sincerely, very seriously, that I have already had a lot of people saying that they wish to return if ever their dwellings are modernised, to go back to the environment they came from. And some people do not want to go to Varyl Begg, Rosia Dale or what have you, they would like to go back to their little region, Flat Bastion Road and what have you. And I think, Sir, that this Government has given a lot of concern to that. We hope of course, as has been the case, to do as much as we possibly can but even Varyl Begg has taken six years to do, and it is not yet ready, so on average, Mr Speaker, we are not all that very much behind, but we are doing, I assure you, our best.

It is of course a matter which is dear to everyones heart and, therefore, one can talk rather glibly about, but I think that if we are honest with ourselves, we can see that we just cannot take the decisions which Major Peliza referred to at the Viaduct or the Varyl Begg, and then make the blunder that we find ourselves with today, Sir. There must be good, honest, and sincere planning to ensure that Gibraltarian needs are met when we know what our needs are. And I think it is not difficult to find out, Sir. I think the Honourable the Leader of the Opposition, who pays frequent visits to my department, knows that one can easily establish what the demand of the public is, and what type of accommodation is required. It does not require any mathematical brains to work that out. It is quite simple, it is there. I hope the previous administration did that when they came along and tried to build Varyl Begg.

HON M D XIBERRAS

Mr Speaker, I find it difficult to be hard on the Minister for Housing, who has not been on the job for long, and who after all only has as his tools the type that the Government of the day provide for him. It was a pitiful display that we have heard just now of lack of realism on the part of a man who is responsible for the allocation of houses. And if he stands again for election he will be responsible

perhaps once again after this terrible estate the Varyl Begg Estate has all been allocated. We welcome the contribution of this Government to the Varyl Begg Estate, which must consist of a number of partitions and a number of doors. But we regret very much that the Government that is making use of the effort of the previous administration in obtaining a comprehensive housing scheme for Gibraltar, the like of which has not been known, should so knock it that even the people which the Honourable Minister is able to accommodate, thanks to the efforts of my Honourable Colleague on this side, will not want to take up the premises that they are offered.

The Varyl Begg Estate, apart from being the largest, and I have just been to it, it so happens, is a very good estate. It is well built, the houses are by and large - and I live in a Government flat myself - with faults, very good houses. And even if they are not so, they are the only alternative that Gibraltar has been able to produce, and produce in a relatively short time of six years. And the implementation of the programme of course was in the hands of Honourable Members opposite, though its conception was in the hands of Honourable Members on this side of the House. Produced in a relatively short time, in a comprehensive fashion, after - the Minister may not believe it - after considerable research into the housing needs of Gibraltar, carried out by an authority on the matter, consultants appointed by ODA, and not in any haphazard manner as the Honourable Member . . . .

MR SPEAKER

We are now debating the situation of the Estate, which is the Varyl Begg Estate. We are specifically debating the housing programme of the present Government to cater for the needs of the community in the future.

HON M D XIBERRAS

I was replying, Mr Speaker, to the Honourable Minister on the Varyl Begg Estate, which is not all allocated yet, and which the Minister has the job of allocating, and thanks to us he has the job because otherwise he would not be allocating anything.

Mr Speaker, so all this business of saying that the Varyl Begg Estate is this and that, and what a job they would have made had they been in charge, is all a lot of hooey, a lot of rubbish, because once they have been given the chance to produce a development programme of their own, they have produced a miserable 100 new houses. And do knock 650 flats, I will not put it as high as 700, and I am not talking of Catalan Bay about which nothing has been said, by people who have produced 100 new flats it is just not fair. Mr Speaker, it is not fair or balanced criticism, and it is a poor defence of the housing record of this Government. And for the Minister for Housing to do it reaches the height of - I would not say ingratitude - but just lack of realism.

space

The Minister for Housing holds allegiance to a Chief Minister who said that the last administration had not put a brick upon a brick, and they made great play of it. The Minister for Housing, who is a colleague in Government of the Minister for Tourism, whose wild dreams kept us all awake in this House, of Marinas and hotels and of this and of that and of huge development programmes, as my Honourable and Gallant friend has said.

MR SPEAKER

Yes, but we are again repeating, over and over again the same thing.

HON M D XIBERRAS

Mr Speaker, the facts of the matter are that when we came in we had a list of about 1,400 applicants and we thought we could break the back of the housing list. And if it were not for this an estate of 650, without commitments of about 700 flats, in December 1969, plus those that were built at Catalan Bay, which were many more of - I do not know whether the people of Catalan Bay are aware of this or not but they should be because they had a meeting with the Honourable Mr Bossano and myself visited the whole of Catalan Bay in the room next door - but we, thanks to the efforts of Mr Joe Caruana, this was increased and the houses, very good houses, so about 700 flats, and we thought we had broken the back of the housing problem. Well, we had not. We were wrong about that. But for us in that Government, to be followed by a Government who talks to us of modernisation, to talk to us about returning to an environment, who offers us a germ of housing but none of the bread and butter of housing, it is a very painful experience, and Honourable Members will forgive us for being irrate about it.

Mr Speaker, the Housing Lists continues to grow. It is bigger than 1,400 and, therefore, the critical situation about which we are talking is even more critical if that is the case. Because even if the modernisation programme was to be carried out on time, we still have had only 300 flats. But are Honourable Members opposite aware that the modernisation programme also implies a reduction in the number of available flats. It implies an increase of the housing list, as two flats are built into one, or as people are accommodated with a bit of more room . . . .

HON H J ZAMMIT

If the Honourable Member will give way. Nobody is disputing that, but what one is trying to say is that most of the people comprising 1,500 present applications for housing do not necessarily need larger accommodation.

MR SPEAKER

I am not allowing it.

HON M D XIBERRAS

The Honourable Member is simply substantiating the point which I am trying to make. We are saying that it is a critical situation which the next Minister for Housing is going to face, because the housing list, despite Varyl Begg and despite Catalan Bay, has grown, and yet the supply of housing has diminished beyond all proportions. And even that which is supposed to be in the pipe line is not assured, because of the nature of the present Government's development programme. The present development programme, Mr Speaker, conceived out of necessity; it was done in hard times and it is going up amongst surrounding needs. There is absolutely no doubt about it, that the Chief Minister did not have a well prepared development programme when he went to the United Kingdom. Either that or he was very much mistaken as to what Gibraltar's housing needs were. We have corroboration from the other side that what is needed is new houses, urgently. That is what is needed. Otherwise you cannot house the numbers, purely on numbers. Put aside the partitions and doors, but simply give people basic conditions. And we should be beyond that as a European Community but we are not. To keep up with the number we need flats produced quickly, and this means new construction, and this the present development programme totally fails to do.

We are not opposed to the modernisation programme as a refinement of the housing programme. We think it is a fine idea. We know that people like to return to the area in which they were brought up, we think this is very good, but that does not solve the problem of the housing list. It will by the year 2,000. It might by the year 2,000, but it does not do so immediately. And we have an immediate housing problem, as Honourable Members are aware, and we have lost so much momentum as the result of the present development programme. Honourable Members should be concerned, and my reason for attacking them in this way is that there should be an awareness of the critical situation that is going to arise, and which I am sure must be felt by everybody associated with the allocation of houses. I am quite certain about this. There must be concern amongst everybody; in the Housing Unit, of the Housing Committee and by the Minister himself, that the next Housing Minister will have nothing to allocate after the completion of Varyl Begg.

Mr Speaker, it has always been a moot point whether one went, in a development, for education or for housing. They were in recent times two top priorities. There was much thought given in the 1969 development programme as to which should come first, and we felt we should do things concurrently using existing facilities. We thought

we could develop the comprehensive school using some money and, yet provide a solid basis for an advancement in housing. But this Government has not only fallen between two stools it has got nowhere near either of the two stools, because in education, which is their priority, things have been pushed back by a year in fact in two or three weeks, as we heard earlier in this meeting, and in housing there is no prospect in the hope offered. And this is a fact, the figures speak for themselves. But undoubtedly, whereas one is able to accommodate a school, however big, into a development programme as part of the arguments with Her Majesty's Government, it is always the housing, or has been till now, which is the very touch stone of success or failure in negotiations with ODA. And in these negotiations the present Government undoubtedly failed because they were led to believe that with the modernisation programme, which implied an almost budgetary kind of contribution, the housing situation would be improved and improved quickly enough. This is not the case. And I would like the Government to turn away from this belief, that through the modernisation programme the Government in Gibraltar, whoever it is, is going to be able to offer the people of Gibraltar a good deal, a fair deal, because it is not going to be able to do so. There will be increased demand for modernisation because everybody will feel entitled to modernisation. There will be a reduction of flats and so forth at that stage.

Sir, I hope Honourable Members, apart from anything else, and I am not knocking the modernisation programme in itself, will realise that we need to do something over and above the modernisation programme. That is important.

Mr Speaker, the meeting I referred to with people at Catalan Bay, they were complaining about the method of allocation and so forth, assured me that before the Chief Minister went to the United Kingdom, it had been promised to them by a Government Minister that there would be extra flats to come at Catalan Bay. Even in that limited area the Government has not produced what it appears to have undertaken to produce and we will see no movement there at all. The Honourable Mr Serfaty intimated that one had to plan for the future, that there had to be links between one development programme and another. I am sick and tired of

offering help in this direction. I have said it ad nauseum. We are willing to support, because I feel that in this vital area, in a recurrent need, almost a historical and endemic need in Gibraltar, it is a duty in public life to provide continuity. Liaising between Government and Government, between programme and programme, and I told Professor Clayton this as well. I remember Professor Clayton, in a letter from him told me: you will be glad to know that a. b. and c. are not in because they do not accord to your policies, and I said, no, I will not be glad, I cannot make myself responsible for the development programme of this Government. But I am very keen to see maximum development, maximum allocation of funds wherever it goes, particularly, I said, in housing and education, but we might have been able to offer more concrete help if my offer of assistance made in this House in connection with this mission, which I often quote in connection with the acceptance of the comprehensive school in principle. It is our duty to Liaise and to link. It is a duty for all people in public life, otherwise it is going to be quite impossible to keep up any sort of momentum. But the problem is if we can offer support from this side of the House, we can offer encouragement, we can offer criticism, we can push you, but what we cannot do is to make ourselves responsible for things that we do not know about. And if the Government had told us that they were going for a big modernisation programme as the mainstay of the housing programme, we would have said, no. We want new construction.

Mr Speaker, we have heard from the Minister for Housing that the housing list has increased in fact from what we thought the critical figure of 1,400. Well, we are living now with a revolution of rising expectations and it is going to get worse. What can we do about it? I repeat the offer of thinking together and liaising together on this particular topic. It is the only way I can put it in language Honourable Members opposite may understand.

Mr Speaker, apart from that I did not quite hear what was said about Engineer House but there was a question about it. There are also plans for participation by the public Government, there were in our time the participation of public, Government and building societies for building other flats. And Engineer House is a good area for that. If one can get money from Her Majesty's Government or from somewhere, get money to put into

development of this kind. But if one is going to sell flats, if one is going to build flats which are going to be sold at a higher price to the public at large, then one must have discharged one's duty to the general public, and that can only be done with new construction. I appreciate what Honourable Members opposite are going to say, they are going to say that Britain has gone through hard times, that we cannot expect this, we cannot expect that, I appreciate that. But do not be beguiled by a modernisation programme which does not fit the bill. I am very glad my Honourable Friend Mr Peter Isola moved this motion. Honourable Members can take the matter as they please, but if they wish to be constructive, then they will say what other plans they have after this, what place they feel, the modernisation programme is going to have in the next development programme, in their view, whether they be in Government or in Opposition, wherever they are, and to contribute ideas as to how we can develop or increase the supplies of Housing, because, I will finish up with this note, Mr Speaker, the figures speak for themselves. Over, I do not know how much over, 1,400 people in the housing list, Varyl Begg running out fast, and at best 300 more houses to come for the remainder of this development programme. Those are the stark figures governing the situation. So Honourable Members would serve Gibraltar I feel by contributing to a solution to this problem.

#### HON CHIEF MINISTER

Mr Speaker, anybody who listens to this debate and who does not know what there is or is not in Gibraltar would have thought that nobody had thought of building houses before the Varyl Begg Estate project, and that nothing has been done since the Varyl Begg Estate was built. In the first place it fell to the previous Government to allocate a great deal of the planning of our previous administration to the Glacis Estate, something in the region of 500 houses. So that is one aspect of the matter which has not been mentioned, apart from all the other hundreds of houses that had been built by us, long before there was a system of Government other than the Municipality in Gibraltar. In fact, even during that time, the original Alameda Housing Estate was constructed with the considerable planning and so on to what was to happen in Gibraltar after the evacuation.



So that the question of housing did not originate as anybody who has heard the speeches today would think, with the Varyl Begg Estate, but it is a matter which has concerned everybody in Gibraltar for many years, and I am proud to say, in proportion to our population, perhaps because it had been neglected for years and years in the old colonial days, had done more in proportion to the population since the war, than any other community of this size.

Since the debate has deteriorated somewhat from a look to the future to a lecture and to what we ought to do because of what has been done before, there are one or two aspects of this matter which perhaps should be brought to light. Of course the Varyl Begg Estate was the biggest estate that has ever been built, it was the biggest area of land that we had to be built on, it was the biggest amount of money that was given to the people of Gibraltar to pay for that site which the Honourable Major Peliza originally tried to pass away as having been given us free. It was not given us free, it was given as the payment of money which came out of the millions which at one stage he was saying he was getting a million a week. £750,000 was paid by the people of Gibraltar out of development aid given to us in order to purchase that. You may have brought the cash but you paid for land that we should not have paid a penny for, and you made people think that you had not paid a penny for it, when in fact we paid very dearly for it, very dearly for it. But of course, ODM paid, but if £750,000 had not been paid for a piece of land that should have been ours, we would have had that much more money to do something else, somewhere else. We would have had the school because the builders statement was £600, flat and now we have to provide a primary school for that wonderful estate. You got the school, you got the money for the school, yes. It is fantastic . . .

MR SPEAKER

Order, order.

HON CHIEF MINISTER

And when I heard the Honourable Leader of the Opposition talk about "we want to help you". What a changed man he was. When we came into Government we offered the Opposition membership of the Planning Commission, and it was turned down flat, and now he comes to say: "we are prepared to plan jointly for the future, we are prepared to help you." And apart from other committees, which need not be mentioned now, the Planning Commission, because it is one where there must be continuity because planning is planning for Gibraltar and not for this Government, or for that Government or for whatever it is, it would have been a wonderful opportunity. Incidentally, in the period of the famous Planning Commission of the previous administration, in the space of two years and ten months, 12 meetings

of the Development and Planning Commission were held. In the same length of time, the Planning Commission which my friend now presides, 62 meetings have been held. Plenty of things have been done, and plenty of concern, precisely for that "word" which has been mentioned by the Honourable Major Peliza, which he has brought no doubt from England because it is very prevalent there, and that is the question of the environment. That is what the Planning Commission is trying to do a little about, and that is what we are trying to do if we are going to avoid Gibraltar becoming on the two peripheris brand new flats, and the old city decaying and becoming a slum to be looked at at a distance instead of having a proud Rock with proper housing all along the line. So that in fact, Mr Speaker, the contribution that has been made in this case by the other side has certainly not impressed me very much.

There are one or two matters which my friend cannot reply to but which I thought I should mention because it has been mentioned before, and that is the question of Engineer House. Now, because of the difficulties of the requisition of that back from the developers who have failed to develop it, there have been difficulties about the cost and way it is meant to be done. But what the Minister has said quite clearly is that he wants it to improve the area and to improve the whole of Gibraltar and not just for housing. There may be a site for housing there, the nature of which will have to be considered later. The other point is that there has been no question at all of building houses for private sale in the gasworks, there has been no mention of that. What there has been mention of is of allotting part of the site for private development. It is not the same thing. We are not going to build any houses for anybody there, but in fact, apart from the 38 flats that are going to be built at Rosia Dale, which are now out to tender, and further Government housing, which is what the Honourable Major Peliza was mentioning, of about - subject to the result of the enquiries into the site conditions, of another 100 houses. That is what there is there for the immediate future subject to proper planning and site investigations.

Now, if the other side are so keen and support, as the Honourable Leader of the Opposition has said, the question of modernisation, I cannot follow his arguments. What housing is required for is to relieve overcrowding, to better the conditions of people who are living in houses, and to be able to say that gradually everybody is going to have accommodation until finally we reach the goal, though of course this is a continuing process, at least that there are no serious cases of overcrowding and that everybody has a decent house, with a bathroom, an indoor toilet, and proper conditions that other people are enjoying in the modern houses. If that can be provided in the town area by modernisation, then it is an addition to housing that is provided for people to live in better conditions. And it takes people off the list. If they are temporarily out and there is provision for them out when people are finally allocated a flat which suits their requirements and which is modern in all standards, then that is one applicant less on the list, and, therefore, that relieves overcrowding. It certainly does not mean that every house or flat is certainly virgin ground, of course not. The houses are there and

that is why this is being done, because there are parts of the structures which can be useful for them. So that in fact I am glad that at least this idea, that the old town must be rebuilt, is accepted as proper. And it is fair to say that in the development programme this was our own way of tackling the matter.

Now, there is no question of lack of funds because I think it was mentioned, even on the other side, that in three years, £7.6 million was a very handsome contribution by ODA, and compared very well even with inflation to aid given to the previous administrations, be it the Opposition when they were in office or when we were there, and we have to be grateful for that amount.

And I would like to take this opportunity to say, as I think as I have said on a previous occasion, that at no stage in the course of our representations on the development programme was it mentioned to us by any Minister of the Crown in England that the funds were tied because of the financial situation in the United Kingdom. The only thing on which they were more specific was the question of not committing themselves for a long period as we wanted, for 4 years, but for three years, in order that we would know, because a lot of the monies which remained unallocated, whereas there are claims from other places that cannot be met because money was allocated is deemed to be used and later on it is not used. That was the only change in administration which we found, and I think we must be grateful for the help that we have been given and for the further increase that the programme will cost on its completion because of the increased cost of all the projects, such as the school which has already gone up I think about a million or nearly a million from the original estimate.

So having regard to that, Mr Speaker, I think that we must be satisfied. Of course nothing is ever enough but on this scheme this provision of 300 houses in three years is about the average that has been given out or allocated in the previous years at about 100 new accommodation, 100 people off the list per year.

HON J BOSSANO

Mr Speaker, I think the programme for the provision of houses that the Government has outlined is a disaster for Gibraltar in terms of meeting its housing needs in the near future. Now, it is unfortunate that if one criticises the shortcomings <sup>of a</sup> particular scheme, the fact that one is criticising the scheme immediately makes the people responsible for drawing it up defend it as if it was necessary to be infallible. Everybody can make errors of judgement, and I think the Government has made an error of judgement in the way they hope to provide for the future housing needs of Gibraltar. If we have now, after allocating 700 houses in Glacis, and after building 700 houses in Varyl Begg, a hundred more people on the housing list than we had when we started - a hundred more because we had 1,400 and now we have

1,500 - then by a projection of that trend we will finish in three years time with 2,000 people on the housing list; not with less than we have got now. The need for new houses is vital as long as overcrowding is responsible for a substantial part of the applications for new accommodation on the housing list, and there has been no evidence no breakdown, no analysis, presented to the House that this is not the case, that we have solved the overcrowding problem. As long as we have got an overcrowding problem we will not solve the overcrowding problem by taking people out of their overcrowded houses and sticking in a bathroom and putting them back. We will make the overcrowding worse unless we expect them to sleep in the bath, Mr Speaker.

HON A W SERFATY

If the Honourable Member will allow. When he talks of modernisation it does not mean that we take part of one room and build a bathroom there. What we say is that we take two units, three units, one and a half units, it all depends on the plan of the house, and convert that into one unit.

HON J BOSSANO

That makes the overcrowding even worse, Mr Speaker, we will have three people sleeping in a bath then! The situation seems to me quite clearly one, Mr Speaker, where unless the Government is satisfied that with 100 new houses the overcrowding problem will be virtually solved, modernising the existing stock of houses will not go anywhere near solving the housing problem. There is absolutely nothing wrong with modernising houses, it is something for example that is being seriously considered by local authorities in UK at the moment, but the essential feature, when one is looking at modernising houses as an alternative, is that one should say, one should prove, that the money that one has got to spend will produce more houses, through modernisation, than it will produce through new construction. And as long as people are being re-housed, and leaving part of the family unit behind in the old house, this will not happen. And the Minister, certainly the previous Minister for Housing can confirm, that there are very few, in proportion to the people that have been rehoused in Varyl Begg, there are very few relets. There are very few relets because one of the trends in our time, which necessitates the building of bed sitters and the building of two room houses, is not that we are all going sterile, as the Honourable present Minister for Housing was afraid. It is not that, Mr Speaker, it is just that we are moving towards the nuclear family, which is the standard pattern in Europe. We are moving away from a family where you had the Grand Mother, the parents and the Grand Children, all living in one house. Indeed we had them all living in one room. We are moving away from that to a situation where the elderly like to live on their own. They like to visit their children and their grand children occasionally, but they do not like all being under one roof. This is a pattern which is emerging and it is being seen in the way that instead of whole family units moving out the Minister will be

able to show, and he will be able to establish that this is still a continuing trend, he will find that he allocates part of the family and part of the family remains in the old premises.

Now, in order to be able to do that one needs to build new houses. Modernised houses will not solve that problem. And unless the Government can show statistically that this is no longer happening, then the 200 modernised houses will be a good thing because there will be 200 families living in better conditions than they were before, but it will not do anything to solve the housing needs: only 100 new houses will go towards solving that. It is not any good to think that one can build private accommodation for sale when the Minister has quoted figures of around £19,000 per unit for the Rosia Bay project which is for public housing. Those houses cannot be bought, they cannot even be bought even if we have 100% of the UK wage. It is just beyond the earning power of the bulk of our workers. You cannot expect a man to earn £25 a week and pay £20 a week mortgage, Mr Speaker. So there is not going to be a market for those houses, and putting private houses on the market does have some beneficial effect to the extent that some people who are living in Government accommodation are prepared to move out and buy their own. But I myself suspect that the Government will have to take quite tough measures to encourage people to do this. I do not think that as long as there is a differential of £15 between the rent and the cost of the mortgage people are going to be very willing, however much money they have got, to leave a subsidised Government house and go into one where they enter into a commitment of having to pay for it themselves. So unless the Government is planning in fact to take a line of actually compelling people to move out of Government accommodation, if they can afford to buy their own, I do not see how this is going to come about. The private houses will go to people who stand no chance at all of getting on the housing list, or to people who are not already in good accommodation. They will go in fact to new comers to Gibraltar who are now in privately rented furnished accommodation.

Now, I can understand the slow down in the programme. I think it is a characteristic feature of the Government's progress that has slowed down in a lot of areas. Perhaps this is reflected in the way the Honourable and Learned the Chief Minister reminds us of his long struggle against colonialism. It is quite obvious that he has been so tired by this long struggle that he has given up struggling. Well, Mr Speaker, then if he has not given up struggling then I look forward to his support on my motion on the landing charges which I take as a very real kind of the continuing existence of colonialism in Gibraltar, in spite of his 25 years of struggling to eliminate it.

The Government I think, Mr Speaker, should take another close look at the programme, because it is still at an early enough stage, I would think, for a greater emphasis to be given to the building of new houses. And I think that with the indication that the Honourable

and Learned the Chief Minister has given that he will not accept having to pay for reclaimed land - although I understood the situation was that he had reached agreement that all land, other than reclaimed land, would be passed to the Gibraltar Government free, but that reclaimed land would still not be passed free.

HON CHIEF MINISTER

I did not say that. What I said was that it was represented that we have not paid for it, when in fact it was paid out of ODA Funds.

HON J BOSSANO

Well, Mr Speaker, I got the impression that he was not in agreement with that, but apparently he is. If he is in agreement with paying for reclaimed land then of course that will make the problem more difficult, but nevertheless I think even if he is limited to looking for sites that do not consist of reclaimed land, sites can still be found where provision can be made for new houses. I think it is vital that we should do this, and I think that whatever the Government may wish to say at this stage, it will become apparent in the estimates of expenditure that in fact the volume, the output, is going down as the prices go up. The Government I think should accept that if there is criticism it is intended to be constructive criticism in the sense that the result of the exercise should be that Government should be prepared to take another look rather than persist, as they have done I think unfortunately on a number of other occasions in other spheres, persist in a line of action which has led to a dead end.

The Housing problem in Gibraltar requires drastic and radical action if it is to be put right, otherwise we will find ourselves with all the impetus that has been gained from the efforts of the two previous administrations, from the efforts of Varyl Begg and of Glacis, being lost. And it should not be lost because the craftsmen that are here, the equipment that is here, should not be allowed to go idle.

HON LT COL J L HOARE

Mr Speaker, every speaker on the other side so far has the same misconception of modernisation. They think that because you are modernising an old house you are not adding to the stock. This is true to some extent, but what is overlooked is that there are a great number of houses which are completely and utterly useless, quite uninhabitable, and these are being rehabilitated and added to the stock. So in this respect they augment housing. It is not just converting a small number, it is making use of existing stock.

And let me say here and now that it is cheaper to rehabilitate an old house, even though it is uninhabitable, provided the carcass itself is sound, than to produce a completely new house.

Now, I would like to make ~~the~~ three suggestions why the <sup>waiting</sup> list is going up instead of as one would expect, a diminution. And let us not overlook the fact that although plans may have been made by previous administrations, this present administration has produced, not in plans but on the grounds, 250 flats in Glacis which were not available there before; 38 of whatever it is at Catalan Bay which were at planning stage, but have been made and completed and occupied, 400 odd to date at Varyl Begg Estate, out of over 600, nearly 700, and the remaining 300 will be finished before June or July this year; we have converted about 36 wash houses into living units which has added to the stock, and in 59 Flat Bastion Road we are making new houses and adding to the stock because three houses only were occupied by a minimum number of people.

I said I would make three suggestions why the list is going up. First of all because the improvements in the standard of living - and I do not accept ~~that~~ concept that we should carry on for ever and ever living in second class housing. We want the people to have the best houses possible, and this is why we have spent a lot of money and a lot of effort in providing running water in about 3/400 houses in the last three or four years. I do not believe that people should live in second class conditions.

Now, Sir, I would suggest first of all that old people are staying behind in their accommodation; marriages are <sup>now</sup> taking place at an earlier age - there is no longer this six, seven, eight or ten years courtship of the old days ~~and you~~ did not marry until you had ~~the~~ <sup>your</sup> bottom drawers filled up. They now get married on credit and at the age of 18; and finally the fact that a lot of other people moving into Government accommodation are coming from private accommodation, which does not revert to the Crown and are being used by the landlords for their own purpose. This is why the applications in the housing list are going up instead of coming down.

I am very glad to hear that at least one of the Honourable Members on the other side agrees with this concept of using old houses rather than new building. This is the modern trend, ~~this is the idea~~. But it has a further object, that not only does it produce more housing stock but it preserves your existing stock and prevents it deteriorating. This is the object of rehabilitating and modernisation. So that you are not losing more and more houses faster than you can build them, especially in a place like Gibraltar, where your areas for building are so very very limited.

So far I have only heard two suggestions ~~on~~ where we could build: one was in Engineer House, and this has now been bandied about as a place of ideal potential. This is not so, Engineer House will take a limited number. Its geology does not allow it to be used for very much

because it rises very steeply at the back right from Engineer Lane the Road To The Lines and you cannot build on such a gradient in the same way as you can build on flat ground, and this has been admitted. So Engineer House, whilst it could be used is not really all that magnificent. It is all very well pooh poohing the ideas of density, but we come to the same problems, the same concept, of you live in slums or you live in a good environment and this is important. This has to be balanced very carefully ~~to~~ see which is the one that provides the better standard of living all around. It is no good just having houses which are going to have 60 people living in them ~~because they are~~ <sup>when</sup> <sup>used</sup> living in slums.

I think it was said earlier in the debate here that the emphasis in the development programme was Education. This is so. That the Girls' Comprehensive School is being delayed should not come as a great surprise to a lot of people because of what they see going on around all the time. If we had been allowed to get on with it, we would have got on with the building of the Girls' Comprehensive School. But that is one of the reasons ~~why I have been delayed~~ <sup>for the delay.</sup> I find it very difficult to reconcile the concepts advocated by the gentleman on the other side that we are trying to become more and more like Monaco, and yet deride the idea of having land available for private development. It is a pity that, <sup>particular</sup> thought was not ~~on~~ their minds when Gardiners' Road was let. But Monaco, if I know little about it, and I have only been there once . . . .

MR SPEAKER

No, no, let us not take up those points, because otherwise we can debate anything.

HON LT COL J L HOARE

But new Government housing I think is what is being talked about on the other side. We are talking ~~of this thing here about just~~ <sup>in this action only</sup> about Government houses: it says here, new housing in general, and housing, whether it is private or Government, is housing. In Monaco nearly all the housing is private, not Government. In Gibraltar everybody expects the Government to provide everybody with a house. I think this is the great difference. This is why I cannot ~~reconcile this.~~ <sup>accept the terms of the action.</sup>

Mr Speaker, I do not like deriding the efforts of other people because I am quite sure we all do our best, but I did not find things exactly 100% right when I took over the Public Works Department.

HON W M ISOLA

Mr Speaker, I think a lot has been said so far on that side but nothing which I have heard has been constructive. I would like to remind the House that the notion which we are discussing at present



is that we are concerned by the minimal provision of new houses in the present development. We are not concerned with what has happened before to build Varyl Begg Estate, to build Laguna Estate, what we are concerned about is . . . .

MR SPEAKER

I entirely and utterly agree. That is what I have been hearing for the last hour and a quarter from both sides of the House.

HON W M ISOLA

What we are here for is to express concern at the future development of housing generally in Gibraltar, and as this motion was brought by this side of the House I would have imagined that certain members of the other side of the House, the Government, would have come to this House with concrete proposals as to what they are prepared to do in the coming development programme. But all I have been hearing, Mr Speaker, and I must refer to this, is that the Housing Minister has converted Flat Bastion Road by putting a toilet or a bathroom. We are not concerned with what has happened in the past, we are concerned with what is going to happen in the future. And again we have heard the Minister for Housing say that he would like to have two more Varyl Begg Estates. Of course we would all like to have two more Varyl Begg Estates, but where is the constructing of the two more Varyl Begg Estates he would like to have, going to appear?

We have heard, Mr Speaker, that the Minister for Tourism, Trade and Economic Development has, since this Government came into power had 62 meetings in the Development and Planning Commission, but still, Mr Speaker, we haven't heard a single constructive suggestion by him as to what he intends to do to minimise the critical housing problem which will arise later. Instead, Mr Speaker, we hear, *à* passant, that this enormous and valuable site known as the Gasworks, that part of it is going to be offered to private development or for private flat. That is exactly what I have got on my notes: private development. I am surprised that this valuable area should even be considered for private development when an enormous area the Gardiner's Road development has already been offered for private development. And I would have imagined that with the enormous waiting list which there is at present, and incidentally, Mr Speaker, I understand, I am not quite sure, but I think I heard that there were about 1,400 on the waiting list. There must be hundreds of other applicants who do not put their name in the waiting list because they know that they haven't got an earthly chance for five or six years. So I am quite convinced, Mr Speaker, in my own mind, that if there was a more comprehensive-- at present there is no comprehensive future development for building more houses - the waiting list would go up enormously and considerably. Again, Mr Speaker, I would have considered that some concrete proposals would have been brought by the Government to this House to justify that they are doing everything possible in continuing the momentum of building in Gibraltar. And they have two extremely good sites which have become available to them, that is the Gasworks and now Engineer House, and I hear now from the Minister for Public Works that that site is not suitable. This motion, Mr Speaker, is one which affects an enormous amount of people in Gibraltar and I would have imagined that at least some member of the Government would have come to this House and given concrete proposals as to what they intended to do to keep

the momentum of the development programme in housing continuing, and avoid a critical housing problem which I am sure will arrive in the next two or three years, unless the Government, or whatever Government may be in, I think this year, will decide soon. Thank you very much.

MR. SPEAKER:

If there are no other contributors I will call on the mover to reply.

HON I ABECASIS

Mr Speaker, I am surprised to hear the words 'the critical housing situation' when only a few years ago we were told that the Varyl Begg Estate would practically bring about the end of the critical housing situation. I accept that as far as the motion goes, and the concept that the Government has injected into its development plan, what I am saying is a contradiction and probably can have a backlash on the Government, but what I would like to stress is that in preparing a development plan it is of course a matter of judgement as to whether what we are going to do is acceptable or not to any particular sector of the community. The Government on the other hand does it taking into account all the needs, all the social economic needs of the community, and consequently frame the development plan for that particular purpose.

It is true to say, and we make no bones about, that the development plan is somewhat delayed. And I say that it is somewhat delayed with the qualification that there has not been yet a land development plan, either from this Government, previous Government or the past administrations that has not been delayed for various reasons. This is inevitable and this is something that happens.

But coming back to the concept of our development plans. The accent of course has been on education. And let me en passant say that in framing plans one has to take into account the availability of labour or any potential extra labour that would be needed to do the development plan. Consequently one could not extend ourselves further than we could possibly extend ourselves. This I am sure is a sound approach to any particular problem. A famous and respective economist was brought to Gibraltar, also gave an indication of the progress and of the work which could be tackled with the labour available in Gibraltar and dovetailing so that we wouldn't lose any of the labour force available. We went to Britain before the previous development plans was finished in order that we could, as far as possible, dovetail and anticipate the development plan now taking place. So that the gap could be as small as possible. Now, I would remind the Honourable mover of the motion that it wasn't many years ago when he was trying to persuade me that enough had

been for housing, and he admitted, I shall be fair on this, that although housing was still a priority, nevertheless, education had been lagging behind for so many years that none of the needs of the community was the development of education. And that, Sir, is very much what we have done. It is subject to criticism, everything is a matter of judgement, and a matter of opinion. We thought that the stage had come when we might slow a little bit down on housing in order to catch up with what was lagging behind. That is why we are providing a Girls' Comprehensive School, a primary school at Varyl Begg, an extension to a College of Further Education, a School for Handicapped Children. This is where a lot of the work will have to go and the labour diverted to. In consequence housing of course we accept is not receiving attention - of course it is receiving attention, but it has not been given the same momentum as in previous development plans, of our Government and of other Governments. But apart from that, Sir, we are not doing badly in housing. We hope to spend in three years, and I don't kid myself to believing that it may not be four instead of three years, but we are not going to spend £3½m in housing. This is what we will have spent in housing in this particular development plan, which takes into account modernisation and repairs too. And of course it is equally true to say why not more money on housing when you have more people. Of course, but why allow 2/3rds of Gibraltar to develop into a slum where people are living in shocking conditions, which may not give them enough points to get a house but nevertheless they are living in substandard accommodation. There had to come a stage when someone had to face the problem and do something about it.

It may be more popular to build new houses which will house, short term, more people, but in the long term we find that some of Gibraltar has become a slum and has created a problem of immense proportions. We therefore, decided that the bulk of the money on housing, or at least half of what we were going to spend on housing, should go into repairs and modernisation.

Now, Sir, of course we take note of what the Opposition has said. I wouldn't expect and we know this as politicians, the Opposition to take note of what we are saying. Obviously what we are saying is all wrong from the point of view of the Opposition. We say that the Opposition have made very valid points, and perhaps if we had more labour available and all the money in the world, and all the sites, perhaps instead of 300 houses that we are going to produce, taking into account modernisation, we could produce 600, but I am afraid that the way we have tackled the thing, from our point of view deals with the real needs of the community in a balanced way.

HON P J ISOLA:

Mr Speaker, I know that housing is an emotive subject, I didn't expect that this debate would take the larger part of the afternoon, because it did seem to me that the issues that was being posed in the motion were fairly straightforward ones, and one which should not meet with much controversy. But apparently we have been

involved in an argument as to who has done what for Gibraltar and who has built new houses and who hasn't. Whereas the motion was really intended to look to the future and call on the Government to take action in a situation that we see developing, and which will cause and is going to cause serious discomfiture to future Governments who are responsible for the welfare of the people of Gibraltar on this most important question of housing.

I would like to take up straight away what the last speaker said as one of the reasons for not being able to plan for more housing, and referring to the problem of labour. I would like to leave him with this thought. In 1969, when the whole of the Spanish labour was withdrawn, everybody planning at that stage would have said that we could not build anymore housing, our construction industry workers have all gone. That was a fact in 1969, and yet, only six months later, the largest housing scheme ever planned for Gibraltar was conceived and planned and put into effect. Well, not started for the same reason that the Girls' Comprehensive school that was announced 12 months ago and is not going to start until October 1977. But if the people sitting down round those benches on those days had said we haven't got labour, we cannot think in terms of housing, nothing would have been started ever. I think it is a misconception, a tragic misconception of the situation in Gibraltar, to allow oneself to be led away in the sense that you can only have a certain amount of development in Gibraltar because of the labour situation. I think that in the last 5 years since 1970, one can say that there has been more development in Gibraltar than there ever was, prior to that over the same period of time, with difficulties on labour. I think to start talking of lack of labour when we are planning essential development, you are defeating yourselves before you start. One of the problems, and we have had this argument before and I will not repeat it, Mr Speaker, during the life of this Government, you will remember that in one particular budget, when hardly any provision was made in the Improvement and Development Fund for new capital projects on the basis of the lack of labour. As a result there was a drop in the labour force, as a result the momentum was lost. And the danger we have in Gibraltar is that unless we keep up the momentum in all these spheres of development, we will lose labour. Therefore it is a fundamental error of judgement to plan and to take account on that particular issue.

Mr Speaker, a lot has been said in this debate about housing, and what is being done and what is not being done, on both sides of the House. Let me make one point clear. We do not attack the policy of modernisation, of rehabilitation of old houses, we are not attacking that - there is a lot to be said for having equality between tenants of old accommodation and tenants of new accommodation, when everybody is paying for the maintenance and repair of the whole lot. And we do not attack the policy of modernisation. What we do attack is the philosophy and the thought that the policy of modernisation is going to solve the housing problem or that the policy of modernisation can be carried out at the speed that the Government thought it could be, or could be even a mainstay of the housing programme. That is what we attack.

It is quite clear that because people live in old house and people have to be moved and people have to be decanted and people want to know before they are decanted what they are going to go back to, or whether they are going to have the same three rooms or one more or one less, while all this is going on it is quite obvious that serious delays must take place. And, therefore, it is obvious that the policy of modernisation is not going to be carried through at the speed that was envisaged when British Government approval was obtained for this policy. And, therefore, although the housing stock will be improved by the modernisation plan, and by rehabilitation of old wash houses and so forth, although it will be improved, the improvement is only likely to be minimal in terms of housing unit becoming available to the public, and in terms of people in them not wanting new accommodation.

The policy is not wrong, we are not opposing that policy, we think it is a good policy. What we criticise is the thought that that is going to be completed in a period of time that will effectively make a contribution to the housing problem of Gibraltar. That is what we doubt.

Now, if one takes away the modernisation of houses, which is estimated to take £1m in the £3½m mentioned by the honourable member. If you take away £1m for modernisation of housing that may not be completed in the time envisaged, and you take out approximately another million and a half, which is the mere completion of Varyl Begg which we are assured will be handed over to us by June of this year, we are only left, Mr Speaker, with £100,000 for new houses, according to the project before us.

HON A W SERFATY:

Mr Speaker, on a point of clarification, may I explain for the benefit of the House that the completion of Varyl Begg does not form part of this programme. This programme includes £650,000 for repair, £1¼m for modernisation, and £1,460,000 for new housing, which adds up to £3,360,000, over and above the completion of Varyl Begg.

HON P J ISOLA:

Yes, but that is not £3½m of course because I see the Minister is referring to £650,000 for repairs, on modernisation £1¼m, over a period of three years. Well, anyway new housing attracts only £1¼m.

Now this itself shows that there is going to be a big gap in meeting the housing needs of the population between the end of Varyl Begg, which we are told will be in June and the next

reasonable housing development plan. And this is what concerns us and should concern the Government, because certainly the news that there are still 1,400 applicants on the housing list, over 1,400, shows that the demands for housing and new modern housing is increasing. I am sure that the acute problems of housing, overcrowding and so forth, the really acute part of it has nowhere been broken by the Varyl Begg development. Still, the number of people on the housing list today surely indicates that unless substantial rehousing is being planned now, even if it is not executed for a couple of years, we are going to have a very serious housing situation in two, three or four years time. The purpose of this motion, Mr Speaker, is really to call on the Government to take the initiative now on this. We are not being critical of modernisation, we are not being critical of Education, of the Girls' Comprehensive School being planned, we are not being critical of that, that is very essential, but what we are saying is that of what we see before us of what is planned for the future, we see a really serious situation arising in Housing. And whilst we agree that Education must have top priority, and whilst I endorse fully what the Hon Mr Abecasis says that I said six or seven years ago, when I think Education was getting a very raw deal, things have improved enormously, and I would agree with the concept that was proposed by the previous Government of giving Education and Housing equal priority, and getting both things done but what we cannot do is suddenly to go the other way, give too much priority to one and not enough to the other.

The Girls' Comprehensive School had to be done, as indeed other things have to be done, but we cannot sacrifice housing too much in the process. And what you have to do then is to ask for more money to be able to put forward a housing programme that is realistic and will meet the needs of the community. And I was a bit surprised to hear the Chief Minister say when he was addressing the House that in fairness to the British Government they didn't mention the financial situation of Britain when they went for development aid, I thought I heard him say on Gibraltar Television when reporting to the people on this, I thought I heard him say that we had to consider the difficulties that the British Government were in at the time. But if the British Government didn't ask us to make that a consideration, Mr Speaker, I don't see why we should make it one, and I would have thought that the Government should know, having regard to the fact that modernisation is not having the effect it was hoped it would have, and is not going at the speed it was hoped it would go, having regard to the housing units that will in fact can be seen will be available in the future, that the Government, as a result of this motion, or by agreeing to this motion and sharing our concern, and I am sure they do share our concern on it, will now agree to take the initiative and start planning new housing in other places, preparatory to a new development programme to make provision for what it is now clear to all of us will occur in the housing situation. Mr Speaker, I commend the motion to the House.

HON CHIEF MINISTER:

If I may make a personal explanation, since I have been quoted and it is rather important, I did say on television that we had to take into account, in judging what we had got was reasonable or not, the financial situation in the United Kingdom. I did not say that it was great, nor did it deter us from asking for as much as possible. But in looking at what we had got we have to bear in mind that Britain had her own problems.

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

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

The following Honourable Members voted against:

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

The House recessed at 5.15 pm

The House resumed at 5.40 pm

HON J BOSSANO:

Mr Speaker, I beg to move that this House is very disturbed at the extortionate deductions which will be made from the pensions of employees of the Official Employers as a result of the implementation of the new abatement formula introduced by the Gibraltar Government. This House further considers that the way this change has been introduced without any consultation with the Unions whose members are affected is reprehensible and a threat to industrial peace.

Mr Speaker, there are two parts to the motion. I think the second part of the motion is regrettable in the context particularly of the New Year message of the Honourable and Learned Chief Minister



when he looked forward to the prospect of peace in the industrial front and more understanding and reconciliation, because I am convinced that only with communication is there any possibility of reconciliation. And as long as decisions are taken and implemented, and only see the light of day when they are being put into effect, there will be violent reactions from those whose duties it is to protect the interests of those who are affected by those decisions.

The implementation of this new formula is totally incomprehensible to any trade unionist, and I cannot understand, Mr Speaker, what could have impelled the Gibraltar Government to go along this road. I would like in fact to have clarified at what level the decision was taken, whether it was taken by the elected members of the Government or whether it was taken by somebody, some clerk in Secretariat, who did not in fact see the implications of what he was doing. I think if the Honourable and Learned the Chief Minister or the Minister for Labour was not aware that this was going on, this matter is very serious and it calls for an enquiry on the part of the Government into this decision making processes to ensure that things like this cannot happen.

The matter came to my attention quite accidentally because one of the victims a 75 year old sailmaker, who was about to retire, was informed, that he would lose £91 a year from his occupational pension as opposed to £6 which would have been the amount taken off him on the existing system. This man in fact was told that the increase deduction stemmed from the increased pensions that the Gibraltar Government was introducing. He came to me for advice and I of course was very surprised to learn this and I assumed that the discrepancy between £6 and £91 must of necessity be accounted for by a clerical error, I assumed that the increase would be of from £6 to £9. That would have been bad enough, that would have been a 50% increase. It never for a moment crossed my imagination that a 1500% increase was on the cards. I investigated the matter, Mr Speaker, and I discovered that a decision had been taken by the Gibraltar Government, in consultation with MOD, to bring the MOD formula for deducting part of the workers pension as a result of his receiving social insurance pension, for bringing that formula into line with the formula the Gibraltar Government itself was using. And that the result was that in the case of the MOD the old formula, which has been in force since 1966, is one where the single persons benefit from social insurance is multiplied by a fraction made up of the years of service over 40, and another fraction made up by the employer's contributions over the total contributions.

Now, there are many cases of workers having 5, 7, 8, 9, 10 years service, where the decision was made that this formula should be scrapped and replaced by another one, where the fraction, instead of being the years of service over 40 should be for the year 1975 20 over 40, for the year 1976 21 over 40; for the year 1977 22 over

40, and so progressively until a figure of 40 over 40, that is 100%, would be reached. When that stage is reached it means that the formula loses that element and becomes the pension from insurance multiplied by the employer's contributions over total contributions, which is roughly 50%. So that the ultimate aim of the new formula is to finish up with the system where half of the social insurance pension is lost by the worker, and this amount is taken off this pension from work.

Now this, as I understand it, will apply to every public servant, industrial and non-industrial, but it is a particular hard blow to industrial workers whose occupational pensions are miserable. In most cases, Mr Speaker, this will eventually produce a situation where the whole of the occupational pension will disappear, because there are progressive increases in social insurance pensions and 50% of the increase will be taken off the occupational pension eventually.

I am confident, Mr Speaker, that the information that I have got is accurate, but if the Minister wishes to dispute any part of it then I think he will be in a better position than I am from within Government to carry out a thorough investigation of the matter and establish whether what I am saying is correct or not.

The new formula will apply straight away to new pensioners retiring from the 1st January 1976. Our member in the sail loft in the Dockyard, Mr Marin, would have been one of the first victims in the new year. He has decided, in spite of his 75 years, not to go ahead with his retirement in view of the amount of pension he is going to lose.

So, Mr Speaker, we have a man there who was considering retiring and has been dissuaded by the amount of pension that was going to be taken off him. And although we have got now an undertaking from the Civil Establishment Officer and from the Regional Director of DOE to the effect that the implementation of the scheme has now been suspended pending the hope that a decision to revoke this will be taken by Government, and I am hopeful, Mr Speaker, that perhaps in the contribution from the Government side an indication to this effect will be given, that the Government has had second thoughts about this, the situation is that even on the existing formula, and I would like to make this quite clear, Mr Speaker, even on the existing formula, the pensioner in Gibraltar is in fact discriminated against as compared with the public service pensioner in the United Kingdom. And this the Gibraltar Government is fully aware of, because the Ministry of Defence has communicated this information to the Gibraltar Government in the course of their discussions on this matter. The Ministry of Defence authority in Gibraltar obtained information from UK on what the system was in UK, and they were told that in UK the maximum deduction was £67.75 for a man with 40 years service, and that the formula was one simply that £1.70 per annum was lost for each year of service, so that in

fact the man with 5 years service, say, would lose some £7, whereas in Gibraltar a man with five years service is losing something like £26 on the present formula and will lose considerably more under the new formula because the minimum in 1976 will be 21 years service, even if he has only done five. The formula will apply as if he had done 21 years service.

The Gibraltar Government's formula that has been operating until now was considerably worse than the one operated by the United Kingdom Department. I believe that was one without any fractions at all, one where the multiplier for the pension was the employers contribution over the total contribution, with no other multiplier reflecting any reduction tied up with years of service.

The matter, Mr Speaker, appears to have been set in motion in fact on the initiative of the Transport and General Workers' Union, who in 1974 raised it in JIC by putting in a formal claim for the withdrawal of the formula completely, and instead of the formula being withdrawn completely, as the Union was requesting, the net result has been the replacement of the formula by something which is considerably worse.

It is incredible that this should have been the train of events, but the matter was originally raised by the union because in fact the union has been involved for a considerable amount of time in writing to UK on this question of deductions from pensions because of the hardship that has been caused to our senior citizens due to the late computation of the deduction from pensions. I have myself dealt with innumerable cases of elderly people who, six months or 9 months after receiving an increase in social insurance pensions, have received a letter from UK telling them that because of the higher social insurance pensions he has been receiving for six months they are going to lose x number of £s. That in some cases has meant their getting no pension from work for three or four months in a row, and we have had to write to UK and negotiate with the office that is responsible for issuing pensions in UK, to have payment by instalment as it were, of these deductions. So we are very keen to see this being removed altogether, and this has been the request of the trade unions side in JIC in Gibraltar, as indeed our union is doing for pensioners in UK and other unions are doing for public service pensioners in UK. And this information, the fact that in UK the British Government as employer was considering requests from Unions at this very moment to do away with this deduction which has been there in the UK unchanged for a very long time, this £1.7<sup>0</sup> a year has been there since about 1948, Mr Speaker, and no alterations have been made to the figures in spite of increasing social insurance pension, increasing employers contribution and increasing occupational pension. The figure has stayed static, whereas in Gibraltar the position that was about to be implemented, and which fortunately has now been halted, was one where the formula in fact would undermine any attempt, for example, by any future Government, to load more of the burden of social insurance contribution onto the

employer. Because since the final outcome of this scheme was to have a formula at the end of the day where the multiplier for the deduction was the employer's contribution over the total contribution, if for example the employer's contribution were raised to two-thirds, then in fact the multiplier would also be increased, and the amount of pension would be deducted. The effect would have been in fact, Mr Speaker, to leave public servants with a social insurance pensions which reflects exclusively their own contribution. Now, this is totally unacceptable because in fact the salaries and the wages of public servants in UK, to which wages and salaries in Gibraltar are now linked, are arrived at in UK by a Pay Research Unit by comparison with the private sector which takes into account, in arriving at the right level for wages and salaries, the fact that public servants have got gratuities and pensions. So that a public servant in UK is paid less than a worker in the private sector because he is going to get a pension. And then, if because he is going to get a pension he is going to lose half his social insurance pension, then the employer in the public sector is in fact being itself a considerable worse employer than the private sector employer. And to me it seems total hypocrisy, Mr Speaker, for Government, as Government, to pass laws requiring employers in the private sector to contribute towards the pension of their workers, and then for Government itself, as employer, not to do so, or to do so with one hand and to take it away with the other hand.

MR SPEAKER:

Order.

HON J BOSSANO:

Mr Speaker, the scheme that was about to be implemented would have been attenuated only to the extent that the new formula would apply to existing pensioners only in respect of the increase in pensions, whereas the old formula was to be kept in respect of the amount of pension, that is, the pension as it stands now is made up of the latest increase announced by the Honourable Minister for Labour and Social Security, the pension as it was before. Now those pensioners who say in December were getting £x have a formula applied in MOD/DOE which resulted in a deduction being made from their occupational pension. That formula, and that deduction, will remain, but the new formula was to be applied to the increase that the Minister announced, and would in fact have meant that a good proportion of the increase that he was telling us in this House was going to go into the pockets of our deserving senior citizens, who have given up a lot of their years of work to MOD/DOE instead of going into their pockets they would have finished up in the pockets of MOD/DOE. Now, I am completely convinced that if the

Gibraltar Government wishes to eliminate this, they will find no objections from MOD and DOE, and I think the right thing for the Gibraltar Government to do is, if they do find objection, to state publicly they are quite willing to do away with this, but that the MOD/DOE do not want to do it, and then I think in a different forum my friends in the gallery can perhaps handle MOD/DOE.

Mr Speaker then proposed the question.

HON FINANCIAL & DEVELOPMENT SECRETARY:

Mr Speaker, Sir, my colleague the Honourable the Minister for Labour & Social Security will be dealing with the details with which the Honourable Mover of this motion supported it. I should like to say quite briefly something about the legal position. And in so doing I can of course only speak for the Gibraltar Government, one, and only one, of the three Official Employers who are joined together in this motion.

As far as the Gibraltar Government is concerned I have to say at the outset that pensions is not a defined domestic matter, and that the abatement which is now the subject of this motion is a statutory one. Insofar as the pensioners of the Government of Gibraltar are concerned, the Pensions Ordinance was amended in 1956 to provide for the abatement of pensions under certain circumstances. This followed the enactment of new social services legislation whereby an officer of the Government might well become entitled to a double benefit payable by the Government itself: A pension, under the Pensions Ordinance, and a benefit under the contributory scheme, to which the Government, as the employer, had contributed. The relevant legislation which was passed in the then Legislative Council on the 6 July 1956, accordingly provides that the amount of pension payable under the Pensions Ordinance is to be reduced by the amount of any such benefit which, in the opinion of the Governor, arises in respect of the Government's contribution, or is payable out of its revenue.

It should be noted that the legislation to which I have referred follows in essence similar legislation in the UK where abatements are made from civil service pensions on account of both the National Insurance flat rate pension introduced in 1948, and the subsequent graduated pension introduced in 1961. I would only add that although the formula has changed slightly and that the intention is progressively to arrive at a more realistic ~~matters~~ of assessment for the required abatement, the Pensioners Association in Gibraltar were informed at the proper time of the changes which it was proposed to introduce. The reaction from this Association, who in all fairness to them did not necessarily agree that the legislation was fair or equitable, was that the Government's proposals were not unreasonable.

HON A J CANEPA:

Mr Speaker, as the Financial & Development Secretary has just explained, the occupational pensions which are payable to public servants, to the civil servants of the Government is not a defined domestic matter for which Ministers have any direct responsibility. Although the Financial & Development Secretary has explained what the statutory provisions and obligations are, I feel nevertheless that it is incumbent upon me to intervene at this stage and to explain in some detail, on behalf of my ministerial colleagues, and also in order to set the matter in a historical background, help to give the members of the House through an amplification of what the Financial & Development Secretary has said, a better appreciation of what is at stake here, ~~a better understanding of the matter~~, and clarify a number of points which no doubt they must be perplexed by.

Let me say, Sir, that I have been consulted by Treasury officials of the Gibraltar Government whose responsibility this matter is, and it is a problem which has constantly exercised my mind, as the House will see, over the last couple of years. I have not, however, at any stage been consulted or informed by the Ministry of Defence of what they were doing, and I can, therefore, say that I cannot understand how a person aged 75 years could be, under the application of the formula of the Gibraltar Government liable to a deduction of £91 over a period of a year, as I take it. If this is the effect which the formula which the Gibraltar Government adopted and implemented for its own employees last October, without any fuss, if this is the effect that it has in respect of Ministry of Defence pensioners, then obviously the reason is that that formula is not appropriate to Ministry of Defence pensioners. This certainly is not what happens with regard to ~~any~~ Gibraltar Government pensioners last October. But as I say, Mr Speaker, I have not been consulted. The Ministry of Defence pensions are not my responsibility. They have no obligation to consult me. My Treasury officials have kept me informed because they knew that the Government was concerned that if there had to be an abatement of pensions it should be done in as gently and in an unostentatious manner as possible.

But as I develop <sup>the</sup> the history of/matter I think Hon Members will see exactly what we have been trying to do. Let me say, Mr Speaker, that the only case of a Gibraltar Government pensioner where anything approaching that case could arise would be in respect of somebody who reached the age of 65 and became entitled to an Old Age Pension subsequent to the 1 January 1975. That is the only case where anything similar could happen that would involve a handful of cases, because in that case the extent of the benefits that would be used to arrive at the abatement would be the single persons pension, which for a pensioner becoming entitled to an old age pension after January 1975, was £6.20. And that would be regarded as the increase because previously he didn't have an old age pension. That is the only case, and that would be a handful of cases, but

*involve*

of the generality of Gibraltar Government pensioners, running into hundreds, the matter as the House will see was far less serious than all that.

Sir, this formula was introduced, rather, not the formula, the principle that the pension of civil servants should be abated was introduced following the enactment of Social Insurance legislation in 1956. My colleagues who were in Government then, ~~informed me,~~ and in particular my Hon Friend Mr Montegriffo who was closely involved in those days with social security matters, inform me that the unions were fully consulted when the Pensions Ordinance was amended to provide for the abatement of pensions. Another colleague of mine who was closely involved in trade union activities in those days, The Honourable Mr Isaac Abecasis, who was involved with the Gibraltar Trade's Council, confirms this, that the Unions were fully consulted. And I also am told that the matter was taken to the Social Insurance Advisory Committee, which is made up of representatives of employers, representatives of unions, and other independent persons. When I came into office in 1972, Mr Speaker, I was already aware of the fact that the pensions of public servants were subject to abatement following improvements in social insurance pensions. I knew that that was the case, I don't recollect where I first became aware of it, it could have been from my activities in the Gibraltar Teachers Association, it could have been through my membership of the executive committee of the AACR. The fact is that I knew that this was the practice both in the UK and in Gibraltar.

Mr Speaker, I am convinced that the abatement of pensions is not an illogical or an unfair principle in the case where an employer has already made full and generous provision for a free pension for his employee. I am convinced, Mr Speaker, that it is not unfair that if he is also required by law to contribute to a second equally generous pension for his employee, a social insurance pension, that there should be some degree of abatement of the employers pension. In the case of the Gibraltar Government of course that employer's pension is paid for not out of a pot of gold which the Government has in the Treasury, it is paid for out of the tax payer's pockets.

The ideal Mr Speaker, perhaps is that there should be no abatement. The ideal Mr speaker, is, also, that a pensioner perhaps should not have ~~to have~~ his pension liable to tax. The social insurance pension isn't, but the other one should not be liable to tax. But I am talking of the ideal and we don't live in a perfect world. But let it not be forgotten, Mr Speaker, let me stress, that the bill for the tax payer in respect of the pensions which are currently being paid to former civil servants, and also in respect of that share of the social insurance contribution, that commitment, which Government as an employer has, is a staggering one. Since the Pensions (Increase) Ordinance was introduced just over two years ago Mr Speaker the Statutory pensions which are payable to civil servants have been increased by over 80%, at a time when social insurance benefits, when old age pensions ~~had~~ <sup>have</sup> been increasing at an even faster rate. And if I quote some figures, Mr Speaker,

I think the House will see the import of what I am saying. In 1972/73, when we came into office, Mr Speaker, that financial year, the tax payer's commitment in respect of statutory pensions....

MR SPEAKER:

Yes. I don't want you, to fall into the same trap that we fell into in the last debate. We are talking about a specific abatement being made to a particular pension. We are not going to discuss the full policy and the implementation of pension schemes within the Government.

HON A J CANEPA:

Mr Speaker, the whole question of the abatement of pensions must be seen in the light of what happens. You have got a situation where there are dual pensions, and unless the two.....

MR SPEAKER:

Yes, but I think you were going to go now into the increases that pensions have suffered since your Administration came into power.

HON A J CANEPA:

Mr Speaker, I am going to give what the tax payer's commitment is.

MR SPEAKER:

I beg your pardon. The tax payer's commitment and not the increase on the pensions.

HON A J CANEPA:

No, no. The tax payer's commitment.

In the financial year 1972/73 it was £234,000; during the current financial year, 1975/76, we estimate that the commitment is £450,000. That is in respect of an increasing number of pensioners and in respect of increases to these pensions of over 84%. Hand in hand with that.....



HON J BOSSANO:

If the Honourable Member will give way. The point which I think is crucial to the motion, which he seems to have lost completely, is the implementation of a new abatement formula. I have already explained that I would wish to see no abatement at all, but I think what is objectionable is that the Government has been instrumental in getting MOD/DOE to introduce a new abatement formula that was worse than the one that they had before.

HON A J CANEPA:

I am going to come to that, Mr Speaker, but what I am not prepared to do when I hold the floor and have the right to be heard is to dismiss headlines of savage attacks on pensions in a five minute little speech. That I am not going to do. I am going to give the whole background because I think it is fully relevant and because I think the House wants to know just what is at stake.

Hand in hand with this commitment to the tax payer, there is a parallel commitment in respect of the Government's share, as an employer, of the social insurance contribution. In 1972/73 that was £24,000, this present year it is £99,000. And so, Mr Speaker, the situation that evolves is one which is *becoming intentions* and the Honourable Mr Bossano cited information that the Unions I think have been seeking from the UK, the UK practice, he also mentioned that the Ministry of Defence are prepared to do away with the principle of abatement. What we have is the situation that has developed recently in the UK where there is a very serious debate taking place in the United Kingdom and which is called the two nations of pensioners. The ones who are having it very well off, the public servant, and the others. I fully appreciate and understand the demand of pensioners. I accept that. But can everything be given, can the community, the taxpayer afford all the extra taxation which is involved? As I say, Mr Speaker, this protection, or perhaps it could be better termed because ~~this is what~~ it is being called, over ~~protection~~ *protection* for civil servants has become a serious problem in the United Kingdom, a very controversial issue, and if the people here, if everyone understood what is involved, I am sure it could become an equally controversial issue as far as those persons employed in the private sector who are not over protected are concerned.

In the United Kingdom we have a completely similar situation, Sir, we have a Pensions (Increased) Act introduced in 1971, by, of all people, a Tory Government, providing for annual reviews to restore the purchasing power of public service pensions as of December 1st each year. Completely relevant to Gibraltar because our MOD pensioners enjoy this protection and they

have their pensions increased in December every year. And the stated object of this measure of legislation was to protect all such pensions fully from the effects of inflation. Presumably, as this article says, "through all eternity", since no restrictions were laid down in respect of money or time. The article then went on to give the figures of the number of public servants in the United Kingdom that enjoyed this protection, and again the number of people enjoying this protection in Gibraltar perhaps is even more significant, because let it not be forgotten that about 6% or so of our labour force are public servants. They are employees of one of the Official departments or other. So they all enjoy this benefit which in the United Kingdom was described as: "public servants who enjoy an apparently irrefutable claim to apparently limitless protection from inflation for as long as they live, happily trimming their private hedges up and down the country, a country in which they are the only group to enjoy such guaranteed security." And the problem, Mr Speaker, then becomes one of the hagridden versus the happy pensioners, with the former actually helping to pay for the latter's serenity. The pensioner who does not enjoy the two pensions, nevertheless as a tax payer, ~~having~~ to pay for the overprotection of the other one. And this division, Mr Speaker, ~~which~~ is then spoken of as bringing about a situation where it won't be a case of angry young men in the United Kingdom but angry old men at each other's throats. And this debate continues in the United Kingdom, and I am wondering, Mr Speaker, ~~is~~ whether we are going to have a similar situation now arising out of this motion.

Are we going to have in Gibraltar two nations of pensioners?—the public privileged pensioner, constituting a high proportion of public servants enjoying inflation ~~against~~ pensions, as against the private pensioner who is not so well off, who is heavily dependant on his social insurance pension, and who nevertheless, as a taxpayer, has to pay for the pensions of the other one. Let it not be forgotten, Mr Speaker, that all public servants are now compulsorily insurable. They weren't in the past. In the past not all public servants, not all Government civil servants, have enjoyed the benefit of two pensions. In future they will. And so the question that must be asked, against that background, <sup>is</sup> ~~is~~ abatement of pension <sup>such a crime</sup>. Against that background <sup>is</sup> ~~is~~ wrong that the employer, which in this case is the taxpayer, should recover part of the contributions that were being made to a second pension when the first one itself was perfectly adequate?

HON J BOSSANO:

If the Honourable Member will give way. I am afraid that he is still not answering the question of the abatement from....  
Mr Speaker I don't think he understands.

MR SPEAKER:

That is his misfortune, but there is nothing we can do about it.

HON J BOSSANO:

It is his misfortune, and ours, because we have got to listen to him.

HON A J CANEPA:

Well, Mr Speaker, if he does not want to listen to me he can always go to the Ante-Chamber. But I don't have any direct responsibility for this problem. And I have got to explain how the problem has developed because if I don't I don't know who else is. And it is very easy and very emotional to cite one case of a sailmaker and to forget the full extent of the problem. If the Honourable Member has chosen to <sup>compensate</sup> on that one issue I had a perfect privilege to tackle this matter as I think fit. Provided, Mr Speaker, that I don't depart within the terms of the motion, and if I do I am sure that you will bring me to order, but that is the duty of the Speaker and not of Mr Bossano. XS

Therefore, Mr Speaker, returning to the history of the matter between 1968 and 1973 this issue was quiescent, it never arose. There was no question of abating pensions other than a very minimal abatement that took place consequent on the social insurance revision that came into effect in 1968, but there was some abatement of the pensions of public civil servants, of a very small number admittedly, who were then entitled to a social insurance pension, but it did happen. This is not just something that has just happened in January 1976. But the extent of the problem, as I say, was a minimal issue. My involvement with this, Mr Speaker, really began after the social insurance revision of July 1973, and the Honourable Mr Bossano has made reference to the fact that a number of people approached him and that he made representations and the matter was taken in JIC. I was also approached and I also made representations, Mr Speaker, and I think it is relevant that I should quote what I had to say on that occasion.

MR SPEAKER:

May I say in fairness to the motion. The motion does not object to the abatement, the motion objects to the new formula which has been introduced. We mustn't broaden the issue to such an extent that everyone is going to have a right to go back to anything which has been said on pensions as up to now. Do you follow

what I mean? I know that you must expand but....

HON A J CANEPA:

How can the new formula be appreciated, be understood, unless we talk about the old formula and the effects which the formula was having.

MR SPEAKER:

Yes, but not the attitude taken in 1973. Do you follow what I am trying to say? Otherwise we will just create controversy and hot debate. I do not wish to inhibit your speech, but please bear that in mind.

HON A J CANEPA:

In 1974, Mr Speaker, with the old formula operating <sup>and</sup> a social insurance revision which was not as far reaching as that of January 1975, the Gibraltar Government abated pensions and nothing happened, nothing at all. There was no public outcry, there was no fuss about it, and the Ministry of Defence not only abated pensions but I understand - the point that the Honourable Mr Bossano made - there was the question of arrears involved and hardship would have been caused to a number of Ministry of Defence pensioners because the arrears were going to be deducted in one or two lump sums payments. That was my first involvement on this matter because I made representations in the right quarters and I asked that the arrears, whatever deductions had to be made, should be made over a longer period of time. So there was some ripple of disturbance in 1974.

In the meantime, Mr Speaker, as far as the Gibraltar Government was concerned, although we abated pensions with effect from the 1st July 1974, the persons concerned were given the benefit of no deduction of arrears for the previous year. It came in from a current date and nothing was done in respect of the entitlement that the employer deduct arrears. The formula which was in operation until the 30th of June, 1975, because the increase in pensions came into effect on the 1st July, 1975, the formula for abatement required by Section 10 of the Pensions Ordinance is, and perhaps if Honourable Members wish I will go slowly over this if they wish to take down what the formula, is:

A over B multiplied by 6 multiplied by D over 40.

and I will explain what these letters stand for.

A stands for the amount of contributions paid by the Government;

B the total of all contributions paid on behalf of the employee by his employer and by himself.

C is the single man's benefit which is payable to an employee under the Social Insurance Ordinance.

May I explain that when a person becomes entitled to an old age pension he gets a benefit for himself and for his wife, currently the total is, in the <sup>case of B</sup> standard pension, of £12.50, I think, that is divided into two. The single man's benefit and an extra amount for his wife; and

D, Mr Speaker, is the complete years of insured Government service.

Sir, I think the Government has recognised all along that the true amount for abatement should in fact ~~had~~ been determined by the first part of the formula  $A/B \times C$ ; the fraction of  $D/40$  was not appropriate. Not only wasn't it appropriate, but of course ~~is it~~ penalised the pensioner who was longer in insured service. And there were also doubts about whether the single persons benefit only should be used for arriving at the amount to be abated, or whether in fact there were grounds for taking account of all the benefits payable. Obviously if the single person's benefit is taken into account only, it is much more favourable to the pensioner. For instance, Sir, if the single person's benefit increases say from £5 to £7 a week the amount taken into account would be the increase of £2 only, and no regard would be had in respect of the increases which would be payable to the wife.

I would also say, Mr Speaker, that there was some awareness on the part of Trade Unions as to the fact, not necessarily acquiescence, but some awareness, about the fact that it was the practice to abate pensions. The Gibraltar Government Clerical Association for instance were fully in the picture, and indeed, I understand that they have on occasions in the past made representations on the matter.

Mr Speaker, coming now to the social insurance revision of January 1975, the Gibraltar Government did not abate the pensions of its civil servants until 10 months later. This was done in October last year, and as in October 1974, so in October 1975 I myself was very concerned to ensure that hardship would not be caused and that the amounts that were to be abated, that were to be deducted, would not be out of all proportion. We were concerned to limit them as far as possible. And when the increases were worked out civil servant became entitled to an increase of 18.4% with effect from July 1975. When the increases were worked out I asked the Finance Officer that those cases where abatement was required by law should be put aside and that they should be examined carefully. And when the amounts to be abated were examined under the application of the old formula, it was considered that these might be somewhat more excessive than what one would wish. And

therefore, Mr Speaker, we thought of introducing a new formula as a result of this careful scrutiny of, I think, ~~there were~~ over 100 cases involved, we thought of introducing a new formula. The revised formula was as follows:  $A/B \times D \times 20/40$ .

The effect of that formula was, in the generality of cases, except where someone had less than 20 years insured service with Government, in which case they had to be looked at separately. Obviously if someone only had 7, 8, or 9 <sup>years</sup> service with Government it was inappropriate to adopt the 20 over 40 because that person would be penalised. ~~In the generality of cases the effect of that was to halve the amount to be abated. This was halved.~~ And so, Mr Speaker, this was done, this was implemented, in October 1975.

There was consultation with the Pensioners Association, as has been explained by the Financial and Development Secretary, and this was done by the Finance Officer. His impression was that they didn't necessarily agree with the principle, but they thought that the manner in which it was being applied by Government was not unreasonable. It was necessary on the part of senior officials of the Treasury to explain to the people concerned the reasons behind these deductions. Obviously no one likes to have any deductions made from his salary or from his pension, but I think the fact that there was no public outcry is proof of the fact that ~~the concern which we had had~~, the purpose was achieved, we had damped down the matter as much as possible.

I think the fact, Mr Speaker, that the Hon Mr Bossano in November at the meeting of the House of Assembly a few short weeks after this had been put into effect by the Government, didn't have to raise the matter in the House, ~~he~~ didn't have to put a question or bring the matter up in a debate, ~~and to some extent I think this~~ clearly proves that the way in which the Government had done this certainly hasn't been in any way irresponsible.

HON J BOSSANO:

Mr Speaker, the Hon Member doesn't understand. The new formula was worse than the previous formula in MOD/DOE, and it was not implemented in MOD/DOE until the first case of the man that I mentioned. That is why nobody knew about it before. We are talking about abatements and I am interested in why the Gibraltar Government obliged MOD/DOE.

HON A J CANEPA:

My involvement with this matter ended, Mr Speaker, when I satisfied myself that the deductions that were being made from Gibraltar Government pensioners were reasonable. What happened after that I

do not know. And why the MOD adopted the formula which was perfectly sensible and perfectly appropriate for the Gibraltar Government, why they should have adopted the formula which has a completely opposite effect in some of their instances, and one has been highlighted, I do not know. This I do not know. I am not responsible, I hold no brief for MOD ~~and~~ I am, equally concerned, obviously.

So from what I have said, Mr Speaker, I hope that it will be clear to Honourable Members opposite that as far as the Gibraltar Government is concerned, and I am here to defend the Gibraltar Government which is brought into the motion, in respect of the formula, and we are also bracketed with the other Official Employers, as far as we are concerned, there has been no immediate and no great change in the formula. On the contrary, if the formula was previously heavily weighted in favour of the pensioner, it is even more heavily weighted now. I would not pretend, Mr Speaker, that I am the last authority on the subject of pensions, but let me assure the Honourable Member that I share his concern. ~~What I think, and~~ <sup>though</sup> it is very well for him that we are debating what the MOD has done, but to debate what the MOD has done and to say that the Government has betrayed the hopes of pensions because the Minister for Labour proudly announced - which in the Spanish ~~is~~ <sup>version</sup> is not proudly but pompously and I don't think that the person who translated, that has a very good command of English - but to say that what the Gibraltar Government has done, because it adopts a formula which helps its own pensioners is a betrayal of what I am trying to do in the field of social insurance pensions, that is a very far cry, Mr Speaker. But notwithstanding that I am prepared of course, insofar as I can be of assistance in this, I am prepared to discuss the matter with the Honourable Member, with his union and see what can be done. Against the background of what I have said, against the background of something which is a statutory requirement, but perhaps administratively ~~it~~ is not something which the Treasury particularly likes to have to do. It could well be that in the United Kingdom they may do away with this. Witness the fact that the £70 something a year has remained unchanged since 1948. I am prepared to try and see what can be done for the future along lines that I know will go hand in hand with the policies which I have for the future. What we cannot do is of course to accept the ~~formula~~ <sup>MOD</sup> in its present form, and if after other Honourable Members speak they feel that the assurances that I have given, the undertaking which I have given, the concern that I have shown is sufficient, I might ask the Honourable Member to withdraw his motion or to amend it so that the Gibraltar Government is not bracketed and blamed for what it should not be blamed.

Thank you Mr Speaker.

HON M D XIBERRAS:

Mr Speaker, we have had two long and involved speeches, with ample

explanations of the various formulas concerned, but I do think that the point of the motion has not been really met, at least as far as the Honourable Minister for Labour is concerned, until the last words of his speech. Because even though the Financial & Development Secretary explained the statutory obligations and generally was concerned to point out that there was a legal obligation, he did not give any intimation of Government's intention one way or the other. And this has only come at the end of something like an hour in the last few words of the speech of the Minister for Labour, which I find very interesting. I am grateful for all the new information which has come to me about these things, but which does not solve the immediate problem.

We all know that there is great expenditure on pensions, it is increasing quite substantially, the Minister for Labour I think is quite right in drawing the House's attention to this. But only when he said that as far as the Gibraltar Government was concerned, in October 1975, he had caused certain cases involving hardship to be set aside, which turned out to be 100, did he really get down to the crux of the matter as presented in the motion. As far as the motion is concerned the motion says that the deductions are extortionate. Now, I have no doubt that the example quoted by the Honourable Mr Bossano of the £90 a year being lost, that is, if not extortionate, certainly most unfair, and that should be put right.....

MR SPEAKER:

May I clear one point. I think it has been made amply clear by the Minister that insofar as the implementation of this new formula is concerned<sup>as</sup> far as the Gibraltar Government is concerned, if anything has happened it has, benefitted the pensioner; that they are not responsible for what the Ministry of Defence does with their employees; and that the Minister and the Government in this House of Assembly is not answerable for that.

HON M D XIBERRAS:

I am not questioning that, Mr Speaker, if I may say so, what I am talking about.....

MR SPEAKER:

The example that you have just referred to as having been made by Mr Bossano is a Ministry of Defence employee.

HON M D XIBERRAS:

And the motion says: the Official Employers.....



MR SPEAKER:

No, the Gibraltar Government, if I read it properly.  
 "The House is very disturbed by the extortionate deductions which have been made from the pensions of employees as a result of the implementation of the new abatement introduced by the Gibraltar Government.

HON J BOSSANO:

If you will allow me, Mr Speaker, the position is that the three Official Employers have been in consultation with each other. If the Chief Minister does not know what is happening in the Secretariat then.....

MR SPEAKER:

Order. I am not going to let you make a speech, you shall have your right to reply. You know that, because you moved the motion.

HON M D XIBERRAS:

Mr Speaker, the only point I am trying to make, in what is going to be a very brief speech by comparison to the speeches that have been made, is that the problem concerns extortionate amounts to be paid, and I am saying that the Minister approximated this point when he came to say that he was concerned himself about cases of hardship and that as far as the Gibraltar Government was concerned had taken aside 100 cases, and I think this information is relevant in showing some Minister's point of view. That is all I am trying to say. But I was going to go on to say that perhaps an equal explanation of what was happening as far as Ministry of Defence and the extent of its responsibility, developed to the same length as he has developed the question of the formula and so on, would of course have been very helpful to the House. Because if there is an accusation of extortionate deductions then one must learn who is responsible for this situation.

Now, the Honourable Mr Bossano, in various interventions, has alleged that it was the Gibraltar Government that in introducing a formula that might have been more beneficial as far as Gibraltar Government employees are concerned, put down a formula, which copied by Ministry of Defence. The Honourable Mr Bossano might not agree with the words "copied". I have no evidence to the contrary one way or the other, but has had the effect of worsening the situation in Ministry of Defence and Department of the Environment, because before the deductions were not as they would become.....

HON M D XIBERRAS:

Mr Speaker, I am grateful for all the points that there can be made all around this House, but what I am trying to bring to the notice and focus the attention of the House on is, that a solution is necessary and who is going to bring it about. That is the essential point. I don't think we can elaborate a formula in debate, that is impossible. What I am trying to do is to pin down responsibility, establish who are the people affected, are they really badly affected, and what can be done to remedy the situation. Those are the basic points. It seems to me from something that the Minister said, that he does consider that in the case of the Honourable Mr Bossano's sailmaker, this is extortionate.....

HON A J CANEPA:

I think I used the word "inappropriate." Because the deduction was extortionate the formula must be inappropriate.

HON M D XIBERRAS:

Indeed. What I am saying is that the Government or the Minister for Labour has admitted that in this case it is extortionate because the formula is inappropriate. Well if it is extortionate it should not be allowed to continue, and something must be done to put this right.

Now we are not going to tinker around with A's, B's and C's, and the various formulas because they cannot be worked out and, therefore, the next point is how many people are suffering from these extortionate deductions. Here we have had no evidence really of how many are affected. I have no doubt that everyone dislikes deductions, that is fair enough. I don't think the Honourable Mr Bossano has argued for doing away completely with deduction, but he is talking about extortionate deduction. Well, we can only be in agreement about this, everybody agrees that if they are extortionate they should not exist, and something should be done about this.

Unfortunately the case has become somewhat confused because the Honourable Minister for Labour has spent a great deal of time defending the position that he took in respect of Gibraltar Government. Now, I don't know to what extent the formula now produces extortionate deductions, if any, but if there are extortionate deductions in the Gibraltar Government, that too must be put right.

HON A J CANEPA:

There weren't, otherwise there would have been a public outcry.

HON M D XIBERRAS:

Very well, if it is accepted that there isn't, but we do not know the extent of the problem, then let us tackle the problem of MOD and DOE. The Minister for Labour has said that he has no responsibility over this. I am certain that he is telling the truth insofar as he himself is concerned, but whether the Government as a whole has any responsibility is something that I would welcome clarification on. I would welcome a statement by the Chief Minister or by someone in the Government side whether the Government at any time has had consultations with MOD as regards the desirability of their adopting the particular formula which is causing the trouble, and whether there are any papers on this, any communications. That is the basic point of responsibility; who is responsible for this situation.

Mr Speaker, in the last question of this meeting, I asked the Chief Minister what representations had been made to Government by the Pensioners Association and would Government outline the points of disagreement between itself and the Association. In a rather brief answer the Chief Minister said that he only mentioned the question of income tax. Now, I gather that this is a continuing concern in the Pensioners Association as well. I do not see it here and I asked no supplementaries.

HON CHIEF MINISTER:

I said that they had seen me and made further representations which were being considered, but I would like to say that there was no commitment.

HON M D XIBERRAS:

The textual answer is, and I may have missread it. "The Pensioner's Association have requested a proportion of pensions should be exempted from income tax. Government has informed the Association that their request cannot be approved. I discussed the Association's representations with members of the committee on the 22 December 1975, and the matter is under further consideration in the light of the discussions. This if course should not be taken as any form of commitment." To anyone who reads English language it means that the sole problem, the pensioners sole source of disagreement, was the question of income tax.

HON CHIEF MINISTER:

Let me make it quite clear. The pensioners have not approached me except to say that they have formed themselves and then to go straight into the question of income tax and no more as far as I am concerned. My colleague mentioned this morning that the pensioners had approached him on the question of Social Security but I am not dealing with that. I was dealing with the question addressed to me on representations made to me and I can say formally now that they

have given me an indication that they are studying other matters that they will bring to my notice but they have not, repeat not, made other representations but that a proportion of their pension should be exempted from income tax.

HON M D XIBERRAS:

Again I say that the Chief Minister in this particular meeting with the Pensioners Association was only approached on the question of income tax. I entirely agree. But I asked the Government, Mr Speaker, and I bring this point up because there were two questions from my colleagues on points which were to be raised in the motions later on. One is the question of air fares, and the other one was the question of pensions. And we wanted to know before we came into the motion set before the House whether there had been any consultation on both. And, therefore, the Chief Minister, who was not asked himself.....

MR SPEAKER:

Let us not pursue.....

HON M D XIBERRAS:

What I am saying, Mr Speaker, if I may say so, I am coming to the issue of consultation, which is in the motion, and I put down a question specifically.....

MR SPEAKER:

On this particular aspect of the motion?

HON M D XIBERRAS:

Yes, Mr Speaker, I was asking the Government to say what were the points of disagreement between the Pensioners Association and the Government, and the only point raised by the Chief Minister on behalf of the Government was the question of income tax. That is what I am saying, that there was no mention of this matter we are now discussing.

MR SPEAKER:

I don't think the Chief Minister has ever said that he has had consultation with the pensioners on the fact that the Unions were not consulted before this new abatement.....

HON M D XIBERRAS:

It is by the way, Mr Speaker. Perhaps we have had too many figures, but the point is that the Chief Minister did not alude to this in his reply. And I will not give way any more on this point because perhaps the Honourable Members does not want to understand what I am saying. But if there was any disagreement it should have been ventilated at Question Time.

Now, Mr Speaker, the Motion asked for consultation with the Transport & General Workers' Union, and we have had before the House a good number of issues on which consultations have not taken place. Now it is not, the Minister said, his job to deal with this matter. We appreciate that, but the propriety of consultation is still valid in this case. If there is going to be a change of this kind, whether it is the Gibraltar Government, DOE, or MOD and the interests of people in employment are affected, there should be consultation. It is a point which has re-curred in this House for a number of months, a number of meetings, a number of years, that there has been no consultation with this or that.

HON A J CANEPA:

If the Hon Member would give way.

MR SPEAKER:

No, we are not going to have debates like this. I am sorry we have all had a chance. We must not interrupt the person holding the floor.

HON M D XIBERRAS:

I think the more we talk on this one the less distance we are going to cover. So let us just say that if the Minister, if the Honourable Mr Bossano, is in agreement to taking up the Honourable Member's offer, getting together, if the Minister commits himself to look at the situation in MOD and DOE, if we are to accept his discliam or of responsibility as regards this particular part in the adjustment of MOD and DOE, .....

HON A J CANEPA:

If the Honourable Member will give way. I will give him a solemn undertaking that ~~over~~ since I discussed with two Treasury officials of the Gibraltar Government in October 1975, the first that I have heard, either directly from MOD or indirectly through any officer of the Government, ~~I haven't heard anything~~ about the question of

*the subject*

*was contained in*  
 abatement of pensions ~~until~~ the press release which was given on the 1.30 news the other day. I can give the House a solemn undertaking on this.

HON M D XIBERRAS:

Mr Speaker, we are not doubting the Minister, he needn't get so excited about it, we are not doubting him for a moment.

MR SPEAKER:

Order, we will leave it at that now.

HON M D XIBERRAS:

I am accepting. What I cannot accept is the Minister's word that there has been no communication by any part of the Gibraltar Government with MOD and DOE. That I cannot accept unless the person responsible for the Government will give me that assurance I mean, has there been between any part of the Gibraltar Government and MOD and DOE any correspondence on this.

MR SPEAKER:

No, no, I will not have it, I am sorry.

HON M D XIBERRAS:

There, you know, I would like an assurance. The Honourable and Learned the Chief Minister can perhaps give the House this assurance. And in any case, whether this is so or not, the main thing is that the interested parties and the Minister should get together to try to get a betterment of this situation in respect of those people suffering from extortionate deductions. And they should do so quickly because even though it might be a minority situation it is not fair to have people in Mr Marin's situation after the age of 75. So I urge the Government to give serious consideration to the contents of the motion of the Honourable Mr Bossano.

HON CHIEF MINISTER:

Mr Speaker, I would like to say that the fact as stated by the Minister for Labour are correct; that there has been no other Minister, to my knowledge, involved in anything connected with this

new formula, except the consultations made by members of the Treasury with the Minister, of which he had given a full account; that the Chairman of the JIC I understand did not know anything about this last Monday, and their Finance Officer came to see the Finance Officer of the Gibraltar Treasury. I think perhaps it might be helpful if I explained that the concept "Government" can mean different things to different people. The Treasury, carrying out their statutory duties, have consultations with members of the Ministry of Defence if there are matters in which there are common interests, and these are the extent of consultations, except insofar as the intervention of the Minister of Labour is concerned. That is all really that has happened; consultations between Treasury Officials and Officials of the MOD Treasury on these matters which no doubt have been considered until now as administrative.

I certainly do not have anything to do with MOD consultations at official levels, and I certainly was as surprised as anybody - perhaps I could even say as surprised as Mr Bossano - when the case was brought to his notice. I had background knowledge over the years that an element of abatement was taken away but it never occurred to me that what had been going on for so many years was wrong so there was no question or revision; I was not aware of the claim in JIC for doing away with abatement completely. That would have been a matter which would have been taken by the Official Side and had there been a general agreement amongst the officials that it was something well worth considering it would have come in the usual way to the Government, and no doubt from the Ministry here to the United Kingdom. The implication in this motion is that something that the Gibraltar Government has done in good faith and with full knowledge of the fact as it affected us has been applied in such a way and in other circumstances that creates extortionate deductions. That is, I think, a simple statement of what this is. But that the Gibraltar Government was conscious that any formula that was being done here and which has been looked at by the Minister of Labour would have had this effect by the Ministry of Defence was not to our knowledge, and I can give the assurance to the House that if it had come to the knowledge of the Minister for Labour he would have certainly opposed the formula if that was going to be the way it was going to be applied in the MOD. Therefore, I must disclaim any responsibility on behalf of my colleagues and on behalf of even the officials who dealt with this matter, insofar as the Government is concerned, because I would then have expected the officials of the Treasury to have told Ministers about the effects that would result from this that was done here in all good faith in the United Kingdom Departments.

Since it has been said by the MOD that they are awaiting the outcome of this debate in order to see what they do with the problem I think the answer has been given by the Minister of Labour, and that is that we are prepared to look at the formula if that is the way that it is applied in the United Kingdom. That I fully agreed, in the

circumstances explained by Mr Bossano, is extortionate. But it is a different thing to say that any member of this Government has consciously been a party to something that amounts to an extortionate deduction from any pensioner, either in this Department or the MOD or anywhere in Gibraltar.

MR SPEAKER:

If there are no contributors I will ask the mover to reply.

HON MAJOR R J FELIZA:

Mr Speaker, I am only going to touch on one point, since it is obvious that there has been no directive on the part of the Government, at least from the elected side, that the UK Government should apply the same formula, and, therefore, I think that matter seems to be clear and I do hope that somehow this House can now take that point up and do everything possible to ensure that the position with the UK employers is changed.

I have no doubt, and I have always had a lot of appreciation for the work that the present Minister for Labour and Social Security has done to improve pensions and social services in Gibraltar, and it seems to me very unlikely that a man who I know has worked hard in this respect would like to see the effect of that formula have, the terrible one that has obviously <sup>been</sup> shown to have. However, the point that I want to make, Mr Speaker, is that the Minister has referred to the two nations of pensioners in the United Kingdom. And one of the reasons why I have risen to speak is to try and influence his thinking in this respect, because whilst the problem in England is very much a question of perhaps the privileged few, in Gibraltar, since most people are civil servants, the consideration is a very different one. And particularly where it applies to the UK employers, which means that taking monies away from the pensioners really means less money coming into the economy. So I think the Minister, in all good faith of course, is thinking of the two nations but he should given another look to that now, and look at the position from that angle and perhaps somehow make up the losses for what might be the private sector by thinking of other means of providing for those who are left out.

Also, Mr Speaker, I would not like to give the impression that by saying this I agree with abatement at all. I think that in every case the individual in his particular work is given a pension and when that pension is decided upon, already all these other factors should be taken into account and, therefore, the impression would not be given, as it happens in very case, and it hurts the individual I think who is receiving it, that something that is due to him is being taken away. It is very very difficult



I think, to explain to the individual whose money is being taken away that this is fair and just. And perhaps it is not fair and just after all, since after all he has been making contributions and it is part of those contributions that are being taken away, either direct through the pension or the income tax. So if the contribution is coming from the employer, well, that is due to him in any case, why take it away from him again, and regardless of who the employer may be, even if the employer is the Government.

So I think that the principle of abating itself is wrong, but of course we are not here to talk about that. Yet I do not want to give the impression now that I have stood up to speak, that I am in favour of that.

But above all this, I think, Mr Speaker, the misunderstanding has arisen through lack of consultation. Consultations with the pensioners: well, alright, the pensioners are a body, and I think a very worthy body who obviously must be consulted. But there are, I think, the Unions too who are as much interested in pensions, because after all that is a condition of work, and a second only to pay. Obviously they are interested to know what the employers are going to receive once they retire, and therefore, I think it is vital that in any issue concerning pensions, above all, the Unions are consulted. I believe that if this had happened, the misunderstanding that I think has arisen, would not have taken place. Although I must say that in some respect it has been a good thing that this has come to light, because the issue now has become very public, and I am sure that with good will a good solution will be made and things will be straightened and made better for the future.

For this again I think we have to thank our Honourable Friend, Mr Bossano, who is now so well involved in these matters, that points that perhaps would have escaped in the past are now brought to the public with facts and figures that give food for thought and have led so far on many occasions to improvement.

HON A P MONTEGRIFFO

Mr Speaker, I am going to be very brief, I will just repeat what has been said, in order that one should get the Government's view point across. I am interested in getting this across to the people who are elected by the people and are responsible for what we do in this House.

And I would like to say, Mr Speaker, that when we devised this formula perhaps there should have been consultations. The fact that there was no consultation may have been clouded by the fact that as far as we were concerned and because of the statistics which were produced this was a betterment as far as our own workers were concerned to what they were previously being deducted. The way the formula worked, the deductions were going to be less. So I would add that the example that the Honourable Mr Bossano has brought forward has taken us, and no doubt as the Chief Minister says it has shaken him, and I repeat the Government undertaking that if the motion is withdrawn the Minister of Labour is prepared to discuss the matter with Mr Bossano, as representative of the Transport and General Workers Union. That undertaking was given by my friend on my right, and that undertaking too is confirmed by me.

MR SPEAKER:

Will you please repeat what you have just said. I did not think Mr Bossano was listening.

HON A P MONTEGRIFFO:

Well that is not my fault.

MR SPEAKER:

No, I am asking you to repeat it because you are making a suggestion which he has got to act upon.

HON A P MONTEGRIFFO:

I am repeating the undertaking that we were as much taken by surprise by the example because from the figures that we have made ourselves and the survey that we carried out of our own employees, we were under the impression, and still are under the impression, that the formula that we are applying was a much improved formula to the benefit of the workers as far as our workers are concerned.

It appeared that in applying to other sectors it has had the effect that Mr Bossano has brought to our notice.

I repeat what has been said by my Honourable Colleague on my right, that if the Honourable Member is prepared to withdraw his motion, we are prepared to start consultations. And again, when I say "we" I mean the Minister for Labour with the representative of the Transport and General Workers Union, which I presume will be Mr Bossano.

HON J BOSSANO

Mr Speaker, I am afraid I am not prepared to withdraw the motion for the reason that although the member . . .

MR SPEAKER

Are there any other contributors to the motion? Then you can reply.

HON J BOSSANO

Mr Speaker, the main reason why I am not prepared to withdraw the motion is because I think this is a very serious matter and in spite of the fact that it is quite obvious that none of the elected members were aware of the decision, the decision that was taken was taken fully cognisant of the effect that it was going to have on MOD and DOE and there is correspondence, Mr Speaker, which I advise the Honourable and Learned the Chief Minister to read, somewhere in Secretariat - he can take the trouble to go through the particular file - there is correspondence where the representative of the Gibraltar Government expressed concern at the upheaval that there would be when the formula was introduced.

MR SPEAKER

Order, I will not have interruptions from the public gallery. If I need to I will have to clear the public gallery. I do not want to have to do this because it is the prerogative of the public to listen to the proceedings of this House, but it is also their responsibility to behave.

HON J BOSSANO:

There also appears, Mr Speaker, to have been consultations with ODA on this matter and apparently all this has been going on since May, 1975, when a decision was reached, a policy decision which I consider to be extremely serious because of the effect it was going to have. And the reason from what I gathered so far, Mr Speaker, why the formula was brought in was because the three Official Employers agreed to come into line with each other and in so doing they discovered that the Gibraltar Government had one formula and MOD had a different formula and that the Gibraltar Government formula was much worse than the MOD formula and the Gibraltar Government could have decided to bring their formula in line with MOD. In that case there would have been no outcry because MOD/DOE would have stayed the same and Gibraltar Government employees would have been improved. But instead of improving the Gibraltar Government side they decided to bring down the MOD/DOE to their level.

HON CHIEF MINISTER:

If the Honourable Member will give way. I think he has made a very serious allegation about matters which might well have arisen at the beginning. He has certainly exonerated Ministers from the effects of this and on the participation. I am grateful for that. But he is now making a series of statements regarding policy decisions taken by officials which have not been brought to our notice and on which I would like a further opportunity of saying that this is all as new to me as it is to other colleagues of mine that are hearing them now.

HON J BOSSANO:

Mr Speaker, unfortunately I have to hold the elected members responsible in the House of Assembly for the decisions that are taken in the name of Government.

HON CHIEF MINISTER:

Not if it is a non-defined domestic matter. We cannot accept that.

HON J BOSSANO

Well, Mr Speaker, it may be a non defined domestic matter to deduct money from pensions. You see, Mr Speaker, it is very convenient this business of defined or non-defined domestic matter . . . .

MR SPEAKER

Mr Bossano, I will not allow you to distort the facts. It is a question of the Constitution. What is a defined domestic matter can be easily found out by reference to the Constitution. So it is not a question of convenience it is a question of law.

HON J BOSSANO

So I am right, Mr Speaker, then in thinking that there was no reason for the Minister of Labour and Social Security to take credit for not deducting arrears of pensions because that was not a defined domestic matter either. That decision could not have been taken by him.

MR SPEAKER

The Minister merely expressed a view. Let me stress that Members must make themselves responsible for the statements they make in this House.

HON J BOSSANO

Well, Mr Speaker, the decision was taken somewhere by someone that the three Official Employers should be in line with each other. That was a policy decision and a further decision was taken that they should come in line with each other by movement happening on the MOD and DOE side towards the formula the Gibraltar Government already had. In fact, the Gibraltar Government formula was worse before than it is now. But eventually the formula of all three official employers will get as bad as the Gibraltar Government formula was a few months ago because what was bad about the Gibraltar Government formula, Mr Speaker, was the fraction that was absent, the 20 over 40 was absent in the Gibraltar Government formula. And the purpose is over a period of 20 years to remove it from MOD/DOE and Gibraltar Government. Now, these are decisions which have been taken which are very serious decisions and if it is not a defined domestic matter; well,

there is nothing we can do about it until we change the Constitution, Mr Speaker, but nevertheless I think it is serious enough to warrant an investigation on the part of the Government to see what other areas of non-defined domestic matters decisions affecting the standard of living of Gibraltarians are being taken. I do not want to enter into the other question of whether the principle of abatement is right or wrong in itself, that can be the subject matter of another motion and I would certainly like to challenge some of the ideas that the Honourable Minister of Labour and Social Security has about my retired sailmaker mowing his lawn, as a civil servant. I think he has a somewhat confused picture of the sort of civil servants we have in the Dockyard.

HON A J CANEPA

Mr Speaker . . . .

MR SPEAKER

Order . . . .

HON J BOSSANO

Mr Speaker, the situation is . . . .

MR SPEAKER

Order order. I have told the public twice already that I will not have any member of this Gibraltar House of Assembly intimidated by the public. They are here to do a public duty to serve the people and they will do so without any coercion from anyone in Gibraltar whatsoever. And if need be I will clear this gallery immediately. As I said before you have a right to sit here and to listen to the debate but you have also got a responsibility to behave like one should behave in the Gibraltar House of Assembly. I will not say it again because I think it is for the good of the whole of Gibraltar, for you and for me, that this House should be run properly. I am sure I am voicing the feelings of every single member of this House. Will you please continue, Mr Bossano.

HON J BOSSANO

Thank you Mr Speaker. May I say that I agree entirely with what you have said and you are voicing my feelings, anyway. I think it is very good that members of the public should be here to listen because they can get firsthand information of what is happening and it is important that they can listen so they need to be as quiet as possible.

MR SPEAKER

I think it is important that Members should be allowed to carry out their responsibilities without being intimidated in any manner or form.

HON J BOSSANO

Mr Speaker, I am very incensed about the situation because as I say I know that the effect that this would have was known before the decision was taken by those who took that decision, that I do know, and I think it is very serious that the decision should have been implemented without at least the attempt having been made to explain it to the union whose members are going to be affected by this decision, if anything, to prevent the upheaval that was anticipated might take place. Now, in fact, I can also tell the Honourable and Learned Chief Minister that the decision to introduce this fraction in the formula which has produced a benefit for the Gibraltar Government employees, that decision was taken apparently in order to minimise the impact on MOD/DOE and I would like the Honourable and Learned Member to look at the appropriate file and establish whether what I am saying is accurate or not. The system was taken not to help Gibraltar Government employees but to minimise the immediate effect on MOD/DOE but that minimising effect will be eroded deliberately by the formula over a period of 20 years.

HON M XIBERRAS

Mr Speaker, will the Honourable Member give way?

MR SPEAKER

No. I will not allow any more interruptions under any circumstances.

HON M XIBERRAS

Mr Speaker, I gave way a number of times when I was speaking.

MR SPEAKER

I know you did. It is my prerogative to decide whether a member should give way or not. The debate has developed in a way that I think that Members should finish the debate and take a vote on it. Mr Canepa just walked out because I stopped him from interrupting.

HON J BOSSANO

Mr Speaker, I trust that even if my motion is defeated the fact that it has been raised here and aired will enable further consultation to be held on this matter so that it can be put right.

MR SPEAKER then put the question in the terms of the Honourable J Bossano's motion. On a division being taken the following Honourable Members voted in favour:

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

The following Honourable Members voted against:

The Hon I Abecasis  
The Hon M K Featherstone  
The Hon Sir Joshua Hassan  
The Hon A P Montegriffo  
The Hon A W Serfaty  
The Hon H J Zamitt  
The Hon J K Havers  
The Hon A Collings

The motion was accordingly defeated.



MR SPEAKER

We will now recess until tomorrow morning . . . .

HON CHIEF MINISTER

Mr Speaker, before we recess, I would like to reiterate that despite the fact that we have voted against the motion the consultations offered will go along.

HON M D XIBERRAS

May I take this opportunity Mr Speaker, I wish I could have done it before, of explaining that by "Gibraltar Government" in the motion we interpret it as being the collectivity of the Gibraltar Government and we are in no way saying that any particular Minister was involved in this situation. In the absence of that opportunity we had to vote in favour of the motion.

MR SPEAKER

Very well then, fair enough. Perhaps it is better that it should be said now. We will now recess until tomorrow morning at 10.30 a.m.

THE House recessed at 7.30 p.m.

THURSDAY THE 15TH JANUARY 1976.

The House resumed at 10.40 a.m.

HON J BOSSANO:

Mr Speaker, I beg to move that this House is shocked to learn of the increases in aircraft landing charges recently introduced by MOD and considers that the Gibraltar Government should take immediate steps to control the prices charged by MOD to civilian aircraft using the Gibraltar Airport and to merchant ships berthing in Admiralty waters since these charges have a direct effect on the economy of Gibraltar.

Mr Speaker, the news of increased landing charges for passenger aircraft using the Gibraltar Airport came, for most of us, completely out of the blue. The percentage increase, which I believe is the second increase this year, in 1975 rather, are very substantial and certainly greater than the present rate of inflation in other areas, or the average rate, taking price increases as a whole in Gibraltar.

The Honourable Minister for tourism, at Question Time, indicated that he himself has been informed of the increases after the decision had been taken, from which it would appear that there has been no consultation. In view of what transpired on the matter of the pensions changes, changes in the formula, which was the subject of another motion, I would like an assurance from the Honourable and Learned the Chief Minister that he has investigated this to ensure that when we are told that the Gibraltar Government is not being informed we are talking about the Gibraltar Government collectively, and we do not subsequently discover that the elected members of the Gibraltar Government have not been informed, but that another branch of the Gibraltar Government has been informed. Perhaps we can find out whether it is the case that there has been no consultation at any level with the Gibraltar Government on the impending increases before these took place.

The charges for the aircraft landing at Gibraltar will not in fact produce, I think, a great increase when spread over the number of passengers, that is, on the total cost of the aircraft landing at Gibraltar, the percentage increase may not look very much when set against the total cost of the operation or the fares being charged. But nevertheless it is a factor which is important in the computations that the airlines do in arriving at the competitiveness of Gibraltar as a destination. And although I think we have had a recent very welcome innovation on the part of the Gibraltar Airways to introduce a APE fares out of Gibraltar, it is of vital importance that there should be traffic generated to Gibraltar, not just because it is good for Gibraltar's economy if there is a greater volume of trade in Gibraltar, but also of course because the greater volume of traffic to Gibraltar will give the Government ammunition for pressing for higher frequencies. And if there is an unsatisfied demand from persons from UK wishing to take holidays in Gibraltar and the Government can press for higher frequencies and obtain them, then if we have a

reduced fare available to Gibraltarians to come out to Gibraltar, that reduced fare, combined with better frequencies, makes a final package which is an improvement on the present situation.

The Airline have in the past, I think, used the argument impressing for higher fares to Gibraltar that they lose money on the route. In that sort of situation any increase in any one of the factors affecting the cost of the operation must be of necessity to the detriment of our communications with UK, and that in turn is without any doubt detrimental to Gibraltar's economy, and it is detrimental, not just to Gibraltar's economy, which is important enough, but it is detrimental to the morale and the standard of living of people in its widest sense, because people in Gibraltar have been isolated for a considerably long time now, and I think it hurts more when the isolation of Gibraltarians seems to come from actions of the British Government than when the isolation comes from the actions of the Spanish Government. We do not expect anything better of the Spanish Government, we expect more sympathetic treatment from the British Government.

Now, I think the overall responsibility in all these things must of necessity rest with the Gibraltar Government. It is the price that has to be paid for being in power and the Government has often reminded the House, perhaps less often recently than they used to at the beginning, that they had been elected to decide things in Gibraltar, that they were the Government, and that although they were the object of criticism it was their responsibility to take the decision, and they were here to defend their decisions which, whether other people agree with them or not, they were taking in good faith.

Now, the concomittance to that power that goes with having had the support of the majority of the community is that they are answerable for what happens during their term of office, whether it happens through omission on their part or through a deliberate decision. I am not at all clear what is the area responsibility of the Gibraltar Government in respect of landing charges, particularly with this question of defined and non-defined domestic matters, but what I am seeking with my motion is that since price control is, and perhaps you will correct me if I am wrong, Mr Speaker, a defined domestic matter, then price control should be applicable to areas of our economy which I think are as basic as food is. And I think communications for Gibraltar is as much the life blood of the community as food is, and indeed, in the particular area that we are talking about of landing charges, the two things are not unconnected, because a great deal of our basic necessities now are brought to Gibraltar by airfreight, and anything that puts pressure on the economics of that operation again will eventually finish up in the lap of the workers, who will have to foot the Bill in the last resort.

I hope that these increases in landing charges that have been brought in at this particular time will be absorbed by the carriers and will not be immediately transmitted to the consumers, but I have no doubt that when other factors, other increases in other cost elements; in freight or passenger operation to Gibraltar, when other factors change and produce justifying arguments for an increase to consumers, account will be taken of this. So that even if account is not taken of this immediately, no doubt when the next opportunity comes along for increasing prices and the sums are worked out by the carriers the natural thing would be that they will take account as well of the increased landing charges.

Now I believe that Gibraltar, already, without the increase, compares unfavourably with other areas, which are in competition with us for tourist traffic, and this must be of great concern to the Minister for Tourism. As regards the people of Gibraltar themselves we are in the unfortunate position that we are a captive market. In Gibraltar, Mr Speaker, we have no choice. We cannot avoid paying the landing charges and, therefore, this I think puts us in a weak position in terms of bargaining power and it requires, therefore, as is normal in any monopoly situation, Government intervention to ensure that our weak bargaining position in economic terms is not exploited to our detriment.

I have no doubt at all Mr Speaker that no Airport Authority in UK would have been able to bring about increases of this size, which are very large in percentage terms, without prior consultation with the proper public authorities. A number of airports in UK in any case are municipally controlled and I am sure that the British Government in Britain would not have allowed this to have gone through just like that, and that an opportunity would have been given to affected parties to have made representations and the matter aired before the increases were introduced.

I find it most objectionable that in Gibraltar we should be told about the decisions after they have been taken, instead of being consulted beforehand about what is proposed. So as well as seeking more information about the existing machinery, what I want with the motion, Mr Speaker, is support from the Government to ensure that the machinery will be improved to enable the Government to have a say in this matter, because I think that they have a responsibility to the community to discharge in this area which is as important as the responsibilities they have in other areas. And if the powers of the machinery is not there now, then steps should be taken to introduce such machinery.

In the case of the merchant ships that I have introduced as well in the motion, I have put it in because my information is that the berthing of the Camberra at the South Mole, which happened seven times in 1975 and is due to happen seven times again in 1976, was subject to a

charge being made by the Admiralty of £2,400 per call. This means in fact that the Camberra has paid the Ministry of Defence something in the region of £14,000 in 1975, and will pay another £14,000 in 1976 for the privilege of having its passengers walk through the Dockyard in order to reach the town.

That that money should go to the Ministry of Defence rather than to the Gibraltar Government is at least regrettable, but that the sum that has to be paid should be the prerogative of the Ministry of Defence without regard to the damage that could be done to the trade in Gibraltar if the Camberra were to decide to call elsewhere is I think unpardonable, and the Government must have a say in, I think, deciding or helping to decide or influencing how much passenger liners are charged when they use the berthing facilities in the South Mole.

Had in fact the Camberra been able to berth at the North Mole, which I understand it was not possible because of the size of the ship, the charge would have been considerably less. I believe that of the £2,400 charge for berthing the Camberra, £1,080 was wharfage dues charged by the Admiralty, and the equivalent figure on the North Mole would have been £144. Now, I dare say that the pensions of the workers who work on the tugs are better than the pensions of the people who work on the commercial side, but I can assure the House that the better conditions of work of the employees of the MOD, at least of the native employees of the MOD, do not account at all for a disparity of this size. We are talking here of the figure that is six times as large, Mr Speaker, as would have been charged on the commercial side.

Now, I believe the practice on the Detached Mole is and has been - there are two sides to it, the commercial side, and the Admiralty side - and when use is made of the Admiralty side of the Detached Mole because in fact the capacity and the space available on the commercial side is taken up, the arrangement at present is that commercial rates are charged by the Admiralty. And I would have thought that the applicability of this principle to the use of the facilities on the South Mole, which would produce undoubtedly a very substantial reduction in the cost, would make the calling at Gibraltar a more attractive proposition. The thing is, of course, that the figure in itself, again I think as in the case of the aircraft landing, is a small part of the total cost, and I believe that the ship-owners have in fact not complained about this, probably because, knowing how the Ministry of Defence works, they have come to the conclusion that the delay and the cost of putting in a complaint and making submissions will cost them more than £2,400. But whether the ship-owners have complained or not I think we in Gibraltar, if we believe that it is good for Gibraltar to have passenger ships calling here, and this is something that the Honourable Minister for Tourism

has repeated adnauseum in the House, that he is a fervent believer in encouraging cruise liners to call at Gibraltar and that one of the factors that has mainly affected this matter is the cost of fuel, nevertheless although he can do nothing about the cost of fuel, and this I believe he can do nothing, you may correct me if I am wrong, if he can do nothing about the cost of fuel, if there is one area however small where he might be able to do something then I think that he should make the attempt. And if the machinery to enable him to make representations in this context, or even in fact for the Government to legislate to bring this within their area of responsibility, within the terms of the price control machinery, if that is something that will give him the power to exercise influence, then I think that should be done. Because once he has the power then, Mr Speaker, I can attack him more for not exercising it adequately, you see, whereas at the moment he can get out of it simply by saying there is nothing he can do.

So it isn't entirely good motives that makes me put forward this motion, I want the Government to have the power to do something about it because I believe it is good for Gibraltar that they should have the power, and I want, as long as I am a member of this House, to have the opportunity to, shall we say, encourage them to exercise that power in the interests of Gibraltar's economy.

Mr Speaker, I commend the motion to the House.

Mr Speaker then proposed the question.

HON P J ISOLA:

Mr Speaker, the members on this side of the House share fully the shock expressed in the motion, share fully the sentiments that have been expressed by the mover in fairly restrained terms as the situation has come about as a result of the increases in landing charges unilaterally imposed by the Ministry of Defence (Air) at the Gibraltar Airport. We share fully too the sentiments that the Honourable Mr Bossano has expressed on the question of consultations. There is no question about it that the economy of Gibraltar is vitally affected by what happens at that airport. The airport is substantially the only means of entry and departure from Gibraltar for a very great number of people, and anything that makes that entry or that departure out of Gibraltar more expensive, even if it is due just to inflation, is bound to have a serious effect on the economy of Gibraltar, on the standard of living of its people, and on the quality of life. And accordingly it is in our view outrageous that anything done with regard to the airport should be done without

consultation, without any prior warning. And I don't consider being told three days before it has been done is any prior warning. That is just trying to get the record right. Without any warning cannot be justified in any shape or form. And, therefore, we think that the appropriate word used by the mover 'shocked' is an appropriate word in the circumstances, and I think stronger language would be appropriate to express acts that affect and are bound to affect the people of Gibraltar living as they are a beleaguered existence in a garrison or in a city under siege.

Of course the increases of landing charges will affect us. I am not as optimistic as the Honourable Mover of the motion is when he says that he hopes the increases will be absorbed by the carriers. If we could be sure of this, Mr Speaker, we might not complain so loudly, but there is no question about it that the increases will be reflected, and will be used as an argument for the airlines in any application they may make to the Aviation Authority in London for increased air fares. The subject of this motion of course is one of the matters being dealt with by the Select Committee, it is obviously one of the things that have our attention, in the same way as air fares, and certainly on the opposition side of the Select Committee, and I am sure it will also be reflected on the Government side, we recognise the need for the Gibraltar Government, through its selected members, to have a direct say on what happens at the airport, and to have a direct say to what happens on air fares. We do have some say on what happens in air fares because, as you know, Mr Speaker, an opportunity to argue against increases in air fares is given to anybody who objects at the Civil Aviation Authority in London, and we know that that Authority is well aware of the problems facing Gibraltar, is very sympathetic to the problems facing Gibraltar, and it wouldn't be a bad thing if a little of that rubbed off on the appropriate Ministry in London where the airport is concerned.

But having said all that, Mr Speaker, and having expressed sympathy for the Mover of the motion in what he moves, I think, that a motion should seek an aim to do something constructive, something that is practicable, and something that is effective, and something that will try and ensure that this will not happen again. Much as we would like to be, should I say a sovereign nation, with an airport and a navy and an army and a seat in the United Nations, much as we would like to be that, we are unfortunately not that. We are a small community without an army, without a navy, and without an airport. And we are dealing here in an area, in an airport, for which we do not pay, over which we do not exercise any jurisdiction, which is clearly a non-defined domestic matter if ever there was one, and which clearly we can exercise no control as far as price control is concerned.

It would be very nice to be able to price control the airlines, price

control the few that come to Gibraltar and price control the Navy, the Dockyard and the airport. I would be very nice to be able to do that, but unfortunately, Mr Speaker, we cannot. And I think it is important that any motion that is passed in this House should be a motion that carries the authority of a responsible House, a motion that is practical, and not a motion that is clearly - I don't say out of order, but it is clearly outside our reach, and clearly outside our sphere of power and responsibility, because there is a danger that at worse it will be laughed out by the appropriate authority, and at best just looked at with a sympathetic smile, and that's it, knowing full/ that nothing can be done. well

The mover has made in my view the real point in the motion, and I think he pressed that very strongly, and that was the point of consultation. We feel that there is a real need where the airport is concerned, which is such an important source of economic activity for Gibraltar, it is such an important source of the quality of life for a large number of the people of Gibraltar, that the Government should have a say in what happens in that airport. We do not regard on this side of the House, and I am sure it is the same on the other side and, I am sure that even my friend Mr Bossano agrees, we do not regard the Ministry of Defence, or in fact the British Government, of which it forms part, as an enemy of the people of Gibraltar. We must regard them, and we do regard them as a Government that is friendly towards Gibraltar, a Government that has undertaken to support and sustain Gibraltar, that gives us fairly large amounts of money to support the economy, to do our developments, and it is in that light that we must look at that situation. And I cannot believe that an approach by the Gibraltar Government in Gibraltar Council to the Governor of Gibraltar as representative of Her Majesty's Government in Gibraltar, an approach insisting in seeking machinery for consultations in matters relating to the airfield, and the civilian use of the airfield, by the people of Gibraltar, is something that is going to be looked at and turned down. And I think this is what we must do, this is what must come out of this lack of consideration on the part of the Ministry of Defence on this question.

Something positive must come out and we believe that what must come out is machinery for consultation, an undertaking, an assurance by the British Government that matters that affect us, the people of Gibraltar, as far as the airfield is concerned, will be fully consulted with us. That, I believe, is what the Gibraltar Council is there for: to keep things smoothly between the civilian population and the Military population. I would not recommend to this House that on the question of landing charges we should - I mean we must keep things in perspective - have a major confrontation and seek in this House to pass legislation to control something which is really outside our ambit. I don't,



think we should do that, I don't think it is necessary, and if there is to be a really big fight on any matter, I think we should select some other subject, if and when the occasion arises, and one hopes it will never arise.

Accordingly, Mr Speaker, I will be moving towards the end of my address an amendment which I am sure the Honourable Mover will feel reflects very much what he is seeking.

In so far as the berthing charges in the Admiralty Harbour are concerned, Mr Speaker, we don't know on this side of the House what are the rates of berthing charges, whether they are unreasonable or not, and so forth. It does seem to us, from what the Honourable Mover has told us, that they are very unreasonable, and that that is something on which we on this side of the House would like an assurance from the Government, that they will look into this as a matter of urgency because obviously the effect on the economy of a visit by a liner of the size of the Canberra must be quite substantial and it must help very much the economic activity of Gibraltar. These cruise liners that come to Gibraltar give a lot of life to Gibraltar, give a lot of money to Gibraltar, and the Government must keep a very close eye on this and try and ensure that visiting ships are encouraged as much as possible.

The charges that my Honourable Friend, the mover of the motion, has given are not charges that are likely to encourage liners to come to Gibraltar, and we would ask the Government to look into that and to give assurances that they will take this matter up quickly. I think it is a bit difficult, Mr Speaker, on the context of the machinery that we are proposing, which relates to the airport, to include something to do with the Admiralty, because I think if we are going to have consultative machinery in which both sides are actually there, the Admiralty and the Ministry of Defence (Air) I don't think this will bring good practical effect, and I would ask the House to direct its attention here on the landing charges issue, and obtain assurances from the Government that they will seek similar safeguards in relation to what happens in the Dockyard which I appreciate is possibly a much more complex matter than the airfield, and that is complex enough.

Accordingly Mr Speaker, I would like to move an amendment to the motion, that it be amended by the deletion of all the words after the word "should" in the third line, and by the substitution therefore of the following words:

"Press for the setting up of machinery for regular consultation between the Ministry of Defence, the Gibraltar Government and aircraft users of the airfield in relation to matters affecting landing charges and the civilian use of the airfield".

I have also included in the amendment, Mr Speaker, aircraft users of the airfield, by which of course we mean, and we intend to mean, companies .....

MR SPEAKER:

You realise of course that you do away with the portion which refers to Admiralty waters.

HON P J ISOLA:

Yes, I have mentioned that and that is why I explained it earlier. I am hoping to obtain assurances from the Government that they will seek similar arrangements with the Dockyard, because I think you cannot take them both together, it could be cumbersome. As long as we get the assurances then if necessary another motion dealing with that could be put to the House.

I bring in other aircraft users of the airfield, by which I mean the various companies that use the airfield. The three that come to mind are British Airways, Gibraltar Airways, and I think Pegasus Air Services and the reason why I think they should be brought in is, Mr Speaker, because they are possibly the people who are affected, probably know a lot about the working of the airfield, and I think it is useful to hear their representations as well when any move is made in this direction or in any matter affecting the civilian use of the airfield. We would like to look at the use of the Gibraltar Airfield as an exercise in partnership between the Ministry of Defence, the Gibraltar Government and the Companies that are giving a service to the people of Gibraltar through the airfields. And I think these are important factors and we should, as a result of this motion, be able to give a definite and concrete message, and take definite and concrete steps, which I think are within the responsibility of the Government, are within the Constitution, and are within the spirit, one would hope, of cooperation and friendship that exists between the British Government and the Gibraltar Government.

I commend the amendment to this Honourable House.

Mr Speaker then proposed the amendment.

HON CHIEF MINISTER:

Mr Speaker, since the question of confrontation is included in the amendment I hope I will be able, whilst speaking on the amendments, to

dwelton matters which have been raised in the general debate. My contribution will be a factual one in order to acquaint the House with what the Government knows about this matter, because it arises under the question of consultations. And let me say that I agree with the last speaker that the amendment is more likely to achieve the desired effect of the original mover of the motion and of the feelings expressed by him in putting this motion, I entirely agree with the last speaker and this is more likely to lead to that than as the motion stood. For one thing I would very much doubt whether the Price Control Ordinance would be applicable to the question of landing charges, the next thing is, that even if it were, before price control can be exercised on the landing charges like on every other article, sugar, butter or what have you, there would have to be an enquiry into the costs involved to see whether the costs imposed are reasonable. I would rather have consultations. Even if that were possible, in a compulsory investigation they might be able to make a case that even now the landing charges were low and that they would have to be put up further purely on the basis of costs. I don't think that that would lead to what we all want, which is to see that there are consultations.

First of all I would like to say that what we have said in the past, as we say now, in respect of matters in which we have to govern, that we have been elected to govern, but necessarily this statement relates to matters in which we are authorised to govern. With the best will in the world, and I would perhaps be more inclined to declare independence than other people who think that another kind of solution is more suitable to Gibraltar, nothing would please me more than that the area of responsibility of the Gibraltar Government would cover all the things that people think they cover, but which in fact they don't, simply because there are the limitations that have been set out by the mover of the amendment, in that we haven't got an army, we haven't got a navy, we haven't got an airfield and, therefore, it is a question which has been mentioned in the amendment, of a partnership. A partnership in which, I think in many respects, due to attention is taken of the people's desires and are complied with if - always a big IF - it does not clash with the major interests of the other side of the partnership, and that of course is only what it means. Because of that it is impossible for me to answer the question of whether we have been consulted, and I will say, as the Minister said in his reply earlier on in this session, I also got to know a few days before increases were announced.

That is ~~the~~ the factual information that I can give. I cannot tell

the mover whether other people in the Government, what I call the elected side of the Government, have been consulted or not. I must presume that there have been, for the purposes of answering now, but I cannot say, because then it would have been earlier consultations if that had been brought to my notice. If I had known that there have been consultations earlier between Officials in London and the official side of the Government in Gibraltar, then it would have meant that I had been brought into them. I cannot, I will not of course go round, nor is it my function, nor would it be dignified for me to go round departments behind peoples backs to see what I can find in other people's files. I don't think that that is the way in which we can achieve/devolution of power to the people of Gibraltar. more

HON J BOSSANO:

If the Honourable Member will give way. Is he saying that as far as he knows the official side, as he puts it, of the Gibraltar Government, was not consulted earlier.

HON CHIEF MINISTER:

No, of course I am not saying that.

MR SPEAKER:

I think what the Chief Minister is saying is that the Gibraltar Government, which is not the Governor-in-Council but the Gibraltar Government which is responsible and elected by the people, were not consulted.

HON CHIEF MINISTER:

That's right. That is all I can say. What I cannot say is whether the others were or were not consulted. I say "I presume" they may have been, I don't know. I am saying that now that the matter is before this House. I cannot say whether they have or not, because if I had known that before there might have been an opportunity of being able to say now that we asked for consultations.

HON J BOSSANO:

Mr Speaker, does he know now whether there have or not?

## HON CHIEF MINISTER

No, I don't. I still do not know. I presume that certainly there must have been some information because when it comes to us the information must have come earlier, but that is all I can say in all truthfulness, as indeed was the case in the matter which we discussed yesterday. One cannot say what has happened before if one has not been consulted. And, therefore, I think it is proper that the emphasis should be on this question of consultation, and I have no hesitation in saying that as far as the elected members are concerned, we support the amendment fully, because it complies without thinking, and complies with the continuous efforts which are being made, and members opposite who have been in office have experience of this, that have to be made for these consultations on a hundred matters which are directly or indirectly concerned with Gibraltar. In many cases one is successful and one establishes a pattern of consultation which avoids things like this coming here. But of course one would have to make it clear that the fact that there is consultation does not necessarily mean that the deciding power should be put in the hands of those who do not exercise that power, but certainly, at least, if there is consultation there is a possibility of making a case, of softening a blow or, of at least being satisfied that if there is an increase it has been justified. All these matters arise out of consultations and avoid the frictions that can arise out of matters which come like a bomb shell.

I agree that the effect in terms of actual costs are not very high, but the principle of it is the same. And whereas in this case it might not happen, there might be something else done without consultation than would have a much more disastrous effect than this one could have.

I think it has been said before, but I think I ought to explain it. You, Mr Speaker, made it quite clear in the course of the debate yesterday, that Aviation, and it is not disputed, is certainly a non-defined domestic matter. It may be that it is not even a domestic matter, it may be a Service matter or a grey area in which there is local interest, and that, therefore, the elected Government has got no executive function to exercise in this.

With regard to the question of the Admiralty charges these are matters which we of course will look into on the same basis, but I agree entirely with the mover of the amendment that this would bring about further complications. In fact the situation is a completely different one, it is occasional, it is only in the case of one liner only, the Caiberra, and we would have to look at that. Again I think there should be consultation generally when matters connected with trade is likely to affect us or when new charges are introduced. It would be difficult now to

have an inquest on all charges that have been pressed around, but it is useful to have some method of consultation. And, therefore, Mr Speaker, we do support the amendment to the motion and think that it may well lead to a little more emphasis being brought on the efforts which the Government makes on this question of consultation, because it is essential, as Mr Isola has said, if we are to keep in good terms with our partners in this matter, that consultation should avoid friction, and should avoid unnecessary strains on what is virtually a dychotomy, an exercise of two authorities over a very limited area like Gibraltar is, and in fact lead to a better understanding. And better understanding would lead perhaps to wider participation on the part of the elected representatives in the spirit not only of the Constitution itself but on the avowed statements made by successive British Governments, that the wishes and interests of the people of Gibraltar are paramount generally, and of course in respect of our future certainly should also permeate into the matters that makes as that future more certain.

MR SPEAKER:

Mr Bossano would you say something on the amendment. It might perhaps ease matters. If you support the amendment we might put it to the vote and then we will open the general debate.

HON J BOSSANO:

Well, Mr Speaker, I am prepared to accept the amendment although I felt very strongly about my original motion and my wish to see the Gibraltar Government taking a more senior role, I think, in this partnership that the Chief Minister speaks about, in spite of the fact that unlike him I am not known as an "Independence" man in Gibraltar.

However, I think when it comes to action, my stand against colonialism nonetheless is well known for people to have no doubt about how I feel. I would like in fact the motion to produce results, and that is my major concern, and if I am not very good at drafting motions then I shall be only too happy if every motion I bring to the House is re-drafted and passed so that it carries out the original objective. But I think that as far as consultation is concerned, the only thing that worries me about it is that it should not be seen as something weaker than what I originally wanted, in the sense that I want the Gibraltar Government to have a real say in it. I don't want the fact that they are being consulted to be used as a patch up job to get away with the same thing being done under another guise. I hope that if the motion is passed and in fact machinery is set up which will allow

the Government to be consulted, that the knowledge, that the effectiveness of their being consulted will be questioned in the House, will make the Gibraltar Government take a tough line when being consulted, in the interests of the people of Gibraltar, and that in fact the Gibraltar Government I would hope, on its own initiative, should bring matters to the House and involve other Members of the House, to get the support of the whole House, if in fact, in the course of their consultations they feel that insufficient attention is being paid to the argument they are putting forward.

MR SPEAKER:

Does Mr Isola wish to reply to the amendment?

HON P J ISOLA:

No, Mr Speaker, I am glad to see that the amendment has been generally welcomed and is acceptable.

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

The amendment was accordingly passed.

MR SPEAKER:

I will now, as I usually do, remind the House that we now have the original motion which reads as follows, as amended:

"This House is shocked to learn of the increases in landing charges recently introduced by MOD and considers that the Gibraltar Government should press for the setting up of machinery for regular consultation between the MOD, the Gibraltar Government and aircraft users of the airfield in relation to matters affecting landing charges and the civilian use of the airfield".

HON M D XIBERRAS:

Mr Speaker, I thought I might leave my very short contribution for this stage of the debate because it does deal with one or two general points which have been raised, and one other point which I thought I might make now for general consideration by Honourable Members.

First of all may I say that it is always a good thing to have unanimity in the House on matters which affect Gibraltar as a whole, and I am glad that this has been achieved. I do not think that this issue, important as it is in itself, should be made the subject of wider controversies which Honourable Members here would like to see aired and discussed, and solutions found to them. But since the point has been made, let me say that in this question of the use of the Airport there are other fundamental issues which have been discussed from time to time, and which both the Honourable Mr Bossano and the Honourable and Learned the Chief Minister have referred to, and I give as an example the Civil Aviation Authority and things of that nature. Now, it would be quite unrealistic to suppose that the kind of control or say which the Honourable Mr Bossano and possibly other members in this House, certainly on this side of the House, would like to see being perogative of this House, is going to be achieved in relation to the issue of landing charges. Therefore, as the Honourable and Learned Mr Isola said, if we are going to fight for something, then we should do battle about the main issues and not try to fight campaigns of the size of skirmishes.

I think that this thought is also appropriate in relation to the feeling that has been expressed on both sides of this House. I of course am an Integrationist, and I share a lot of the feelings nonetheless which Honourable Members have expressed. I think basically it is one of a search for a signified position in those matters in which the Gibraltar Government cannot, because of limitations which have been made clear, about the Army the Navy and so forth, cannot be expected to be responsible itself, but in which it is right and proper that the Gibraltar Government, the elected representatives of the people of Gibraltar, should have a definite say commensurate with their responsibilities and with the contribution they make, over all, to the running of even such services, as the Airport or the Port.

In relation to the Port it should be remembered that there have been recommendations by independent authorities which have spoken - I refer for instance generally to the Beeching Report, which spoke generally of the role of the Dockyard, and I would say that there is room there for complementary activity and for an attitude of co-operation on the part of the Naval Authorities, MOD, and the realisation that although it is fair that the requirement of the Base, it is fair not only for them but also for us, the requirements of the Base should have priority, nonetheless without affecting this priority, there are certain areas where relaxation of the present attitude, a more understanding attitude, would be of great benefit to the economy and to Gibraltar overall, and consequently to the general stability of the position in Gibraltar.



This wider consideration should also be applied, coming down to the specific issue, to the landing charges themselves, and I put it out as food for thought that whereas I do not know how MOD arrives at the landing charges that it fixes, it is a fact that the effectiveness of the airport is minus a 20% because of the air ban, because of various factors, and that aircraft therefore have to come in with a reduced load of some, I gather 20%. This calculation overall should be included in arriving at fair and equitable landing charges.

Now, having said that I do not mean that we wish to know the whole lot of the defence estimates in the United Kingdom, but some sort of explanation is due to people in Gibraltar, and I strongly support the amendment of my Honourable and Learned colleague in this respect.

HON A W SERFATY:

Mr Speaker, as the Minister responsible for the promotion of tourism to Gibraltar, I must say that I welcome, as my colleagues do in Government, the airing of the problem in public. What happens is of course that in London decisions are taken by different departments and companies, by the Navy, by the RAF, by British Airways, all of which in one way or another belong to the British Government, which is committed by the way to sustaining and supporting Gibraltar. These decisions are taken in the case of British Airways on commercial grounds, and similarly I suppose by the MOD on defence and financial grounds, without due attention being given by the different companies to the needs of Gibraltar in these difficult times of economic blockage. And this is what happens.

I well remember about a year ago when the increased landing charges were announced that I went to see Air Commodore Sutton, then the Air Commander, to try and discuss with him possibilities of reducing the increases, and it was to no avail. He had his instructions from London. And may I say that this prompted me, because one of the arguments I used with Air Commodore Sutton was that the Government of Gibraltar, the taxpayer, was contributing to the operation on the civilian side of the airport by having an Airport Terminal Building for whose maintenance the tax payer of Gibraltar was forking out the money. And it was this, when I couldn't get any further with him, that prompted me to suggest to my colleagues, and we brought it here to this House, this departure tax of 50p. So that the Gibraltarian taxpayer could be compensated in a way for the expenditure that he incurred at the airport.

There has never been an element of consultation. We have been informed, as I said in reply to a question a couple of days ago, and this is what happened this time. Therefore, I welcome with feeling that there is in the House today that there should be consultations. The Honourable and Learned Mr Isola implied in his remarks that the Select Committee on Air Communications is thinking on these lines. I entirely agree with him and I hope that the report of the Air Communications Select Committee will come before this session is finished, before the life of this Government is finished, with recommendations on these lines. There are not enough consultations. And my job as Minister for Tourism has been frustrating in relation to these matters.

How many times have I suggested to British Airways executives, to give an example, that we should be consulted on air fares, and all we see is a decision to apply to the Civil Aviation Authority for increases in air fares. As Mr Isola said, in that particular case we can go to the CAA and resist the implementation of these increases .....

MR SPEAKER:

Yes, but we are not going to talk about increases.

HON A W SERFATY:

With arguments that can be put forward.

Right, may I repeat that we welcome the discussions on these matters, and I do hope that out of this discussion will come a realisation by all concerned, including the authorities in London, that there should be consultations. I entirely agree with the amendment because I think that talking now of controlling is not going to be the ideal solution. The ideal solution is to go to London and discuss these matters with our friends in London, in the hope that the best can be decided in the interests of Gibraltar.

Coming to the Canberra, the figures given by the Honourable Mover, Mr Bossano, are more or less right. The berthing charges at the Detached Mole have been for each call £1,065.24p, instead of £142, which is based on a rate of 4.5 per ton, whereas we charge 1.2p, and in fact in the case of cruise liners, which we want to encourage and I have always done so in all these years, we only charge 0.6p.

That is how the Ca berra, if it were able to berth at the Western Arm, would pay £142. <sup>and</sup> Over and above the higher charges paid at the South Mole, the charges for the tugs and other services, which I am informed are more or less the same as those in the private sector in Gibraltar. How the figure of 4.5p has been arrived at I do not know. It is possible that the answer to that is that the Navy charges are those charged on a world wide basis. It is also a fact, as the Honourable Mr Bossano has said, that the Ca berra berthed alongside the South Mole seven times last year, and will berth alongside another seven times this year, which is an increase on previous years. So it does appear that they have not been unduly discouraged from calling at Gibraltar. In fact how many times have I discussed this question of calls at Gibraltar of P & O liners, and I well remember telling executives in London that we knew that about 36 passenger liners from P & O were passing the straits and only about 4 or so were calling at Gibraltar. And there again there were the commercial considerations which is all very frustrating. But it is good to see that the Ca berra will be calling seven times and it does appear that the belly-aching in London that we have done in the Tourist Office have had some effect.

We welcome this discussion and of course we believe that the amendment made to the motion by the Honourable Mr Peter Isola is the right answer to the problem.

MR SPEAKER:

If there are no other contributors I will call on the mover to reply.

HON J BOSSANO:

Mr Speaker, I think that while it is a source of satisfaction to me to know that the motion enjoys the support of the House and that once the motion is passed the Government will press ahead with putting its terms into effect, and we hope that they will not have opposition, I think it is regrettable that in this motion, as in other matters, we have a situation where the House has to move to rectify for the future something that is the result of something that has been done wrongly in the past. I think it is regrettable that in this, as in other instances, we find something happening and then we have got to try and produce machinery to ensure that it does not happen again. There is no end to this sort of situation and I think it would be well if we looked at other areas where the Gibraltar Government should be keeping a closer look on the situation so that we can forestall matters that may be detrimental to Gibraltar.

As regards the references to the question of the berthing of the Canberra at the South Mole, I hope that notwithstanding the fact that P&O have apparently not been discouraged by the berthing charges, the Minister will not become complacent about it and wait until the Canberra has stopped coming to Gibraltar to try and get the berthing charges down and encourage the Canberra back. What we have got to ensure is that if there are seven calls projected, nothing that he can have an influence on should be changed in a way that might act as a discouragement, even if so far it doesn't act as a discouragement. Because it could well be, Mr Speaker, that there are other reasons which militate in our favour at the moment, which compensate for the high berthing charges. But if those other reasons change, and the Minister would have known we are knowing that, the effect of the berthing charges would then be moved into a different context, and marginally that might tip the balance against us. So I would urge him, notwithstanding the fact that the Canberra apparently has not been discouraged yet, he shouldn't wait until it is discouraged to investigate the matter, and that in fact he should use his offices if possible to get a reduction in this figure now, or else, in fact if he finds that there is any occasion in the future, when other factors might affect the calling of cruise liners in Gibraltar, then we may be able to try and compensate for other adverse factor by offering an incentive reduce berthing charges.

So I think that if there is a possibility of this having an influence there, then he should not let it slide out of his hand. He keeps a watch on the situation he may be able a tan appropriate time to move quickly and prevent either the diversion of a cruise ship to another place, or even to attract others that are not coming to Gibraltar now.

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

The motion was accordingly carried.

HON M D XIBERRAS:

Mr Speaker, I have the honour to move that this House urges Government to take steps in consultation with Employers Associations and Trade Unions to establish more formal negotiating machinery in the private sector along the lines of "Wages councils" or any other form which might be considered practical and desirable by the interests concerned with a view to the rationalising of wage negotiations in this sector.

Mr Speaker, taking account of the time which I have to move this motion, and generally I have a feeling that the motion is not terribly controversial and not likely to be, I intend to be extremely brief in its presentation. The subject nonetheless is an important one and we have had recent evidence that wage negotiations in the private sector can get bogged down, and that the Department of Labour often enough does not have a clear picture of wage settlement or wage movements in the private sector, as the Minister for Labour admitted.

The idea of having a rather more formal negotiating machinery than that exists at present, which is by and large ad hoc, in other words, as there is a need so people meet, is not a new one. In fact in my last days as Minister for Labour I had this under active considerations and there was an article by Mr Michael Feetham in the Gibraltar Evening Post talking about Wages Councils some time before 1972, and I believe it is in the IWBP Manifesto too that we should try to set up some kind of formal machinery. My intention in this motion is not to press for Wages Councils, as exists in some industries in the United Kingdom, but I have simply put in the words 'Wages Council' not to be too vague in this motion. By Wages Councils I certainly do not mean, and I think my information on this is accurate, that we should have a minimum wage committees by industries, but that we should have a forum where with regularity the wages of a particular industry could be discussed as we have for shop assistants, not necessarily in the same form, a method for negotiating their wages, so we should have other similar or other specified forums for the discussion in another industry.

Mr Speaker, we have had a lot about consultation, and this is certainly a subject in which the interest of both Employers Associations and Unions are of paramount importance. In fact I talk in the motion of the Government almost encouraging this process to come about. In other words it is not something that should not be imposed by the Government on Employers Association and Unions, it is something that the Government might take a hand and see what the feeling is, in the interests of rationalisation of wage negotiations, in effect the motion says.

Of course wage negotiations in this sector are much more rationalised now because most of the negotiating is done on the one hand by the Transport and General Workers Union or ACTSS, and on the other hand by the Chamber of Commerce. But there are other areas and things are certainly less haphazard now than there is union membership than they were before, but I thought we should not allow this opportunity of passing without trying to cash in on this situation to produce a series of conditions that would endure and which would allow the Employers Association and the Unions to carry out

the negotiations in a rather more rationalised manner over all. I gather too that certain proposals have been made already in this respect and I was unaware of these proposals when I move the motion. But if such is the case, if the Unions or the Employers Associations or both have already made representations to the Government in one way or another, I am certainly not going to run contrary to those because I feel, as I say, that it is Unions and Employers Associations who must produce the germ of an idea which eventually be acceptable to Government and where necessary Government should then legislate.

So I urge the House to accept this motion in the spirit of a suggestion, and that Honourable Members should signify their desire that this should come about in the not too distant future.

Mr Speaker then proposed the question.

HON A J CANEPA:

Mr Speaker, even before hearing the Honourable the Leader of the Opposition I was fairly certain in my own mind, that although the motion talks of Wages Councils he did not really have that in mind. A handbook of industrial relations in the United Kingdom informed me that it is only in certain trades where wages cannot be effectively controlled by voluntary agreement, owing to the inadequate organisation of employers or workers, that provision has been made by the State for statutory regulations under the Wages Councils Act of 1959, and of course I know that he is aware of the fact that there has been a great deal of unionisation, and indeed better organisation by the employers, in the last three years or so in the private sector.

In fact to the extent that the Regulations of Wages and Conditions of Employment Board, which has been and continues to be a Wages Council, ~~initially~~ at present ~~has~~ no particular need to meet. I think, therefore, that what we have in mind is more the sort of Joint Industrial Council that there is for the ~~private~~ <sup>public</sup> sector, some sort of machinery more along those lines.

us that Now, Mr Speaker, in the same way as the Honourable the Leader of the Opposition, in his last days as Minister for Labour, ~~reminding~~, <sup>reminded</sup> his mind was exercised by the possibility of setting up joint negotiating machinery in the private sector, my own first days in Government were similarly exercised. And again the impetus was given to me by this article which I have got a copy of, which appeared in the Gibraltar Post in March 1971, and was written by Mr Michael Feetham. It was on the question of setting up negotiating machinery in the

private sector,. The last paragraph of it ended with the words "the Union too have to play a positive role in leading the way to establishing machinery" and he proposed in it a 5 point manifesto for the setting up of this machinery. So knowing that Mr Feetham was championing this cause, as it were, when I came into office I immediately contacted the Transport and General Workers Union. At the time Mr John Cousins was the acting Resident Officer, and we discussed this. It was in fact included in a press release which was issued pointing out that the possibility of setting up this machinery was discussed. I then proceeded to have a series of meetings for two or three months with all the major employers in the private sector, and this is where of course I came across difficulties, as in those days there wasn't the degree of organisation that there is now amongst employers. Employers Federations and Associations ~~were~~ needed to be revitalised, and this has been done, but the import of my discussions was that they did not think that overall machinery was appropriate to their needs or to their interests, certainly nothing like the JIC in the public sector. They thought that they needed to negotiate in cells as it were, in industries, where they would have their own particular interests. For instance, the Gibraltar Master Builders Association would not be interested in forming part of a body where the conditions of service and wages of the bakery industry were being discussed. So I came across this difficulty and in addition to that there was a change of leadership and a change of organisation in the Transport and General Workers Union, and Mr Feetham was no longer involved in the private sector.

The negotiations throughout 1973 on the 1972 Biennial Review were then conducted in what the Leader of the Opposition has rightly termed ad hoc bodies. But let me say that on the whole these ad hoc bodies served their purpose, the negotiations were on the whole fairly expeditiously and fairly smoothly conducted. Now, Mr Speaker, more recently, when Mr Michael Feetham took over responsibility for the private sector there was a re-awakening of interest in the matter. Let me say that I do not think that the post Scamp negotiations in the private sector, except for the case that was discussed yesterday, the building industry and another one which was aired this morning in the Gibraltar Chronicle, namely NAIFI, ~~By~~ and large I am surprised at the extent to which these negotiations have been expeditiously conducted and I think that the progress that has been made is quite surprising. Let us not forget that there has been a delay of 15 months in the public sector where there is formal and established machinery. So let us not decry the efforts of these ad hoc bodies. I think very good work has been done. But there has been reawakening of interest, and there was a very interesting short article in the Gibraltar Chronicle on the 9 September, in which we were informed that Mr Feetham had told the Chronicle that the objectives and constitution of the planned JIC, and apparently this

have been  
difficult

was for the possible formation of a Joint Industrial Council for the Retail and Wholesale Distributive and Allied Trades of the private sector, ~~these~~ <sup>have</sup> have been agreed and it ~~was~~ subject to formal ratification by the respective bodies. It had been discussed by Mr Feetham with the President of the Chamber of Commerce, and the matter had still got to go before the Board of the Chamber of Commerce for discussion. And that is where I think, Mr Speaker, my information is, that the matter came a cropper. The Board of Directors of the Chamber did not share either the enthusiasm of its President, or else their relations with Mr Feetham weren't that good. The fact is that we didn't hear a great deal further about the matter until at the end of another interesting article in Vox, a longer article but I only read the end of it, at the end of September - 3 or 4 weeks later - the article was entitled "PAYING THE WAY", the initiative being taken by the TGWU in negotiating in the private sector. The article, says: this has been clearly illustrated by the Union in initially submitting and then obtaining agreement to a Constitution, "agreement from the President of course," to a Constitution for a Joint Industrial Council for two vital areas in the private sector, "Retailers etc, and the building industry. An initiative which the employers concerned, the Gibraltar Chamber of Commerce and the Master Builders Association, must have found hard to reject". Well apparently, Mr Speaker, the initiative must have been rejected because we haven't heard anything further on the matter.

I would welcome, Mr Speaker, personally, I would certainly welcome that employers and the Unions should get together and try to set up more formal machinery, if possible an overall machinery, because although they might not be able to discuss conditions in a particular industry, there might be areas of common interest for the private sector as a whole, and I am convinced myself that it would certainly be highly useful for the employers in various industries to know what the problems of other employers in other industries were to be able to monitor the situation, and to be fully informed about what was happening in the private sector as a whole. But I am somewhat, Mr Speaker, doubtful as to whether Government's intervention would achieve anything. My own direct experience of three or four months of work on this pointed to the contrary. The indications are that the people concerned don't particularly want Government intervention. There isn't that great deal of contact between employers in the private sector and my department, the Department of Labour, which would be involved in this matter, except when an industrial dispute emerges or is apprehended. The impression that I had formed - I may be wrong - but the impression that I have formed is that Government's intervention is not desired, and, therefore, Mr Speaker, I propose to move an amendment which emanates from the answer that I gave to the question that the Leader of the Opposition put to me



about indications of wage settlements in the private sector, and which will draw attention to the provisions in the Regulation of Wages and Conditions of Employment Ordinance for the setting up of Joint Industrial Councils. Section 10(1) of the Ordinance says "where in the opinion of the Governor in respect of any group or class employee adequate machinery exists for the regulation of conditions of employment an application may be made jointly by the employer or employers organisation representing the employers of those employees, and by a Trade Unions or Trade Union representing those employees for the recognition by the Governor of that machinery as a Joint Industrial Council". And then sub-paragraph (2) "On receipt of such application the Governor shall ascertain the Constitution, function, procedure and composition of that machinery and if satisfied that the machinery is adequate and that it covers a substantial number of employees, he may in his discretion, register that machinery as a Joint Industrial Council".

From what I have said now, and from what I said in the answer to the question which the Leader of the Opposition put to me, I think it is clear, Mr Speaker, that this could go a very long way in achieving the purpose which the Leader of the Opposition has in mind. It would certainly keep the Department of Labour fully informed about wage settlement in the private sector, and would make ~~his~~ <sup>the</sup> role as a conciliation serving a great deal more effective in the event of it being called in to conciliate, because the Director of Labour and myself, who ~~am~~ <sup>are</sup> sometimes involved in ~~consideration~~, would have the background, <sup>and</sup> would have the full knowledge of what has been going on. So, Mr Speaker, I propose to move an amendment. As I say it is purely aimed at achieving as far as possible the purpose which the Leader of the Opposition has in mind, but I certainly wouldn't like, Mr Speaker, my last days in Government <sup>to be</sup> in a fruitless attempt at setting up something unless I ~~was~~ <sup>am</sup> convinced that people really wanted me to be involved in this. And I don't think, as I have said, that the augurs <sup>are</sup> any more propitious now than what they were during my first few months of office.

I will circulate the amendment, Mr Speaker, and then formally move it, if I may. The amendment, Mr Speaker, really changes the motion completely.

I formally move, Sir, that the motion be amended by the deletion of the words after "this House" and the following be substituted ~~therefor~~:

"would welcome the establishment by Employers' Associations and Trade Unions of more formal negotiating machinery in the

private sector along the lines of Joint Industrial Councils as provided for under Section 10 of the Regulations of Wages and Conditions of Employment Ordinance",

I commend this amendment to the House, in the knowledge, Sir, that the extent of Government involvement and intervention will be that which the people concerned actually want. They are at liberty to come along to the Department of Labour, get in touch with the Director of Labour or myself with a view to any help and assistance that we can provide in achieving this desirable effect.

Mr Speaker proposed the question.

MR SPEAKER:

Perhaps if again we do do what we did in the last motion, if we hear Mr Xiberras' views on the amendment we can then speak on the general debate.

HON J BOSSANO:

Well, Mr Speaker, I think some of the points that the Honourable Minister for Labour and Social Security has made, particularly the question of wages council, are very valid, and in fact we have been moving in the private sector away from statutory regulations of wages to negotiated wages between employers and employees. I think there is one significant way in which the situation has changed from .....

MR SPEAKER:

I am sorry, that is why I gave Mr Xiberras an opportunity to speak on the amendment. You have got the right to speak on the general motion and you will be given the opportunity, but just now you must speak on the amendment exclusively.

HON J BOSSANO:

What I was about to say was in the amendment, Mr Speaker. I must make reference unfortunately to what has been said but it is about the amendment.

MR SPEAKER:

Unless of course, Mr Bossano, as I always do to other members, if you would rather say what you have to say now .

HON J BOSSANO:

No, because I want to say little now and perhaps more later. The situation has changed in a very significant way, Mr Speaker, from the position as it was in the article quoted by the Honourable Minister for Labour, where there is a reference to the Unions being involved. As regards this amendment I myself would not support the amendment which made a reference to Trade Unions being involved in more formal negotiating machinery in the private sector, because there is only one union at the moment which has negotiating rights in the private sector as all the other unions negotiate in the public sector, and I wouldn't want to give the impression that I am encouraging new unions being created in the private sector, which is not the case. I believe in fact that one of the reasons why there has been a much speedier conclusion of the negotiations in the private sector is precisely because the TGWU is the only union negotiating, and, therefore, whereas there is perhaps difficulty on the employer's side for all the employers to get together and agree on their side before they agree with us, on our side there isn't any problem. There is no other union on our side that has got to agree with the things that we claim or what we are willing to accept, the TGWU being the only union has in fact this advantage, I think, over the employers. I believe that the obstacle so far, and the obstacle that would still be there in fact in creating the sort of machinery that the amendment proposes, is in fact the representation of the employers' side because of the multiplicity of employers whereas on our side, on the Trade Union side, we just need one two or three representatives representing the union, on the other side in the private sector, in some industries in fact there are as many employers as there are employees, and it is very difficult for the employers to decide who will represent it, whereas in the public sector we have got in the JIC machinery MOD, DOE, Gibraltar Government, and it is a straight forward thing. So I think the Joint Industrial Councils, which is in the plural in the motion, is the right thing because in fact I don't think one can get representations effectively from employers other than by industry really. The whole private sector I think would be a very difficult thing to organise on that sort of basis.

But I would like to move an amendment to delete "trade unions" after the word "and" and substitute "The Transport & General Workers Union".

HON CHIEF MINISTER:

If I may, would it not be more helpful if instead of "Associations" remained in the plural, and "the union representative of employees."

HON J BOSSANO:

Yes, that would be acceptable.

MR SPEAKER:

So that the amendment which is being proposed would then read as follows:

"would welcome the establishment by Employers' Associations and the union representative of the employees, of formal negotiating machinery .....

shall we take a vote on the amendment to the amendment.

HON A J CANEPA:

May I say, Mr Speaker, that this is acceptable to me and that trade unions appeared in the plural without any ulterior motive.

MR SPEAKER:

So I will now put the question which is that the motion before the House be amended as moved by the Honourable Mr Canepa as follows: by the deletion of all the words after "this House" and the substitution therefore of the following - "would welcome the establishment by Employers Associations and the union representative of the employees, of more formal negotiating machinery in the private sector along the lines of joint industrial councils as provided for under Section 10 of the Regulations of Wages and Conditions of Employment Ordinance"

On a vote being taken, the question was resolved in the affirmative. The amendment was accordingly carried.

HON A J BOSSANO:

Mr Speaker, on the motion as a whole I would just like briefly to give explanation to the House of what the present situation is.

The position is that the negotiating machinery has worked, and I think, been in existence for some time effectively in the Bakery Industry, where there is representations from the three firms on the Official Side, and the unions on the Staff Side, and in the Building Industry, although the Building Industry I think is somewhat complicated by the existence outside the Master Builders Association of a number of Builders, of the problems that will arise in the private sector is the question of the enforcement of agreement on firms that are in the industry but do not belong to the Employers' Associations. As I say this is a reflection of the fragmentation that exists in the private sector, on the Employers' Side which fortunately does not exist now on the Union side. Therefore the Union Side, the representatives of the employees are in a position to move forward virtually now in any area of the industry. The level of membership in the private sector is now very high and therefore there is virtually no area in the private sector where formal negotiating machinery could not be set up. But the problem is that even in those areas where Employers Associations exists there are a number of employers outside the Associations. This happens in the building industry where there are a number, and it is more so in other areas.

I think the machinery as regards the JIC for the Retail Distributive Trade, which I think would be an important area because it accounts for about  $\frac{1}{3}$  I think of the private sector employment, this in fact has not been rejected although it has not been accepted. I think as the Honourable the Minister for Labour pointed out the enthusiasm of the President has not yet permeated to the entire Board of the Chamber, but we hope that in time this will happen. So I think the situation as far as that is concerned is that the matter is in abeyance, but we are hopeful that there will be early implementation, because we think it is in the mutual interest of employers and employees, and I think also in the interest of Gibraltar generally speaking, because machinery that exists can in fact be activated at a moment's notice, as it were, when there are problems, and generally speaking used to avoid the need to take industrial action which, as our General Secretary pointed out in his recent visit to Gibraltar, as far as the TGWU is concerned, for us it is a last resort.

We prefer to arrive at agreements by negotiation and therefore we are fully committed to a policy of setting up the necessary machinery to enable us to do this and avoid the need for industrial conflict.

MR SPEAKER:

If there are no other contributors I will call on the mover to reply.

HON M D XIBERRAS:

Mr Speaker, although as the mover of the amendment said the whole form of the motion has changed, the substance of it and the intentions behind it have remained absolutely the same as in the original motion which purely gave wages councils an example as and

has been substituted by joint industrial council. This was indeed the purpose of the motion, to bring it to the notice of the House and to have in this House, in this responsible forum, opinions as to how things move were moving in the private sector. I am most grateful to all members that have contributed to this debate for their contribution because I do think that it does help to create a clear picture in an area which, as has been said, can be and in fact is full of fragmentation.

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

The motion was accordingly carried.

HON CHIEF MINISTER:

Mr Speaker, I now formally move the adjournment of the House.

MR SPEAKER:

I now propose the question which is that this House do now adjourn sine die and in so doing I would like to bring to the notice of the House that the Honourable J Bossano has given notice that he wishes to raise the issue of a licence under the Wireless Telegraphy Ordinance for the purposes of radio controlled taxis. I would like to say that under Standing Orders the debate must of necessity be restricted by the rules to 40 minutes and there is no vote and if a reply is required I think the mover should bear in mind the time element. It is now exactly 12.27.

HON J BOSSANO:

Mr Speaker I do not propose to take up more of this time than is absolutely necessary because I want the Government to have as much of the time as possible to express their views on the matter and I am particularly interested in the view of the Honourable and Learned the Chief Minister in this matter because I would like to have an indication of the Government policy. There has been a great deal already said and written and publicised about this thing and I would like to make quite clear my own position is that the issue of the proposed licence to operate a radio taxi is contrary to the intentions for which the provisions are contained in the Wireless Telegraphy Ordinance. I do not think the Wireless telegraphy Ordinance envisages the use of licences of this purpose and

X I think that if a licence issued under this Ordinance is used as it has been used recently for operating a radio controlled taxi service for a small minority it is against the public interest and it is in fact something that would not be tolerated by either employees or traders in any other sector. If any sector of trade in Gibraltar found itself in the situation where less than 10% of its members were put in a privileged position there would be an outcry, perhaps in a different shape or different form, but not different in substance from the outcry that there has been from the case of the Gibraltar Taxi Association. Because, Mr Speaker, the thing that has to be understood is that the men affected are in fact very upset by the situation because their livelihood is in danger and their livelihood is in danger because a radio controlled taxi service in Gibraltar is only economically justifiable if 10% are pinching the business of the other 90%. If all had a radio controlled taxi then the business would go back to normal except that everybody would have higher operating costs which would presumably have to end up in an application for an increase in charges to operate taxis in order to pay for the cost of having a walkie-talkie in a taxi which was not any good. So giving a walkie-talkie to everybody will only produce a more expensive service which helps nobody either the consumer or the taxi drivers. A walkie-talkie for a minority obviously helps that minority because that minority enjoy a mobility that the others do not have and a mobility that they are exercising contrary to the requirements of the law in the Traffic Ordinance. Now, as regards the issue of the licence I believe the decision of the Court has been that a licence applied for under section (3) of the Wireless Telegraphy Ordinance has to be issued. I believe that the provisions of the Ordinance as it stands are sufficient to enable the Government if it is their policy that this situation which is bad for the vast majority of the taxi drivers and bad for Gibraltar should not materialise, if it is their policy - and this is what I would like to learn from the Chief Minister that the policy of the Government is that they think this is a bad thing and it should not happen - if that is their policy I believe that even without any change in the law they can do something about it because the Wireless Telegraphy Ordinance lays down in the Regulations made under the Ordinance the form of the licence and the conditions that may be attached to the licence and if those conditions were strictly adhered to it is quite obvious that it would be impossible to operate the taxi under those terms. I think the Honourable and Learned the Chief Minister has already received representations from the Association pointing out by reference to the regulations and the Ordinance, the fact that the licences were clearly not intended for operating taxis. The licence I believe which was issued originally was issued under Form 5 in the Schedule of the regulations which is entitled "radio controlled model licence". Now, one doesn't know whether the model is a taxi or Mr Lombard sitting behind the driving wheel but it is quite clear

that it isn't anticipated in the form that the model should be communicating with the person controlling the model because these licences were included in there quite clearly for controlling things like model aircraft and model boats which are radio controlled. So I believe, Mr Speaker, that since in fact there is absolute discretion on the conditions that may be attached to a licence there is absolute discretion on the cancellation or revoking of the licence, there is absolute discretion as regards the closing down of a station for which a wireless licence has been issued. The fact that the Court has decided that once an application is properly filled in and once the fee is paid a licence has to be issued - and I understand this has been the decision of the Court - this does not preclude the Wireless Officer attaching to that licence conditions such as to allow Britannia Taxis to operate model toys. I am sure that the Association would have no objection to toys being used on a radio controlled basis. And this would in practice enable the Government to take a look at the legislation so that it is brought up to date and to prevent loopholes in a law which has been on the statute book for some time being used for something for which it was clearly not originally intended. This, Mr Speaker, is an area where I have taken the trouble to look at the Constitution because I am so confused nowadays by this business of what the Government is responsible for and what the Government is not responsible for and I don't know whether in fact the implementation of the Wireless Telegraphy Ordinance is Government responsibility or not. So that if in fact as well as seeking from the Honourable and Learned Chief Minister an indication of what his views are as regards the policy of the Government in this matter I would also like to know whether in fact the elected Government's policy has a bearing or not. Because even if the Chief Minister is in sympathy with the cause of the taxi drivers and there is nothing he can do about it then it is better that the parties concerned should know it so that they know who it is they have to convince. I believe that the Chief Minister has already indicated to a meeting of taxi drivers that he is in sympathy with their views but that the establishment or the administration or somebody else has taken the decision. If that is the case then I think it should be stated clearly because it is I think a very undesirable state of affairs if we keep on coming across issues where one seeks responsibilities from the elected members of the Government and it turns out that we have mandarins in the Secretariat running Gibraltar instead of the people who go to the polls. If that is the case I think the sooner this is clearly stated and clearly shown by concrete examples the better it will be because the people of Gibraltar are going to be consulted at the polls soon and let the people of Gibraltar be in no doubt as to how hamstrung their elected representatives are if indeed this is the case. And let not ignorance of the situation be used to perhaps shift blame where blame does not lie.



HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I would like to start by setting out the history of this affair in view of the publicity which has been given both in the press and on television. An application was made in April, 1974, to the Wireless Officer for permission to instal walkie-talkies in 10 taxis and have a fixed station. This licence was granted in June, 1974, to expire on the 30th September that year. I, as Attorney-General was not consulted when I say I, I include the members of my Chambers. There was no reason why I should be consulted. The only consultation necessary would have been had the Wireless Officer power to issue this particular licence. Whether he should or not is of course a matter within his discretion, it is one of policy. With hindsight I think one might say he would have been wise to consult perhaps the Transport Commission, the Taxi Association. But it must be borne in mind in all fairness that walkie-talkies were already in existence, not for taxis but for other purposes, and I don't think, with respect, we can place undue criticism at the door of the Wireless Officer. Now, the licences expired on September, 1974, and they were renewed to expire on the 30th September 1975. Again there was no reference to the Attorney-General. In June, 1975, the question was referred to me for the first time and I think I can say I didn't even know that walkie-talkies existed in taxis. My sole consideration was had the Wireless Officer power, and my answer then and my answer now is a categorical yes. He has power under the Wireless Telegraphy Ordinance to issue walkie-talkie licences for taxis. Our Wireless Telegraphy Ordinance follows the English Act and of course under that Act licences are issued for all purposes including walkie-talkies in taxis. If I might interpose at this stage, the Honourable Mr Bossano has said that the regulations are not geared for a licence of this nature and the original licence was issued in the form for a radio model. That clearly I think was an error on the part of the Wireless Officer. Now, he is not restricted to the form set out in the regulations. They are there with the TV licence, the wireless licence, the radio model licence, they are there for the use in normal circumstances even though there is no specific provision in the regulations for the form of a walkie-talkie licence does not mean that a licence cannot be issued for walkie-talkies for use in taxis. It is for the Wireless Officer to devise the particular form of licence which should be used in such a case. If you say he cannot, that there is no provision in the regulations then of course that goes straight against the Ordinance under which there is power to issue licences for any purpose.

HON J BOSSANO:

If the Honourable Attorney-General will give way. The law does say

"licence granted under the Ordinance shall be in the form set out in the first schedule". It doesn't say "maybe" it says it "shall be".

HON ATTORNEY-GENERAL:

That is a licence granted for one of the purposes set out in the Schedule not for a licence for which there is no purpose at all. To say that the regulations can prevent because they give no form for a walkie-talkie licence can cut down the general power conferred by the Ordinance is wrong. In fact there was a disagreement with my ruling and this was challenged of course by a private prosecution. Now, in the private prosecution where a taxi driver was charged with illegally keeping a wireless in a taxi the magistrate held not that there was no power to issue such a licence but that the particular form was wrong and therefore that the taxi driver was not acting under a licence but as he was acting in good faith he was not guilty of an offence. It has been suggested that I should have brought that prosecution. Let me say 'No' straight away. For me to prosecute because a taxi driver was acting in good faith on a licence issued by Government would have been quite ludicrous. It was issued by the Wireless Officer and it may have been a technical fault. For me therefore to prosecute a taxi driver and say: "Government with the hat of Wireless Officer has made a mistake, that's too bad for you I am prosecuting" that would have been entirely wrong. The licences expired on the 30th September this last year and an application was then made for renewal. The Wireless Officer considered these applications and in his discretion - he is the one to decide - refused to issue and as members of this Honourable House know his decision to refuse was challenged in the court. The court held on Monday of this week that he had absolutely no discretion whatsoever to refuse a licence. He must issue. And in consequence licences have been issued. To refuse to issue would have been a complete refutation of the rule of law which is generally accepted. We must not do that. Now, I can see things that can be done. There can be a revocation but of course for a revocation the Wireless Officer must have good grounds. He cannot revoke, for example, because he doesn't like a particular person, He must exercise his discretion properly. There can be an amendment of the law. That is another matter to which consideration is being given, but what I want to make crystal clear is that Government has received representations. They have been made to the Chief Minister, they have been made to His Excellency the Governor, and consideration is being given to these matters bearing the interests of Gibraltar as a whole. The form of licence which has now been issued has taken much more into account of the necessities of the situation, we have not followed the existing radio model licence but I am quite satisfied that there is power to issue and we have been told we must do so. Whether we change the law, what steps we take, is a matter of policy

to which as I have said consideration is being given.

HON CHIEF MINISTER:

Mr Speaker, Sir, I would like to just say a few words because these representations which have been mentioned have been made to me and I would like to state straight away that I have listened to the men, I have expressed my sympathy of their predicament and I have at all times told them that this was a delicate and difficult matter because the courts have been involved and because certain matters have gone at the beginning in a way which had they gone differently perhaps we might not have reached the stage that we have reached but certain interests are out affected and it is essential that before any action is taken if we are going to have a rule of law and if we are going to have rights of people for whatever reasons acquired properly and lawfully affected this must be a matter of consideration and I have expressed to the men as I have expressed to their leader that this was not a matter which we could decide in a hurry or could decide quickly. There are other matters which the Attorney-General has referred to which are under consideration. First of all I would like to say that I do not think that the Wireless Telegraphy Ordinance is a defined domestic matter but I don't mind if it isn't in this point I am not taking refuge on that, I don't mind if it isn't because if one is assured that the issue of licences or the non issue of licences subject to the security aspect that it might have is not affected, I have no doubt that the policy of the elected representatives would be accepted as a policy of the Government. So I do not want to take any refuge in matters of this nature and I make quite clear that ultimately we will have to take the responsibility of what to do and I am not shirking that one iota. But what I do not, and I am not prepared to do, and I have explained this to the men, in I hope language that they have understood, is to be rushed into a matter where there have been acquired rights, for whatever reasons, properly acquired rights, in respect of action done by officers of the Government and the matter being in the hands of the Attorney-General, particularly the possibility of an appeal against the Judgement. Even that might not solve the problem because after that it might be said that all that it could be said was that in fact there was no mandatory power on the part of the authority to issue a licence, but there was a discretionary power. And if that discretionary power was not exercised in favour of these who have been said by the court to have had a right, it might be said that that discretion was being exercised improperly and then we might have another mandamus to say: "You have exercised your discretion improperly, you must issue the licence". So because of a serious situation that has arisen it is no use taking half measures that might not lead the way to which ultimately if it is desired, it is to be done. I received only yesterday whilst I was

sitting here a letter from the solicitors to the Taxi Association raising a matter of legal points addressed to the Attorney-General and copied to me. In fact I received the copy before the Attorney-General's copy got to him because I got it sent to me here and he had it in his office so I gave it to him for him to read in advance. There are a number of legal matters which are raised in these representations on which the Attorney-General has got a constitutional duty, and he will do so, to advise the Government on the matters raised before any decision is taken. The problem here where I appreciate and where I have tried in the best interests of the people concerned, is one which is a serious one and which I fully realise but I am afraid I am at variance or rather I do not think that it is going to lead to the best solution of this problem and that is the fact that the men in the perfect right that they have to do what they like in a free society, have abstained from rendering a service whilst this matter is being discussed. What I do not want is to be thought, first, that there is going to be any delay in discussing the matter but on the other hand, as I have said repeatedly, this is not an easy matter. There are rights acquired and we are not going to be rushed into a decision if it is going to be the right decision ultimately. And this is where I appealed to the men the other night and I appeal to them now that they should go back to work. I am exercising my right here of saying what I think is right as far as we are concerned. I don't want to be accused of taking three or four weeks in deciding a matter which is serious and then be told by the taxi drivers that they have been deprived of their work. That is their privilege. It is their privilege to abstain from work but it is also their responsibility. Because what we cannot do is to be rushed into a matter which might later on lead to a worse situation than we have now because we get ourselves involved with prerogative writs which are the writs which give the right to people to call to the courts when Government, acting through hurry or injustice, an injustice is caused in accordance with the terms of the law. There is only one other point which I would like to make in respect of what the Honourable Mr Bossano has said and that is that I am not going to go into the economics of the matter of which I do not know and therefore I do not dispute the fact that it may not be economically viable to have a service for everybody in that way except only for a few people. It is certainly not the intention of the Government, nor was it the intention of the Wireless Officer, nor was it the intention of anybody of putting anybody in a privileged position. If instead of 10 people, 100 people had applied for the walkie-talkie they would have got their licences. As it has happened a few people had this idea and it has put the other people in a predicament but that has not put by any action of the Government anybody in a privileged position.

MR SPEAKER;

Are there any other contributors to the debate? If not I shall put the question.

Mr Speaker then put the question which was resolved in the affirmative, and the House adjourned sine die.

The adjournment was taken at 12.55 pm on Thursday 15th January, 1976.