

HOUSE OF ASSEMBLY

HANSARD

OF MEETING

HELD ON 18 MAY 1976

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Twentyfourth Meeting of the First Session of the Second House of Assembly held at the Assembly Chamber on Tuesday the 18th May, 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 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 J Bossano.
The Hon L Devincenzi.
The Hon Miss C Anes.

ABSENT:

The Hon H J Zammitt, Minister for sports and Housing) who were away
The Hon W M Isola) from Gibraltar

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 3rd March, 1976, having been previously circulated, were taken as read and confirmed.

COMMUNICATIONS FROM THE CHAIR.

MR SPEAKER:

I think it is only right that I should explain the presence of Mr Charles Gomez sitting next to the Clerk of the House. It has been considered expedient that we should have persons capable of taking over from Mr Garbarino on occasions when he may be absent for whatever reason and it has been decided to understudy the post. There have been several applications from members of the civil service who wish to be taken into consideration for this particular understudyship and Mr Gomez is the first to do so and he is sitting here this morning for the purpose of getting the feel of the House and finding out what his duties consist of.

DOCUMENTS LAID

The Hon the Chief Minister laid on the table the following documents:

- (1) The Elections Order, 1976.
- (2) The Charities Ordinance - Report for 1975.
- (3) The Traffic (Parking and Waiting)(Amendment)(No.2) Order, 1976.
- (4) The Traffic (Parking and Waiting)(Amendment)(No.3) Order, 1976.

Ordered to lie.

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

- (1) The Merchant Shipping (Oil Pollution) Act 1971 (Gibraltar Commencement) Order 1976.
- (2) The Merchant Shipping (Limitation of Liability for Oil Pollution) (Sterling Equivalents) Order 1976.
- (3) The Port (Amendments) Rules, 1976.
- (4) The Building Rules (Extension) Order, 1976.
- (5) The Registrar of Building Societies - Annual Report 1975.
- (6) The Tourist Survey Report 1974/75.

Ordered to lie.

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

The Education Awards (Amendment) Regulations, 1976.

Ordered to lie.

3.

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) Regulations, 1976.
- (2) The British Commonwealth and Foreign Post (Amendment) Regulations, 1976.

Ordered to lie.

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

- (1) The Copyright (International Conventions)(Amendment) Order, 1976.
- (2) The Gibraltar Court of Appeal (Amendment) Rules, 1976.
- (3) The Maintenance Orders (Designation of Reciprocating Country) Order, 1976.
- (4) The Oil Pollution (Compulsory Insurance) Regulations, 1976.

Ordered to lie.

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

- (1) The Entertainment (Fees) Rules, 1976.
- (2) The Gaming (Fees)(Amendment) Order, 1976.
- (3) The Exchange Control (Authorised Dealers) Order, 1976.
- (4) The Exchange Control (Authorised Depositories) Order, 1976.
- (5) The Gibraltar Broadcasting Corporation's Financial Statements for the year ended 31st March 1975.
- (6) The Annual Report by the Chairman of the Gibraltar Broadcasting Corporation for the year ended 31st March 1975.
- (7) Statement of virement warrants approved by the Financial and Development Secretary (No.3 of 1975/76).

Ordered to lie.

ANSWERS TO QUESTIONS

STATEMENT BY THE CHIEF MINISTER

In accordance with established practice, I rise to make the statement on the affairs of the Gibraltar Regiment. This statement covers the period from June 1974 to date.

On 28 July 1975 Lt Col D L Collado took over command of the Regiment from Lt Col A J Ferrary.

The establishment of the Volunteer Reserve is now 191 and the present strength stands at 190.

In addition to the six annual training camps held in Gibraltar during the period under review a total of 142 members of the Regiment drawn from the Light Air Defence Troop and the Infantry Company held training camps abroad at Manorbier, Stanford PTA and St Martins Plain. A party of 4 officers and 21 Other Ranks also trained in Kenya with the 3 Queens. Weekend and evening training continued to be held in the usual way and the Regiment once again participated in the exercises run by FHQ and also ran its own recall and deployment exercises.

A party of 8 men carried out adventurous training in the area of the Peak District during October 1974, this being the first venture of this nature undertaken by the Regiment. A similar venture was carried out in Morocco in 1975 which proved very successful.

A number of the regular members of the Regiment and volunteers successfully attended courses both locally and in the United Kingdom.

The Corps of Drums, which I said in my last statement was being formed, is at present receiving instruction from the Bugle Major of the 2nd Battalion Royal Green Jackets and the buglers have already performed in public on a number of occasions.

The Regiment continued to take part in ceremonial activities and after a lapse of three years once again carried out the duties of Convent Guard from 13 May to 20 May 1974. The Regiment also performed these duties in July 1975 and March 1976.

Apart from assistance to visiting Units, a number of administrative matters were dealt with during this period. The Gibraltar Regiment Regulations were published in October 1974. No.6 Dress and DPM Combat suits were issued as well as 1958 Pattern webbing. Approval was given to

increase the regular cadre by 4 privates in lieu of 4 volunteer reservists and 5 posts in the cadre were upgraded.

The appointment of RSM was also made available to a suitably qualified member of the Regiment and a local member has since been appointed. A new Sergeants' Mess at Buena Vista Barracks was officially opened in September 1974.

Teams from MOD visited the Regiment in May 1974 and March 1976 to review pay and pensions and another team paid a visit in February 1975 to bring threshold payments up to date.

The Gibraltar Regiment Association held four meetings in 1974 and 1975 to deal with a number of matters affecting the Regiment.

Members will, of course recall our visit to the Regiment in February last year and I am sure the House will join me in taking this opportunity to express our best wishes for the continued success of the Regiment.

HON M XIBERRAS:

Mr Speaker, the Chief Minister mentioned the question of pay which has been the subject of questions from this side of the House and from myself on several occasions. Would the Honourable Member tell us to his knowledge what the state of play is as regards the pay of officers and men of the Regiment?

HON CHIEF MINISTER:

I cannot give very particular details but I understand that after the last review there was general satisfaction about the pay review that took place following the visit of a pay team about two months ago.

HON M XIBERRAS:

Mr Speaker, does the Honourable and Learned Member know whether the back money was paid to the members of the Regiment?

HON CHIEF MINISTER:

I understand that that is still the subject of discussion as from when it is to be applied. I understand, and I am speaking purely in general terms, that the last pay award was of an interim nature until a final settlement is reached with the Regiment and when as I understand it, I may be wrong, there will be back pay.

HON M XIBERRAS:

Mr Speaker, would the Honourable Member please make sure about this because my understanding is quite the opposite that in fact the Ministry of Defence has been adamant on the question of back pay. Would he also take note of my understanding when several people alluded to in the dates which the Honourable Member has given the House were in Gibraltar, my understanding was that at that time they could not move ahead of the Gibraltar Government because the Gibraltar Government had still not concluded or even started I believe at one state its negotiation on the Scamp Report. Would the Honourable Member please bear this in mind and ensure that the members of the Regiment get what was denied to them at that time on the grounds that the Gibraltar Government had not completed its own exercise.

HON CHIEF MINISTER:

The Honourable Member has put in quite a number of questions into one long paragraph but I would say this. First of all I understand that they are awaiting a final settlement of salaries, generally, in Gibraltar. I did not see the MOD pay team this time but I understand that there is no question of percentages on parity or anything but that they are awaiting the practical result of the final pay award. That is why I said that the last pay review was an interim one and to the extent that one can influence the MOD when they seek advice or separately if one understands that there is a grievance, I would certainly do my best to see that the Ministry of Defence pay the best possible rate to the Regiment. I can say this with a certain amount of confidence that the report I have now is that the men are not unhappy with the last pay award.

HON M XIBERRAS:

I am grateful for the undertaking he has given but would the Honourable Member ensure that the usual MOD argument that they cannot go ahead of the Gibraltar Government is not used now to the detriment of the officers and men of the Regiment. In other words, that now the Gibraltar Government has gone ahead that the MOD keeps pace with the Gibraltar Government both in respect of the actual wages agreed to and also in respect of the back money?

HON CHIEF MINISTER:

Yes, to the extent that it is within my power I will certainly represent this in the strongest possible emphasis that lies within me.

HON MAJOR R J PELIZA:

Couldn't it be possible, Mr Speaker, - I have some experience of this I know it was some years ago - but couldn't it be possible for the Chief Minister to try and influence MOD to try and follow the recommendations of the Scamp Report so that they do pay their increases on a percentage. If it is difficult for the ordinary worker in Gibraltar to attain a satisfactory review on the yearly or biennial reviews, I know from experience it is much more difficult for a small force like the Gibraltar Regiment to get their views and representations across and I think the men perhaps next time that the Chief Minister has occasion to speak to them perhaps they would be more happy rather than "not unhappy" if some form of percentage was agreed to. This perhaps would be a better way of putting it across. This would settle the matter once and for all and then I am sure he would be able to come to the House and say they are happy and not just "not unhappy".

HON CHIEF MINISTER:

Mr Speaker, I deliberately used the words "not unhappy" because I didn't want to be accused of overstating the matter but my information is that they are quite satisfied and I deliberately under played my words even at the expense of being criticised for it in order not to overstate the case. I would rather understate the case than overstate the case.

As I said before to the Honourable Leader of the Opposition I would certainly do my best to influence in whatever time is left now and whatever time remains between now and the next elections whatever the results may be. Of course we want the Gibraltar Regiment to be well paid. I would be quite sincere and I would say that if in fact what they want to do is to follow good employer practice locally I think the Regiment would be better served if we tell the MOD to take local good employer practice in Gibraltar as reflected in whatever comes out of Scamp in the end as the basis but I think we would be in a much more controversial wicket if we tried to sell them a percentage of UK. That I am afraid would bring about a number of complications which would not be to the interest of the Regiment. I could well keep my mouth shut and say nothing about this now and become less controversial but I owe it to the House to express my view that that will bring about complications if you do it on the basis of a percentage of UK personnel. If it is based on the fact of what we are paying people as a result of Scamp that could be the guideline and then I think we are on a better wicket and I hope, as the Honourable and Gallant Major has said, that if as a result of Scamp people are better paid generally and therefore they have something to look up to, that would be to the benefit of the Regiment. I would like to repeat again that I have the utmost sympathy and greatest support for the Gibraltar Regiment as I am sure all members have to see that they are as well paid as possible.

HON MAJOR R J PELIZA:

Mr Speaker, two points. One is that obviously the information that reached me is not the same as that which the Chief Minister has. Mr Speaker, you have been extremely liberal and generous here on this report and allowed us to extend ourselves more perhaps than the rules allow. The question of the Gibraltar Regiment is a very important matter. This is the only occasion really that we have an opportunity of discussing the welfare and morale of the Regiment and I was wondering whether it would be possible to bring up this subject once yearly to the House where perhaps Members would have a bigger opportunity of expressing themselves. I think this is the only opportunity the House has to ventilate this important subject.

HON CHIEF MINISTER:

I am afraid that I cannot agree with the Honourable and

Gallant Member that this is the only opportunity. There is also an item in the Estimates of the provision that we make towards the Gibraltar Regiment and it is at that stage that the House has an opportunity to deal with the whole spectrum of the Regiment. This year the item was passed and nobody noticed it.

HON MAJOR R J PELIZA:

Mr Speaker, I think it is an important issue. Here we have a report and obviously this is the occasion when based on the information provided in that report Honourable Members can form an opinion. It is very difficult now to file the report until the Estimates come along and perhaps it is out of date by then. Perhaps this statement should be made at the time of the Estimates but, anyhow, something like that should be an improvement. I wonder how one could have this recorded so that when the next Government comes in they may follow my suggestion.

MR SPEAKER:

You can have my complete assurance that everything that has been said will be recorded in Hansard.

HON M XIBERRAS:

Mr Speaker, in view of what the Honourable and Learned Member in an effort to help has said about good employer practice and so forth, would he not agree with me that it is a matter for the officers and men of the Regiment to represent their case in whatever manner they think fit?

MR SPEAKER:

I have been very liberal in allowing the statement to be debated but I must now draw the line.

HON M XIBERRAS:

I am rather preoccupied, Mr Speaker, by the thought that what is said in the House might, in this particular case,

when we do not have direct knowledge because of the nature of the body concerned, that what has been said may act against the men that the House is trying to help. Does the Chief Minister not agree with me that it is a matter for the men to decide in what manner they present their claim but as far as the House is concerned either a UK-related structure as is the case with Scamp or one where comparisons are made with existing.....

MR SPEAKER:

Yes, but you see if I allow you to say this I must give the right of reply to the other side and then we are debating.

HON M XIBERRAS:

I must draw the line, I agree. But I feel strongly about this and with your indulgence I will finish the sentence. And that is that either one thing or the other, the good employer relationship to which the Honourable the Chief Minister has alluded to, are both propositions which the House must support.

HON CHIEF MINISTER:

I would like to say that nothing we have said here should in any way indicate that the men are not capable and competent of looking after themselves when a review comes because they jolly well make as much representations as possible and we are here to support them.

HON M XIBERRAS:

Mr Speaker, there is another question on the report.

MR SPEAKER:

I will only allow questions exclusively for the purpose of clarifying something you may not have understood about the statement.

HON M XIBERRAS:

Has the Chief Minister had any reference made to him about the MOD providing housing for the Regiment?

MR SPEAKER:

No, no. That does not refer to anything that has been said in the statement. You might raise it on the adjournment if you feel you ought to, most certainly. I call now on the Minister for Labour and Social Security.

STATEMENT BY MINISTER FOR LABOUR AND SOCIAL SECURITY.

REVIEW OF SOCIAL INSURANCE SCHEME

HON A J CANEPA:

In July, 1975, when announcing in this House the changes which it was proposed to introduce in the social security scheme as from January 1976, I said that so long as the inflationary trend continued, it would be necessary to review social security pensions annually. Any changes proposed for January 1977 would normally, therefore, have been brought to this House later this year, but as the new administration that takes office after the General Election will find it extremely difficult, if not impossible, to consider and introduce whatever legislation they may think necessary, in time for implementation by January, 1977, and in order that the momentum gained over the past 3 years in this field should not be lost, this Government has already decided on the changes which, in the normal course, we would like to introduce next January. These are contained in four Bills which were published only last Thursday. The Bills are amendments to the Social Insurance Ordinance, the Employment Injuries Insurance Ordinance, the Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance and the Elderly Persons (Non-Contributory) Pensions Ordinance, and, because of the time element to which I have already referred, it is the intention to ask the House to take them through all stages at the next meeting. I would then hope that whatever Government takes office after the elections will not see fit to introduce further changes, so that the Department of Labour and Social Security may have

sufficient time, before the end of December, to complete the work of re-rating and re-issuing order books for close on 3,000 pensioners involved. This is really the only reason why the measures proposed are being brought to the House before its dissolution, rather earlier in the year than would otherwise have been the case.

Generally speaking, my proposal for 1977 is to increase the rates of pensions and other benefits such as widows, unemployment and injury benefit, elderly persons pensions and retirement pensions, basically by 20%. Inflation during the 12 months up to April 1976 has been running at an average of just over 11% per annum, so that it is hoped that the 20% increase will not only keep pace with rising prices but will increase the real value of the benefits. Not only this, but it is also intended to complete the process - to which I made reference last year - of eliminating the narrowed differential which still exists between the pensions of those who reached pensionable age before and after 1968. What this means in terms of cash is that the pre-1968 pensioner who now receives £11 for himself and his wife, and the post-1968 pensioner receiving £12.50, will both receive £15 next year - the actual increase, of course, being £4 (or 36%) in the case of the former and £2.50 (which is the basic 20%) in the case of the latter.

Single pensioners will likewise all get the same pension of £9.20 instead of £6.70 and £7.70 respectively. In the case of non-contributory pensions, the elderly persons pension is being increased from £3.20 to £3.80, and the retirement pension from £6.30 to £8.40 for a single person and from £10.30 to £13.50 for a married couple. Let me say that in the case of the retirement pension the increase is more of the order of 33 $\frac{1}{3}$ % than the basic 20% yardstick, but this is so as to keep the rate of pension in line with pre-1968 old age pensions to which, in justice, they should bear relation.

In so far as Maternity and Death Grants are concerned, I have felt that there is no need for an increase on this occasion. Both these benefits have been increased very substantially in recent years, to the extent that they are now higher than in Britain. Leaving them at their present level, at least on this occasion, has attenuated the need to increase contributions more than is considered absolutely inevitable to meet the increases in the major benefits.

This brings me to the question of the contributions themselves. The combined contributions under the Social Insurance and Group Practice Medical Schemes is raised by 26 pence a week for men (13 pence for the employer and 13 pence for the

employee) and by 22 pence for self-employed persons and voluntary contributors, with corresponding increases for women and young persons. As usual, the Government Actuaries in the United Kingdom have been consulted on the proposals which I have outlined, and have confirmed our calculations that, even at the higher rate of contributions, and largely as a result of the substantial increases proposed for pre-1968 old age pensioners, benefit expenditure is likely to exceed contribution income immediately the increases are implemented in 1977. The Actuaries' calculations suggest that the difference can be met, for about the next ten years, from dividends on investments but, of course, the financial position of both the Social Insurance Fund and the Employment Injuries Insurance Fund will be considered in detail when the actuarial reviews of the Funds for the end of 1975 are carried out later this year. Their findings should, of course, be borne in mind when considering future reviews of the schemes. I should also add that these proposals have also been referred to the Social Insurance Advisory Committee who have recommended that they be proceeded with, and they have also made certain other suggestions which will be borne in mind for the future.

I have dealt with the broad outline of what the published Bills set out to do. There are other changes - such as, for example, treating insured persons as adults from the age of 18 (instead of 20) for purposes both of contributions and benefits - but rather than go into too much detail now I think it would be preferable that I refer to them when the Bills come before the House and they can be considered in detail.

Sir, the proposals which I have explained today are a further step towards my long-term objective of attaining a level of old age pensions which would be worth the equivalent of 50% of male average earnings for a married couple and 33 $\frac{1}{3}$ % for a single person. At present the level stands at about 35% in the case of a married couple, but as average earnings increase over the years, as they no doubt will, I envisage that it will only be possible to achieve the desired levels of pensions by gradual stages over the next 4 or 5 years.

Sir, everything that I have said here today I put to representatives of the Gibraltar Trades Council - one of whom was the Honourable Mr Bossano - last March, in the course of an interview which they sought with me arising from a motion on improvements to the social services which was passed at their last Annual General Meeting.

I should also say that I have shown the proposals to the

Honourable Leader of the Opposition before they were finalised, and assured him that what otherwise could be termed the "unseemly haste" with which the House will be asked to pass the proposed measures, is not at all politically motivated with an eye to the forthcoming general elections, but is purely and simply intended to ensure that sufficient time is given for pensioners to get their increases next January; this very likely would not be possible if the whole matter was left until after the elections, which would be September at the earliest. Needless to say, even if the legislation is enacted now, as I propose, a new administration could repeal and replace it as it thought fit, but I doubt very much whether time would be in their favour or, what is more important, in favour of the pensioners. I think I can say that the Honourable Leader of the Opposition, has accepted this, and indeed - I am glad to say - has expressed his concurrence with the improvements proposed.

HON M XIBERRAS:

I cannot remember if the wording was exactly the same. I think the Honourable Member has deprived me of the part paternity of the Bill which he very graciously extended to me or attributed to me when he very kindly invited me to his office. I think I was called the co-author of the Bill at that time but the Honourable Member has changed his mind about that.

Mr Speaker, my reasons for supporting this are the more genuine ones which the Honourable Member has mentioned and that is that we do not wish to halt the progress in pensions and at the same time of course the ultimate aim of Honourable Members on this side is to establish parity with the United Kingdom in respect of pensions. This particular step is a welcome one and one which either legitimately or illegitimately I am glad to associate myself and my colleagues.

(1) The Medical and Health (Amendment) Ordinance, 1976.

HON A P MONTEGRIFFO:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Medical and Health Ordinance, 1973 (No.5 of 1973) be read a first time.

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

HON A P MONTEGRIFFO:

I now move that the Bill be read a second time.

Sir, in presenting this Bill I would first like to deal with clauses 1-10 and clauses 15, 19, 20, 21 and 22. The amendments contained therein are mainly a cosmetic and tidying up operation basically to include the new grade of enrolled nurses which we approved at estimates time, to give greater flexibility as to the form in which the Register of Nurses and midwives shall be kept, and to give the Nurses and Midwives Registration Board powers to prescribe courses of training, examinations, etc, which were previously in the hands of the Governor. Clauses 19 to 21 and 22 brings the composition of various Boards up to date. It is again a mainly a mopping-up operation to put Boards up to date in the sense that as whereas before we had a Deputy head of department which no longer exists and also we had left out the Hospital Administrator from one or two boards and this has been corrected. Clauses 11 to 14, and 17 to 18 provide an up-to-date concept to strengthen the control and supply of medicinal products, poisons, etc.

Sir, in 1968, the Medicines Act in the United Kingdom took cognizance of the dramatic advance which had taken place in the field of pharmacology within the previous decade and the need to protect the public against the dangers of new drugs and any abuses. The Act established criteria that divided medicinal products into two categories; those that could be sold with reasonable safety otherwise than by or under the supervision of a pharmacist and those that could be sold only by or under the supervision of a pharmacist.

A considerable amount of consultation has also been going on in Britain into the field of poisons as defined in legislation dating back to 1933. This research is aimed at establishing criteria that will classify substances hitherto regarded as poisons, into substances which are really medicines and substances which are not and which will eventually be re-classified as non-medicinal poisons.

Because of a number of reasons, mainly of a professional and technical nature, the list of medicinal products which will

fall within the categories I have mentioned have only recently begun to appear in Britain.

The Medical Department as indeed the Ministry of Health in Britain has obtained advice from the Department of Health in the UK and worked closely with the local branch of the Pharmaceutical Society and have drawn up lists of medicinal products in accordance with the criteria mentioned above which is the one which is being used in the UK.

The purpose of the Bill is therefore twofold. In the first place it incorporates the relevant UK legislation which will bring our laws relating to medicines and poisons up to date; in the second place, it enables the enactment of Orders establishing a General Sale List of medicinal products that can be sold with reasonable safety by ordinary shopkeepers and a Prescriptions Only List of medicinal products that can be sold only on prescription.

The Prescription Only List will incorporate, in anticipation of impending UK legislation, which in fact I understand that they are now dealing with it, products that are now known as Schedule 4 poisons which can be sold only on a prescription. These so-called poisons will replace the list of poisons in Part III of our existing Pharmacy and Medicinal Rules which is now completely and totally out of date, and a change was long overdue.

The retail sale of any medicinal products that do not appear either in the General Sale List or the Prescription Only List and which are commonly known as counter preparations, will be restricted to registered pharmacies.

The General Sale List Order will be given an interval of time before it comes into operation to enable shopkeepers as in fact it happens in the UK, to come to terms with the new situation and legislation. To this effect my Department will give all possible assistance to persons who may need advice. And it is in this connection that I am asking the House to agree to the third reading in this meeting so that there is plenty of time between now and the time we leave office to implement the provisions and the aim of this particular Bill.

The new clause 11 at the top of page 99 prescribes that no person, other than the owner of a registered pharmacy, can import any medicinal product which is not in the General Sale List for sale by wholesale or retail, except under licence. The intention here is not just to control the importation and sale of such products but to regulate the

conditions under which they may be stored and supplied and to ensure that they are getting into the right hands.

What was happening at the present moment was that there were a number of agencies importing drugs and medicines and as hardly any conditions were placed on them and such medicines may not have been under any of our particular regulations described as poisons, they were selling it and that was a dangerous procedure. Now before they can import they have got to ask for a licence.

Sir, the general purpose of the Bill is to protect the general public from the dangers, some fatal, which have been evident in Britain and which have arisen because of self-medication with products bearing household names which have hitherto been regarded as safe.

Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON MAJOR R J PELIZA:

I am always a bit cautious when I read "so that it is more flexible". What disturbs me is the standard, particularly the standard of nursing. I am referring to the section where it says something about the registered nurses and also enrolled nurses and perhaps the Minister can explain what that really means. I know that some times flexibility becomes necessary for practical reasons but in the long run this flexibility can bring about a lowering of standards. I think the attitude generally is to take the easier way out and if it is impossible to get sufficient qualified people or qualified up to a certain standard, I think one can easily give way for practical reasons and start allowing people with lower qualifications to come in. Our hospital which we can all be very proud of has got a very high record. Anyone who either as a patient or as a visitor has been to our hospital comes out very proud to see what good work is being done there. The warmth and kindness of the nurses particularly I think radiates and it would be a great pity if for any practical reason or difficulties that are being encountered or that may be encountered in the future, this standard is allowed to come down. I think we hear recently that training in the future of the registered nurses is going to be carried out in Gibraltar, possibly one of the reasons may be that it is more economical. I just wonder what the result would be in the long run?

I wonder whether our system which obviously has inherited many of its virtues by our connection with the UK system would suffer in the long run in our isolation. Perhaps I am talking through my hat but if I am, the Minister can put me right but what I would like to know is whether in this flexibility that is being introduced the propensity of the lowering of the standard is there. And if so after I hear the Minister, of course, I reserve my views to introduce an amendment at the Committee Stage of the Bill.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I think with the greatest respect to my friend the Honourable and Gallant Major Peliza we have provision here for registered nurses at the moment. You can be a registered nurse if you pass our examination in Gibraltar, it is a stringent examination, you can be a registered nurse if you have obtained an appropriate qualification in the United Kingdom, you can be a registered nurse if you obtain the appropriate qualifications in other countries where the qualification is accepted here as being adequate. If you are a registered nurse then you can carry out certain functions in private practice but in the hospital of course you don't need to be a registered nurse before you are employed. You have nurses who come along and they are trained. At the moment although we call them nurses and they are doing nurse's work, they are not registered nurses. They will continue to be employed in the hospital on the same work as they are doing at the moment. This gives them no statutory powers at all but merely gives them a title, if you like, of enrolled nurses. We have taken specific care, as I am sure the Honourable and Gallant Major Peliza will have appreciated in the two sections of the Ordinance which give power to registered nurses, to make sure that those powers cannot be exercised by enrolled nurses. The two sections concerned are section 34 it is amended by clause 10 and section 54 which is amended by clause 15.

Now, although the Honourable Minister will no doubt assure the Honourable and Gallant Major Peliza when he makes his closing speech on the second reading, there is no intention at all of lowering standards and we have taken legal provisions to make sure that because a person becomes an enrolled nurse she cannot exercise functions which at the moment can only be exercised by a registered nurse.

HON M XIBERRAS:

It is my understanding and perhaps the Minister for Medical and Health Services in replying might make this clear, that in the United Kingdom there are certain duties which are performed by registered nurses but that the present Bill would allow those duties to be performed by those people who are enrolled.....

MR SPEAKER:

No, no. All that this section does is that it gives a status to a student nurse but does not empower her to do anything other than what a student nurse used to do before. This is what the Honourable and Learned Attorney-General has said.

HON ATTORNEY-GENERAL:

No person who is not a registered nurse can do anything that she could not do before. We are keeping up the standards of registered nurses and they are exactly the same. But merely because a student nurse has now become an enrolled nurse she could do nothing now which she could not do before. There are no extra powers whatsoever.

HON M XIBERRAS:

Perhaps the Minister for Medical and Health Services alluded to the need for this but I do not see the need for this now other than a lowering of the standard.

I would like to know whether this title exists in the United Kingdom and if it doesn't exist, what is the purpose of introducing it here where it might by contrast detract from the status of the registered nurse. I am asking why it is considered necessary to do this.

HON A P MONTEGRIFFO:

Sir, I am now exercising my right of reply and I would like to completely dispel the doubts that may have crept into Honourable Members' minds. First of all we are doing nothing, absolutely nothing, to lower the standards of what we call

the senior nursing grades which are the S.R.N.'s. Secondly, before I deal with the point of enrolled nurses, I entirely agree with the Honourable Member that it is always wise and good that people should, whatever examinations or qualification they obtain in Gibraltar, should be encouraged to go away and broaden their outlook elsewhere but this is a problem that at the moment we are having with the Unions and we are discussing. Their idea of course is that Gibraltar registration is sufficient and in fact it is sufficient and it is being in most cases accepted by the General Nursing Council but I accept, and it is my own view which I share with the Honourable Member opposite, that if we could persuade the Union to accept that no one would be promoted unless they trained for six months in Britain it would be a good thing from every point of view, psychologically, professionally and otherwise. Now I come to the question of flexibility. There is absolutely no flexibility in allowing the Board in any way to lower the standards at any given moment. We are talking of flexibility of the register only, whether they should have 3 parts, 2 parts, or 4 parts, but certainly not as regards training at all.

That has not changed and will not change. As regards enrolled nurses it is a grade which has existed in Britain for a very long time to meet a very necessary need. At the moment we have got nursing auxiliaries and ward orderlies. They are people with very limited training but because we are short at the top they are probably doing work that they should not be doing. The grade of enrolled nurse which we are copying from the UK, is a grade that does exactly what the S.R.N.'s do as regards studying but they do more practical work so that those who feel that they would not be taken up at the job of ward orderly because they consider it a rather low grade to accept, they can take the grade of enrolled nurse which is a half-way house between an S.R.N. and a ward orderly. Eventually the ward orderly will disappear and we will have at that level that intermediate grade who will not be deprived at all if they want to carry on and feel that they are capable of taking the final examination. But if they don't they will not have been discouraged from taking over the job of nursing and they will be doing a much more efficient, enhanced and qualified job than the present ward orderlies are doing. So the introduction of enrolled nurses is simply to enhance the standard of the lower grades because this becomes now an intermediate grade and eventually the ward orderly will disappear.

HON MAJOR R J PELIZA:

If the Honourable Member will give way. My fear is that as time goes by and money gets shorter the inclination to have fewer registered nurses and more enrolled nurses working in the same wards because they have a lot of experience and they have been there a long time and even though unqualified will fill the need. This is the fear I expressed on the question of flexibility.

HON A P MONTEGRIFFO:

It would really be fatal if we had to depend on enrolled nurses or for that matter ward orderlies to run our wards. That is definitely not the intention at all and I am glad to say that the training scheme which I had no opportunity of explaining at estimate time because we concentrated on Scamp and I had a lot to say on that one, has produced very good results and we are covering most if not all of the senior posts of the SRN by local staff either trained here or as the Honourable Member knows some of those are being training in the UK. But he need have no fear of that because it is not the intention at all to substitute the nursing sisters by enrolled nurses.

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

HON A P MONTEGRIFFO:

Sir, I now move that the committee stage and third reading of the Bill be taken at a later stage in the proceedings.

HON M XIBERRAS:

Mr Speaker, there are certain bills which certainly we shall agree to their being taken straight away and others which are going to be left for later on. What is the urgency of this Bill?

HON A P MONTEGRIFFO:

I explained the reason but unfortunately the Honourable Member was not in the Chamber. We are going to have a general sales list which are those drugs that can be sold by anybody and a prescription list that can only be sold at chemist shops and there might well be some shops, super-markets or drug stores selling some drugs that they should not be selling and therefore we want to give them enough time between now and before the Government gets out of office, to give them all the facilities etc, and it is the intention that the enabling Order should come into effect.....

MR SPEAKER:

In any event this is not a matter for discussion here. I will explain the rule. The only time when Government has to ask the leave of the House to have the Third Reading is if it falls on the same day as the Second Reading. Provided it is not on the same day the Government is entitled to have the three Readings at the same meeting of the House.

The House recessed at 5.10 p.m.

The House resumed at 5.40 p.m.

The Family Allowances (Amendment) Ordinance, 1976.

HON A J CANEPA:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Family Allowances Ordinance (Cap.58) be read a first time.

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

HON A J CANEPA:

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

increase the level of family allowances from the present 90p for the first eligible child and £1 for the second and subsequent eligible children to £1.50p a week for all eligible children. I gave notice, Mr Speaker, the House will recall, at the Budget session, that it was proposed to implement these increases and financial provision was made accordingly in the Estimates of my Department. With ~~this~~ latest increase, Mr Speaker, the allowances will have been increased from 50p as it stood 3 years ago to £1.50, in other words three fold, and I commend the Bill to the House.

MR SPEAKER:

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

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

HON A J CANEPA:

Mr Speaker, I wish to inform the House that it is proposed to take the Committee Stage and Third Reading at a later stage of these proceedings.

This was agreed to.

The Public Health (Amendment) Ordinance, 1976.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance (Cap.131) by providing for the rating of unoccupied property for an alternative method of assessing rateable value and for certain other sundry matters, be read a first time.

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

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that this Bill be now read a second time. The Bill has two main functions. The first is that contained in the proposed new section 290A. I shall perhaps have to go through this fairly carefully. Subsection 1 provides that subject to certain exemptions land which has been unoccupied for three months will be treated as occupied and therefore rates will become payable. As I expect Members know all property is rated but it is only if it is occupied that rates become payable. If, therefore, I have a large house in the middle of Main Street which is rated at shall we say £1,000 and in any particular year when a rate is levied I should be liable to pay shall we say £750 rates, if the house is unoccupied then I am not liable to pay the rates, no rates become payable. It is considered right and proper that persons should not allow property either to be undeveloped or to remain unoccupied and thereby avoid paying rates. So what we have done, and it has been a measure which was adopted in the United Kingdom in the late 1960's, is to provide that where your property is unoccupied for 3 months except in certain circumstances which I shall deal with shortly, it is treated as occupied and the person responsible has to pay rates. That is the basic principle and that is contained in subsection (1) of the new section 290A. Subsection (2) without going into it particularly fully, is aimed at what you might call the rates dodger. It prevents a man leaving the property unoccupied for, say, 2 months and 28 days, occupying for one day rates become payable, and then moving out again and another 3 months period starting. It stops him doing that. In that way he could perhaps occupy for only 4 days in the year and avoid paying rates. You don't want that and so it is stopped by subsection (2).

Subsection (3) gives the exemptions and I would say now that at the Committee Stage, I am proposing to move a further exemption which I will explain perhaps a little later in this speech. The first exemption is where an owner is prohibited by law from occupying the property which is perhaps where a house has been condemned. In that case he won't be compelled to pay rates even though it is not occupied. The second one is an obvious one. It might be an ancient monument which it is right and proper he should not pay. Thirdly, it is where the reason for the non-occupation is that building work is going on. A person is making the effort to get this particular building, perhaps he is building a house, perhaps he is renovating it, perhaps he is structurally altering it, and in those circumstances he will not be treated as out of occupation so long as he proceeds with the work expeditiously.

Fourthly, if the land is owned and occupied by the Crown, that is again common sense the Government of Gibraltar doesn't pay rates on its own property and by this if it is unoccupied we make sure that we still don't pay rates.

Fifthly, where even though no building work is being done, the owner has tried to let the property but has not succeeded. In that case we don't want to penalise him. But, as I say, he must have made an effort to do this.

And the sixth exemption is where the condition of the building makes it unfit for the use for which it was constructed and for any other purpose as may be reasonable in all the circumstances and it cannot be rendered fit for its original purpose. Let us say a man has bought a cinema, ceases to use it as a cinema, it has fallen perhaps into a certain amount of disrepair and he cannot adapt it reasonably for another purpose, in those circumstances he will not be required to pay rates and the other exemption which I shall deal with more fully at the Committee Stage is that we are proposing to provide there is an application to the Development and Planning Commission for permission to build and the application is being pursued expeditiously, the owner should not be treated as not occupying the property. It is a fair and reasonable exemption but as I said that will come at the Committee Stage.

Subsection (4) lays down the test which has to be applied in deciding whether the owner has tried to let the building and subsection (5) is a section which gives the Financial and Development Secretary the power to say: "I don't think you are proceeding expeditiously with the building. I am going to treat this as a completed building and therefore 3 months from now your exemption ceases." But in subsection (6) any person who is affected or disagrees with the Financial and Development Secretary's order has the right of appeal to the Magistrates' Court and the Court will of course decide whether or not the building has been carried on expeditiously or not. That is the first main change adopted or introduced by the Bill. And the second change is an alternative method of rating property. The rateable value is determined by the rate at which it is estimated the land could be let taking into account where the land is and what is on the land. Let us suppose you have two plots of land side by side in the same area. On one the owner has built a house and it is assessed as being capable of being let at a rent of £X a year. The next plot, in an equally advantageous position, the owner has not taken the trouble to build or develop in any way and therefore the rateable value, the rates which

would be payable, is very small indeed. And as Members will appreciate if the rateable value is small then the rates payable are small. And so what we are doing is that we are taking an alternative method of rating land. With one method the rent at which it is thought the land could be let, and the second matter which is the new one is that it would be determined as to what is a reasonable rent per square metre of the land concerned, what is the value of that land in that particular place. Now, this will be of course the function of the Valuation Officer. At the moment he values buildings and in the future in addition to valuing buildings he will value any land, not only as to the rent at which it would be let but at what he considers is a fair rent per square metre of that land. It will be for the House to decide to fix by Resolution a sum per square metre of the superficial area of any land in Gibraltar, it is not the Valuation Officer it is this House which does this. It will be done the moment that we fix a rate by Resolution. In future we will fix a sum per square metre for everywhere in Gibraltar. We can do it generally by one Resolution for different parts of Gibraltar. And this will mean that unoccupied land will now be of a much greater rateable value and it will not be worth the owner not to develop his land. At the moment if he does not develop his land he pays virtually no rates at all because the rent that is assessed is minimal. In future when this House fixes the rate per square metre he will be assessed on whichever is greater, the rate per square metre or the rates payable on the square metre basis and the rates payable on the normal lettable rent basis. That it is hoped will encourage owners not to leave land undeveloped. They will acquire no benefit by so doing. You will see that clause 5 of the Bill provides that in the Valuation List the Valuation Officer may, not must, may include in respect of each hereditament the net annual value, that is, his assessment - of course against that there is an appeal - or the net annual value assessed in accordance with the provisions of the new section 310A which is where the House has fixed the rate per square metre. It is considered fair that where land is at a premium every effort should be made to develop the land and that an owner should not be allowed to sit on the land, if I may put it that way, hoping to sell for a very large profit without bothering to develop it. One of the sticks, if I may put it that way, or prods perhaps, to encourage him to develop is the fact that even if he does not he will still have to pay rates. Mr Speaker, I commend the Bill to this House.

MR SPEAKER:

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

HON M XIBERRAS:

Mr Speaker, in its general object of attempting to make the best use or some use of all the land available for civilian use in Gibraltar, the Bill certainly meets with my approval. I think, however, it is an important piece of legislation and I am comforted somewhat by the fact that it has a precedent in the United Kingdom Parliament. The list of exemptions which the Honourable Member has gone through is comprehensive but one of them or two of them at least deserve, I think, some comment. I think that the provision to exempt people from paying rates when they cannot develop their property because their plans for development have been held up in some Government department it is entirely fair and, if I may say so, somewhat overdue. There are a good number of examples to my knowledge where planning permission is not forthcoming despite all the meetings of the Development and Planning Commission which the Honourable Minister for Development so often alludes, and it is not equitable that rates should be paid when the person concerned is deriving no profit from the site which he has acquired. That part of it is welcome. However, one should always be wary of legislation which exempts the Government from its main provisions. In this respect, whilst I realise the potential dangers that would arise from including the Gibraltar Government or the Ministry of Defence in such legislation, I think the House should be aware that what is good for the goose should similarly be good for the gander and if the legislation is imposing an obligation and almost a penalty on the private developer or the private owner who does not make use of his land, the House should realise that the Government is incurring at least a comparable moral responsibility to make use of the land at its disposal. Out of this can arise a sense of unfair treatment and there comes to mind the example we were talking about this morning in the House of Rosia which has been lying idle for quite some time owned by the Government but about which nothing has been done over a number of years going beyond of course the lifetime of the present Government. And so, Mr Speaker, I would welcome comments from Honourable Members on the other side

as to whether they have given consideration to this factor. Equally, the consideration could be applied to land owned by the Ministry of Defence for which there has not been established a clear purpose and which may be lying idle and again private owners might rightly complain that if they are being prodded into developing their own land on the grounds that all land is precious in Gibraltar, so too the MOD or DOE as well as the Gibraltar Government could be said to come under a different set of criteria altogether. I am conscious of the fact that the kind of development which both the Government of Gibraltar and, very likely, the Ministry of Defence and DOE indulge in is probably more complicated and requires further planning and a more definite assessment of the situation before a commitment is entered into but nonetheless I think it is important that in respect of this issue of land in which the MOD, the DOE and the Gibraltar Government are so inextricably involved, the Government of the day should undertake a commitment to make the maximum use of its own land and to try and obtain from the MOD and the DOE a similar statement of intent. The prod or the stick in this case would need to be a different one as between the Government of Gibraltar and the MOD and DOE, I would imagine since, as the Attorney-General has rightly said, the Government of Gibraltar does not pay rates unto itself but the Ministry of Defence does pay a certain amount according to its own assessment in respect of its own property. The general consideration, I think, nevertheless applies. Undoubtedly that we should make the best use of land in Gibraltar is something which no Member of this House can possibly quarrel with. But I would hate to think that this legislation has come on our statute book simply because it is going to look nice there. I am sure that the Honourable and Learned the Attorney-General in replying will have in mind certain notorious tracts of land which have remained empty, barren one might say, over a long period of time and which are now beginning to constitute a scandal. I don't think I need pinpoint the problem any more. But the Government it should be realised has available already legislation whereby that problem can be solved. It was due to the efforts of the last administration and the present administration that legislation for the acquisition of land in certain circumstances was passed. Therefore I commend the thought to the House that in particular cases should this kind of approach announced in the Bill not be successful, then the Government of the day should not hesitate in particular cases which do affect the community greatly, in applying the other. I would not like to see this Bill as a watered down version of the Ordinance which is already on

our Statute Book. Mr Speaker, I am not altogether clear on this alternative method of rating which is being introduced but, generally, the principle although it is an ominous one and capable of application in other circumstances, I would say is generally acceptable not least because the British Parliament has found it acceptable even though they are not pressed with the same degree of problem as we have here. But the application of this alternative method of rating to other circumstances is something which may have crossed the minds of some Honourable Members and therefore I would like in going through the Bill to be assured that the flexibility of use of these particular clauses I am referred to is clearly delimited so that if the House is giving its consent to this proposition which I find acceptable at present, it is not also at the same time giving its consent to other uses to which the alternative method of rating might be put without the problem being put explicitly to the House. I am thinking, Mr Speaker, of underoccupation of premises particularly where there is a great need obviously for such things as housing and so forth. So I would like a clear delimitation of the use to which this is going to be put and if it is intended to put this alternative method of valuation then it should be clearly explained to the House.

Mr Speaker, the success of this second part of the legislation, the alternative method of rating, will obviously depend on the level of assessment. In other words to what degree people will become liable to rates or how much will they have to pay if their land is lying idle or the property is unused. This is obviously something which very much concerns Honourable Members and something to which the Honourable and Learned the Attorney-General might very well address himself in replying. So, Mr Speaker, to sum up, the idea is certainly a good one, one which we can support, the purpose should be made absolutely clear to Honourable Members and the strength of the prod should also be made clear to Honourable Members of this House. And the last point is, would the Honourable and Learned the Attorney-General give us an idea of the size of the problem, in his estimation, as it exists.

HON CHIEF MINISTER:

Mr Speaker, I am glad that the Honourable the Leader of the Opposition finds this Bill, in principle, acceptable. Some of these cases are brought about by a particular set of

circumstances that bring to attention a problem which may exist in a general way. We have in the UK the clear case of Centrepont, a building which was set up and allegedly kept unoccupied for many years. Some of the reasons were alleged to be that with time the value of the hereditament or the premises would go up and there will be a clear profit by just changing hands and they could well afford the time that it was empty. They had to pass this kind of legislation and later on even the local Council went to the extent of compulsorily acquiring quite a number of flats and putting in a number of people who were in their waiting list. There comes to mind a plot of land in the centre of our city which was purchased straight from the Ministry of Defence on a freehold basis as the first, rather bad attempt in a way, but the beginning of something that has developed into something much more specific which is that when land is not required for defence purposes it is handed over to the Government and the Government puts the conditions and sell it out and it has been the policy of this Government and I think it was the policy of the previous administration not to grant freeholds but to grant leases because you can add more conditions and land is far too precious in Gibraltar. That is one aspect of the matter. Other obvious aspects are buildings which have been set up and kept deliberately unoccupied perhaps to enhance the value of the property. That is as far as the remedy which this Bill proposes to cater for in a general way and we cannot say that those two cases are the only ones but generally speaking it will help people to become more expeditious in getting on with their development. Certainly it will not pay them not to do that in the hope that the property will enhance and it will enable the Government to take some benefit out of it and thereby prod the owners to do it. The Leader of the Opposition has said that the Crown pays rates on its own assessment. If I may just correct him. In England the Crown pays rates not as of right but by grace. In Gibraltar the Imperial Government pays rates by law and the rate of assessment is exactly the same as our own rates. For convenience it is paid on a percentage basis of the total area. I think it would be a good opportunity to say that in so far - and this has been the case for many, many years - in so far as property owned by the Ministry of Defence it pays rates on the same basis of the others. The assessment is made by our Valuation Officer but being another Government Department there are consultations in order that there is an agreed rate. This obviously could not be made applicable to that part of the property of the Crown that is rated now that it should be rated whilst unoccupied though that is likely not to happen because when it becomes rateable it is

because it is being used and rateable as such. In any case we would not be able to go over the head of the Crown in that respect without a lot of consultation but I take the point made by the Leader of the Opposition and this applies to everybody that the land is far too precious and property is far too precious in Gibraltar to be kept empty or not to be kept to the best use possible.

It is therefore in our view a very proper measure apart from the extent to which rates will be collected I think may be a secondary reason in this respect, it is the extent to which it will urge people not to remain with empty properties or undeveloped land because in fact they will gain nothing by it and in fact they will be mulcted in rates.

There are other considerations mentioned by the Leader of the Opposition which are of a general nature and with which I entirely agree but which are not covered by the provisions of the Bill. In so far as the Crown is concerned of course it would be silly to rate our property, send bills, take the money out of the pocket and putting it into another. That would be quite a useless situation. That would not mean that the Government should not have the same criteria in the best use of the land available by them apart from difficulties that may be found here and there and not allow land to lie derelict. We should set an example so that it shows that the Government is forward looking in these matters. I would like to draw the attention of the House that this measure was published in the Gazette of the 4th March in order to give plenty of time to interested parties. We have received one representation in one point which has enabled us to clear a matter but otherwise we have not had any reaction and I made it a point that this Bill should be published for a considerable time. It is somewhat of a punitive measure in a way for certain people and I made it a point that it should be published well in advance so that there could be no comeback that this was a measure introduced in a hurry or for reasons other than the best reasons for good government.

HON P J ISOLA:

Mr Speaker, although the Honourable Leader of the Opposition has said that we accept the principles of the Bill in the circumstances of Gibraltar, I would agree with him fully when we talk of the method of application of the Bill. I think the Bill requires more careful consideration

in the question of rating especially in the application of the new clause 4 which is the way the rateable value is to be assessed by reference to measurement. As I understand it, the reasons for this Bill is because of the position of undeveloped land in Gibraltar rather than the position of developed land. I don't think one can point to any single instance in Gibraltar of land that has been developed and has been left unoccupied for no reason at all. I don't think the Minister will be able to point out one single instance in Gibraltar as far as I can see. The new section 2 seems to me to be more directed at developed land than undeveloped land. If one looks at the whole set-up of that section I get the feeling that we are talking there of land already built and not land undeveloped. And I would certainly like to have and assurance that that section in fact applies to undeveloped land. Equally, it should apply to land under which there is an obligation to develop, and development has not taken place, or under which or in respect of which there is planning permission for particular activities and it has not been developed. That, I would suggest, should be the main purpose of the Bill. The main purpose of the Bill should not be to punish or to remedy an evil which does not exist, and that is the evil, if such it is, - and we must look at the circumstances of each particular case on this one - of buildings that are unoccupied, completed buildings or completed areas unoccupied. I think we would be hard put to find many instances of that and I think that if that part is made clear I believe it would help. The point that alarms me, Mr Speaker, is the new method of assessment contained in clause 4. That method of assessment under which the House of Assembly by Resolution fixes a sum per square metre of the superficial area of hereditaments in Gibraltar for the purpose of assessing the rateable value of hereditaments, could work some very serious injustices to occupied premises because subsection (4) of that clause says that the net annual value of every hereditament in Gibraltar shall be this or the sum assessed in accordance with section 310 whichever is the greater and therefore you could get a punitive Government deciding to punish a non-developer in the bottom of Main Street, say, and saying it will be £100 per square metre to really knock him for six and one would find that everybody else in Gibraltar as a result is paying higher rates. In my view this punitive method of assessment should only be applicable to hereditaments that are certified by our friend the Financial and Development Secretary as being hereditaments "unoccupied" for the purpose of the Ordinance. And I would go further, that when applying the valuation the valuation of so much per square metre system should not

only really be applied to undeveloped land. In so far as developed land is concerned the normal principles in the Ordinance should be applied. That is, for example, if they are business premises or premises clearly for business purposes there is a perfectly good method of assessment which is the market value at which these premises could be reasonably let in the open market - and it says so very clearly in section 310 - the fact that nobody is paying any rent in those premises should not in any way inhibit the Valuer in the Secretariat. In the case of premises used as a dwelling house, well, I would suggest that in the first instance the method of valuation laid down of dwelling houses in the Ordinance should be followed. I am not that much concerned about that aspect of it but I am very much concerned on the aspect of business premises where, as a result of this omnibus section 4, all business premises in Gibraltar or in particular areas of Gibraltar could be made to pay for the sins of unoccupied business premises because the measurement when translated makes a higher net annual value than the market value for that area in question. I think that if the purpose of this Ordinance is to penalise those who do not develop land in Gibraltar or those who do not use land properly in Gibraltar, it should be strictly limited to those purposes. And in the case of land that is not developed at all then the measurement system should be applied. In the case of land that is developed the normal commercial market value which is easily assessable by the Valuation Officer, should be applied. Goodness knows, Mr Speaker, one has enough complaints from business people as to the amount of rates they have to pay for business premises. In fact it is not unknown that it is the burden of the rates that pushes a lot of businesses out of operation. So why apply any other method of assessment for unoccupied business than those at present in operation. I think that would be fairer to everybody concerned and I think it would save existing occupied premises from a backlash in the event of a particularly fierce Government being in office which has a particularly violent dislike to unoccupied land which dislike, Mr Speaker, it could be easily vent on itself because one has Engineer House and many other Government properties unoccupied and still more of the Ministry of Defence. But still I suppose, Mr Speaker, that the private sector should be asked to take a lead in this matter and perhaps if they are obliged to develop perhaps the Government and the Ministry of Defence will follow.

HON A W SERFATY:

Well speaking of course of development by the Government it is a question of public funds.

MR SPEAKER:

Let us not go into the reasons why Government doesn't develop. What we are debating here is whether Government could be rated for the land that it has not developed not the reason why Government does not develop.

HON A W SERFATY:

When speaking of Ministry of Defence land I would have thought that we should not encourage the Ministry of Defence to develop land if they don't really have to for defence purposes, which is a very elastic term. What they must do and this is the agreement with the Ministry of Defence, is to pass the land on to the Government of Gibraltar. Now I am inclined to agree with the last speaker that this alternative, and in fact in my own thinking as Chairman of the Development Commission I am inclined to agree to, is mainly aimed at undeveloped land. The main problem the Development Commission has had these last years has been the lack of land for industrial use. For example, we all know that lorries today are repaired in the public highway.

MR SPEAKER:

I am afraid I am not going to allow any deviation. We will talk as to whether land should be rated which is not developed and nothing else. We are not going to debate the reasons why land is not being developed or what use land which is undeveloped could be put to. That I will not allow because otherwise we will be deviating.

HON A W SERFATY:

I was not proposing, Mr Speaker, to say to what use land which is rated should be developed. What I am trying to say is the thinking behind this and that is that land should be developed, e.g., in the private sector. If in the private sector one particular developer is not ready to develop his land then an opportunity should be given for another developer and we have evidence, a lot of evidence, in the Development Commission that some developers who are eager to develop because they really require for their businesses to develop land for industrial use are unable to do so because other companies in the private sector are sitting on it. This is the point I wish to make. Of course I am referring mainly to leases which have been granted in years gone by. Because

today leases granted in the last few years have conditions - I am talking of Government leases - that if the land is not developed within a certain time it comes back to the Government. I can recall one particular case when this Government in the last two or three years, gave a licence to somebody to build in the industrial area and he did not within the required period and that land was put out to tender and hopefully is now being built upon, at least half of it will. The other half may or may not be built upon and if it is not it is coming back to Government. What I was trying to say, Mr Speaker, is that those of us who are concerned with the development of Gibraltar - and this City Plan will I hope see the light of day soon and people will then appreciate the problems of land in Gibraltar - welcome this Bill because it is long overdue.

HON A J BOSSANO:

Mr Speaker, I would like to say that the measure introduced by the Government which has been described by the Honourable and Learned Chief Minister I think at the suggestion of the Minister for Labour as anti-speculative, is as far as I am concerned welcome in principle although my own personal reaction is that it is a very mild measure and I would simply like to say, Mr Speaker, that to me it seems simply to redress the balance and to take away the unfair advantage that people have enjoyed simply by being able to put in a bid for a piece of land and then sit on it until it suits them to develop it or not, looking at their own private convenience rather than the needs of the community. And in fact if this mild measure fails to live up to its promise I would urge the Government to seriously consider introducing some sort of tax which in fact has an escalation clause in it and increases for every year that passes by without the land being developed.

MR SPEAKER:

I now call on the mover to reply.

HON ATTORNEY-GENERAL:

If I might deal with the remarks of the Honourable Mr Bossano first. The legislation in the United Kingdom activated, if I may put it that way, by the Centrepont case, doubled the rates each year. That is extremely draconian and is certainly a measure which at the moment we would hope never to have to introduce here. Now, the first point made by the Honourable and Learned Mr Isola as to clause 2. He said

it would only apply to, I think, undeveloped land. It will of course apply to both. If there are few cases of developed land which is not being occupied then the Section will have very little application. If, as is apparently the case, there are many more cases of undeveloped land, then in those cases it will apply very much more so. But it must apply to both and of course as far as the built on land is concerned there are the exemptions where the land is not considered to be unoccupied. I now come to his argument that the new Clause 4, the alternative method of rating, should only apply to undeveloped land. The difficulty of excepting such a principle is of course to decide what land is undeveloped. If you have, shall we say, an absolutely empty block, fair enough, that is undeveloped and one would under the provisions of the Bill, fix the rate per square metre. If the Bill were only to apply to undeveloped land the owner would come along and put up, shall we say, a very temporary and, perhaps, flimsy building. If it then became developed and you couldn't use the rate per square metre, the rent which would be fixed for that particular plot would of course be very low and the owner would have got round the whole purpose of the Ordinance. What it is hoped and intended shall be the purpose will be that in fixing the rate per square metre, it will be decided what would be a reasonable rent for a particular plot which carried what you might call normal development. And an attempt will be made to ensure that by fixing the rate per metre you will not get more than the rent which would be charged if there was a reasonable building on that particular plot.

HON P J ISOLA:

If the Honourable Member would give way. That would be acceptable obviously if the law provided for that but what the Honourable and Learned the Attorney-General is saying now is pure supposition. Because one would equally imagine that no building could be put up, however shabby, except in accordance with the Planning permission that has been given, otherwise it wouldn't be the building permitted.

HON ATTORNEY-GENERAL:

A building could be put up with planning permission but it could still be a building of far less substance than that plot could actually carry. I do not think the Development Commission could refuse permission merely because they considered that a particular plot could carry a much more imposing building. And so you could get round this particular provision by merely putting up more buildings and saying: "My land is developed therefore the alternative method will not apply." Now, let's be fair about this. You must give

some credit to the common sense of Government. Any Government which is going to, as I think was suggested by my Honourable and Learned Friend Mr Isola, impose stringent rate per square metre in order to get at a particular plot, and of course it has to be by Resolution of the House but it could be pushed through by a Government with its majority. Any Government which did that would raise a hornet's nest about its ears and it just wouldn't be worth its while to do it. The Honourable Leader of the Opposition I think made mention of another Ordinance which this House dealt with some two years ago, that is, the Acquisition of Land Ordinance **and stated that** it might be possible if there was continuous non-development, to use that Ordinance. Unfortunately, I have not got the Ordinance with me - and if I am wrong I will inform the House tomorrow when I have had a chance to look at the Ordinance - my recollection is that it cannot be used to acquire land merely because it has not been developed. It can only be acquired for certain purposes. We took it from the United Kingdom and I am pretty certain that it cannot be used willy nilly but, as I say, if I am wrong I will correct that in the House tomorrow.

HON M XIBERRAS:

I thank the Honourable Member. For a public purpose, of course, land can be acquired. It is in these extreme cases that I think it should be applied.

HON ATTORNEY-GENERAL:

Yes, but there would have to be a particular purpose. I think you can acquire it if you want to build a new block of flats, if you wanted to build new offices, that could be done. But merely because it is undeveloped it certainly could not be acquired. On the suggestion that plans lie with the Planning Commission for some time, if the land has not been developed, if a plan has not been approved, and it is no fault of the owner because the Planning Commission cannot agree, then the exemption will continue. That will be in the amendment I am bringing in the Committee Stage and in addition there will be appeal to the Courts if it is considered that the Financial and Development Secretary has said it is not the Planning Commission's fault, then the aggrieved person can appeal. I think the only other point I wish to mention is raised in the speech of the Honourable Leader of the Opposition. The whole purpose of the alternative method of rating is set out in the Bill and it won't necessarily be every particular plot which is given an alternative value but I think it is probable to say that it

is more aimed at the undeveloped property which is read in conjunction with Clause 2. It is more aimed at the undeveloped property than in developed property.

HON M XIBERRAS:

Mr Speaker, just before the Honourable Member sits down. All this is very well about the principle of an alternative method of rating but I asked the Attorney-General for an indication of the level of assessment, how much more are you going to charge these people who don't develop their property? On this depends the whole fairness of the Bill.

HON ATTORNEY-GENERAL:

The intention will be to impose a rate per square metre as will produce an equivalent sum in rates as would be got from charging rates on what is considered to be a reasonable building on those premises.

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

HON ATTORNEY-GENERAL:

Mr Speaker, I give notice that Committee Stage should be taken at a later stage of this meeting but not before the 25th May. It will not be at this sitting but at a subsequent sitting of this meeting.

HON P J ISOLA:

This Bill is not down for Committee Stage and Third Reading. And I would ask that it be left to the next meeting. The Honourable Member is aware that doubts have been expressed and an amendment may well be considered necessary on reflection by the Government. Certainly we will produce some and I would suggest it is left for the next meeting of the House.

HON CHIEF MINISTER:

Mr Speaker, we will certainly look at the Hansard of what has been said here, but I had tentatively arranged with the

Leader of the Opposition that at the end of the business which is now in the Order Paper we would adjourn this sitting to the 7th June and we would take it then.

MR SPEAKER:

Yes, but what the Honourable Mr Isola is saying now is that in the present order paper this Bill was not down for Committee Stage and Third Reading and due to the fact that he has given notice that he has got several amendments to put forward and would like to consider the Bill for a while longer, whether it can be left over for the next meeting.

HON CHIEF MINISTER:

Ideally I would like it to be dealt with. Unless he has subsequently any good reasons for it, I think the 7th June which is the date to which this present sitting will be adjourned, would be the time to clear whatever remains of this session and deal with any other matters of urgency.

The House recessed at 6.45 p.m.

Wednesday the 19th May 1976.

The House resumed at 10.30 a.m.

The Miscellaneous (Amendments) Ordinance, 1976.

A Bill for an Ordinance to make miscellaneous amendments to certain Ordinances.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to make miscellaneous amendments to certain Ordinances be read a first time.

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

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to move that this Bill be now read a second time. Under various Ordinances the Governor has power to set up and appoint to Committees and Boards with certain duties. They may be advisory, as in the case of the Social Insurance Advisory Committee, or they may have administrative functions as e.g. the Board of Management of the Medical and Health Services.

In some cases the relevant Ordinances provide that the body - if I can use it that way - shall consist of representatives of employers and of employees e.g. the Regulations of Conditions of Employment Board.

In such cases the Governor consults the body or bodies representing employers or employees and thereafter makes his appointments.

There is a provision in the Interpretation and General Provisions Ordinance that the power to make appointments includes, unless the contrary intention appears, the power to revoke an appointment.

In certain Ordinances a contrary intention does in fact appear and the present Bill sets out - this is its main function - to provide that in such cases the Governor may remove at will. It does away, if I can put it this way, with the contrary intention. Various reasons may justify this. The person appointed on a particular representation may no longer enjoy the confidence of the persons who recommended him. The person may not be pulling his weight on the Board, may not be interested. Six Ordinances are amended for this purpose. The first is the Industrial Injuries Ordinance. The Sixth Schedule to that Ordinance sets out the Employment Injuries Insurance Advisory Committee. Its composition is the Chairman, two members after consultation with organisations representative of employers, two members after consultation with organisations representative of workers, a representative of the Director and one independent member.

The powers or the duties, if I may put it that way, are set out in the Ordinance. They are to give advice and assistance to the Director in connection with the discharge of his functions under the Ordinance and to perform such other duties as may be allotted to them. They hold office for five years and the only power of removal at the moment is, and I read: "If a member becomes in the opinion of the Governor unfit to continue in office, or incapable of performing his duties, the Governor shall forthwith declare his office to be vacant." That is the only power of removal. And we are changing this in Clause 3 of the Bill,

the Sixth Schedule of the Employment Insurance Bill is amended, we delete paragraph 4 and include a general power of removal: "Notwithstanding anything contained in paragraph 2 the Governor may in his discretion terminate the appointment of any member of the Committee at any time". That is the first one.

The second is the Regulations of Wages and Conditions of Employment Ordinance. There is a Board under that Ordinance, the Regulations of Conditions of Employment Board. It is set up by section 3 of the Ordinance and includes the Chairman, such representatives of employers that the Governor may appoint such representatives of employees as the Governor may appoint and such independent persons that the Governor may appoint. Their functions, as I expect Members know, are set out in section 4 of the Ordinance, to make recommendations to the Governor as to general minimum standards of conditions of employment, to make recommendations to the Governor as to any particular minimum standard of condition of employment on any matter referred to the Board by the Governor, and to advise the Governor on any matter relating to conditions of employment or any matter referred to the Board by the Governor. The term for which these gentlemen are appointed: "The term for which a Member of the Board is to hold office should be such as may be determined by the Governor at the time of his appointment and the conditions subject to which he is to hold office should be such as may be described." There is no power to remove a member at the moment so holds office for the time prescribed when he is appointed. It may be a year, it may be 3 years, it may be 5 years. And what we are now doing is that we are including - and this is by clause 4 of the Bill - a general provision saying: "Notwithstanding anything contained in subsection 3 - which is for the time of appointment - the Governor may in his discretion terminate the appointment of any member of the Board at any time."

The next Ordinance to be amended for this particular purpose is the Social Insurance Ordinance and we are giving power of removal in the case of the Social Insurance Advisory Committee. The functions of that Committee are set out in section 31: "The Director may from time to time refer to the committee for consideration and advice such questions relating to the operation of this Ordinance as he thinks fit including questions as to the advisability of amending the Ordinance. The composition of the Committee is set out in the Fourth Schedule. There is the Chairman, two members after consultation with organisations representative of employers, two after consultation with organisations representative of workers, a representative of the Director and an independent member. This is very much the same as the Employment Injuries Advisory Committee. And again in their case the period of appointment is 5 years,

and he can only be removed if unfit or incapable of holding office. And as you will see from clause 7 of the Bill we are including a similar provision to that as relates to the Employment Injuries Advisory Committee, the Governor may remove at will. The next is the Industrial Training Ordinance and under that there is an Industrial Training Board which has certain administrative functions under the Ordinance. Its composition is not more than 5 persons representative of employers, a number of persons representative of the employees, balancing the number of those representative of the employers, a representative of the Gibraltar and Dockyard Technical College and an Industrial Training Officer and representatives of certain departments of Government. Again they are appointed for such period not exceeding 3 years that may be specified at the time of their appointment but there is no power of removal. And so if a man is appointed for 3 years he cannot be removed before that time. And clause 8 of the Bill gives power again to remove at will. The other one is the Housing (Special Powers) Ordinance. The Housing Allocation Committee is set up under the First Schedule to the Ordinance. It is required to administer any scheme on the allocation of Government housing, it has certain other functions under the Ordinance itself, it must approve of certain actions by the Housing Manager. Its composition is 5 members appointed by the Governor and again they hold office for such time as may be specified at the time of appointment. Therefore again you appoint for 5 years and you cannot remove within that time. And so clause 9 of the Bill provides that notwithstanding they may have been appointed for 3 years, 5 years, the Governor may terminate at will.

And, lastly, there is the Medical and Health Ordinance. The Board of Management of Medical and Health Services. Its functions are set out in section 68: "The Management Board shall advise the Minister on such matters as the Minister may refer to it and again the composition of the Board is set out in section 67. The period is not exceeding 3 years as may be specified at the time of appointment. We include a new subsection 2(a) to section 67 which gives the power to the Governor to terminate any non ex officio appointment which he makes. As members will have seen there are 3 other clauses which make amendments to certain Ordinances. Clause 2 puts back into the first schedule of the Employment Injuries Insurance Ordinance two parts which were repealed in error in November of last year.

And clauses 5 and 6 amend the Regulation of Wages and Conditions of Employment Ordinance in so far as Unfair Dismissal is concerned. As members will recall there are various cases where a person cannot be unfairly dismissed or whether the provisions don't apply. For example, unfair dismissal does not apply where the person has been employed for less than a year. They do apply if he is dismissed

for certain reasons and one of the reasons is, for example, if he wishes to be or refuses to be a member of a Trade Union. If you dismiss him for that reason even though he has not been employed for a year, that is unfair dismissal. We are including in the exemptions the case where a person is dismissed by reason of the fact that he has made a complaint, or she has made a complaint under the Equal Pay Ordinance. That can never be a good ground of getting rid of an employee. It is only fair, it is only proper. Mr Speaker, I commend the Bill to this House.

MR SPEAKER:

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

HON P J ISOLA:

Mr Speaker, what an unobtrusive name for a Bill that shakes the very foundations of democracy in Gibraltar, certainly as we have known it for some years. I think with respect to the Honourable the Attorney-General, if this Bill had been brought into law in 1876 I think there would have been some reaction from the City Fathers at the way in which the independence of Committees or the principle of the independence of committees from the executive, was being shaken to its very foundations.

We know the real reasons for the Bill of course, are, as we understand them, the serious conflict that existed between two trade unions in Gibraltar, one of which now lies dormant, I believe, and the other one is far from it. I can understand the Government's desire to assist in this way or seek to appear to be assisting the removal of members from Government Committees. And we are of course, Mr Speaker, talking of very important Government Committees. We are talking about the Housing Committee, the sort of committee that can come into conflict with quite a number of people. We are talking of the Medical and Health Services Committee, a committee that can come into conflict with people and Ministers and industrial training, regulations of wages and conditions of employment committees and so forth. Now, this particular Bill whatever its intentions may be, it immediately makes all the committees, all these important committees, doing very important work and exercising functions that are likely or could bring them into conflict not just with the Trade Union but with a Governor and with a Minister. And we have a situation under which the Governor can remove any member of the committee at any time for any reason. This is what the

law says. So you appoint somebody to the Housing (Special Powers) Committee for 5 years and that committee member sits in that committee and, say, he is critical of the Minister and says that the Minister is giving houses to his friend. And the next day the Governor in his discretion removes him from the committee. He has the power to do it, anyway, he has the power to do it. If the committee does not cooperate with the Minister he can remove the whole lot and put in a committee that cooperates with the Minister. That is what the law says. I agree with the Minister for Labour's interjection of "Nonsense" but that is the power that we in the legislature are being asked to confer on the Governor. So even if the Minister does not agree the Governor can still do it and remove a member on the advice of the Honourable and Learned the Attorney-General or on the advice of the Deputy Governor or on the advice of the Financial and Development Secretary. Or the Chief Minister or anybody else. That is the position. As I remember the problem, Mr Speaker, and I do think that when legislation is brought to amend a situation, it should deal with that particular situation and not seek to give the executive powers that render committees unnecessary and render this House unnecessary. And this is what these amendments do. As I understand it, the principle that was being enunciated was that if a Union or the Chamber of Commerce or the Society of Technical Civil Servants or Nurses or Teachers or have what you will nominate or recommend that X should be the person representative of teachers or whatever it is on a Committee, that person once appointed by the Governor the Governor should have power to remove that person if those persons or that body that recommended that person for the Committee no longer has confidence in that person (a) because he might have left the Union; (b) he might have left the Association; or (c) no longer carried out the directives that the Committee wish to impose.

Mr Speaker, I think it is important that the amendment when it comes to meet that situation, should meet that situation but not put anybody else in peril from other sources unless there is a problem. I would suggest that there should be some form of amendment to these clauses under which the discretion is given to the Governor on the recommendation or at the request of persons who have been consulted on the appointment of that member. Some short simple amendment like that would meet our case and then we would support the Bill entirely. But I think we must ask for that reservation otherwise, Mr Speaker, we are being asked to give a complete carte blanche for the Governor who is appointed by the Queen, not by us.

HON A J CANEPA:

Mr Speaker, I think the Honourable Mr Isola has got a point

there about the necessity to insert into the Bill the proper safeguards. The intention, of course, is not that the executive should have these draconian powers to appoint or sack people from committees particularly if they did not happen to agree with or if they should happen to criticise the Minister. That is not the intention at all. The House will recall, I think it was at about this time last year, that the Honourable Mr Bossano moved a motion in this House in which he called upon the Government to enact amending legislation that would enable the Governor to require persons to be removed from office if they no longer had the confidence of those who had appointed them, in particular the Gibraltar Trades Council. The Opposition voted in favour of that motion and, in fact, I recall the Leader of the Opposition himself asking me to exercise my good offices in order to try to bring this about. And this is the purpose and the intention behind the Bill now before the House. I would agree with the Honourable Mr Isola that we do need to tidy up the phraseology somewhat to ensure that the powers that are given to the executive do not in any way pave the way or lay ourselves open to them being exercised in the manner in which they are not intended to be. I haven't done my homework in the sense that I haven't looked back over the Hansard of that debate because, quite honestly, I didn't think there would be any controversy. And I don't think there is controversy in what the Bill set out to do but rather in the dangers that have been pointed out by the last speaker. So, the main purpose is to accede to the legitimate request of the Gibraltar Trades Council made at the time when there was this inter-Union rivalry just over a year ago and perhaps at Committee Stage the necessary safeguards, if they are required, can be inserted in the Bill.

HON A P MONTEGRIFFO:

Sir, I think we are all ad idem as to what we want to do. I don't think there is any disagreement because after all the original suggestion to have some form of amendment to meet the particular situation at the time was brought from the other side. We have tried to do it but perhaps the phrasing of the amendment bring the dangers that the Honourable Mr Isola has pointed out. But one must be careful in forming suggestions that we should always consult the Union that has nominated a particular person if that particular person does no longer enjoy the confidence of that particular Union, that we don't fall into the trap as we have fallen before or rather that brought about the situation, that is, that particular Union that was consulted originally may not be a majority Union at that particular situation. What do we do if we

amend this particular clause in the way the Honourable Member is suggesting? Do we have to consult the minority Union because it was the one that originally when they were in majority nominated that person?

MR SPEAKER:

I think that what Mr Isola proposes is that the powers granted to the Governor would be exerciseable on a request but it would be the prerogative of the Governor to decide whether to remove a person or not.

HON A P MONTEGRIFFO:

Certainly what we don't want to do is to establish the principle that whoever nominated any one in the first instance should be the one we should consult if that particular nominated person no longer enjoys the confidence of that particular association if that association has ceased to be representative of the majority of the interests they were intended to represent originally.

HON M XIBERRAS:

Mr Speaker, I am glad that the Government has retreated at the first whiff of grapeshot and has in the space of five minutes released the colossal blunder which it has been to bring this legislation forward. I think Government has been terribly insensitive to the position of Committees and the members of the Committee to have brought forward such a Bill before this House knowing that the subject was an extremely delicate one and after great consideration has been given in this House as to the feasibility of carrying out what was required by the motion of Mr Bossano. It is not a matter which has come out of the blue, it is a matter which has been, as it were, forced on the Government originally by the wishes of Honourable Members on this side of the House. The Minister for Labour on that occasion pointed out very clearly the dangers that would attend meddling with the committees and I hesitate to think what the machinery of Government has been about in the production of this Bill because, surely, somebody must have checked this Bill before it came to Honourable Members and it is so sweeping and so repugnant to the standing of committees that I fail to see how it reached this stage. We have even had independent members some exercising a quasi judicial function in a number of cases whose independence would be totally undermined. And I do not think it is at all in accord with the standards of this House that a Bill of this kind should be produced. I know these are hard words but they are an

insult to every member sitting on a Committee. It is indeed. I entirely agree that the intention must have been to meet the wishes expressed by the House in the motion put forward by Mr Bossano but even though there is always a slip between cup and lip this one is a gigantic one and quite honestly I do not see how it reached this stage. I don't know whether the Governor has been consulted about this. I do not know what the machinery has been, whether Council of Ministers look at this Bill, but how could members opposite conceive a Bill that attacks the independence even of the independent members of the various committees.

Mr Speaker, the problem has been pointed out by the Honourable Mr Montegriffo that even within the general intention of Honourable Members of this House, which we share in common, of affording continuing representation to those bodies whose representation has been deemed advisable in any committee, there might be matters which are complicated and for which specific legislation might be hard to devise. But the flexibility within the bounds of this state of intention can be maintained. In other words, a legislation can still say the Governor may remove for this specific purpose of allowing general representation to continue the Governor may still retain a certain discretion to deal with cases within those bounds, but as the legislation is framed of course the Governor's powers would be unbounded in this important respect. And I think that Honourable Members have done well to retreat quickly from their position but I still must decry the fact that this Bill has come to this Honourable House.

HON CHIEF MINISTER:

Mr Speaker, the Leader of the Opposition need not get so hot under the collar and try to make much out of this problem. There are 20 Committees appointed by law of which, at present, in the case of 13 Committees, the members can be removed at will in the same condition as the ones that are here now. And there has been no outcry about that and these Committees are of long standing and the Honourable Members opposite who were for 2 years and 10 months in office did nothing to rescind that terrific constitutional situation whereby powers were in the hands of the Governor to remove people and so on. And it is, in fact, quite clear that the intention of the Bill is exactly the same as applies for the other 13 and that is that when for good reasons and this arose, as it has been pointed out, by the motion, people who are representative of particular groups no longer represent them that it was found in these particular cases that there were no powers to remove them.

However, that does not mean that if the legislation can be made to suit - and it is perhaps one of the functions of the Opposition to try and find out these matters and to make more out of it than they merit. In fact, I can understand their frustration after four years in the wilderness to be able to get hold of all these things in order to make some capital out of it. But the matter is not that dramatic and the matter is not that draconian and the matter is not that dictatorial. Of course the process of this Bill has gone - and I am not going to say where it has gone - but the Honourable Members who have been in office before should know that the process of Bills go through the usual channels and there has been no particular difference in this Bill or, indeed, in any of the other Bills that have been presented here today. If we can include it in the Committee Stage, as the Minister for Labour has quite candidly and honestly reacted to the onslaught of the Honourable Mr Isola, fair enough, we will do it. If we find that it cannot be done that way and it has to remain like this, subject to certain undertakings, then we will do it that way. We know what the intention is and we are going to carry out what we think is the right thing. If we can take into account proper suggestions from the Members opposite we will take them and that is the stand of the Government on this and on any other matter.

HON MAJOR R J PELIZA:

Mr Speaker, I think that the Chief Minister could have done much better on this occasion to have kept his mouth shut and not try, as it were, to lay a smoke screen on this blatant blunder of his and in fact even try and pass the buck on to the previous administration which was led by myself for something which has clearly nothing to do with other smaller committees, nothing to do with the actions of the previous Government but very clearly a complete oversight on the part of the man who is supposed to have been fighting in Gibraltar for the past 30 years for greater democracy and suddenly finds himself the author and obviously the person who has given the O.K. to a Bill which is completely going back on everything that the very name of his Party - the Association for the Advancement of Civil Rights - stands for.

I cannot possibly believe, as he says and I do agree, that this has been done intentionally i.e. to reduce democracy in Gibraltar. I cannot believe that he obviously wanted that done. But I do accuse him of complete neglect in not looking into the consequences of that Bill. And if this is the way that he has been handling all the other affairs of Gibraltar, one can understand why the position of Gibraltar and the state of affairs in Gibraltar are in the

way they are. All the experience that he said he has seems not to be there at all. Because it is basic. Anybody who knows anything about democracy who has just got the intuition of democracy in him would not have accepted that and would have immediately said that something has got to be done. This has nothing to do with past Committees or things that unfortunately we were unable to do ourselves in the time that we were there. We were busy doing other things, very busy producing houses and improving other things in Gibraltar and changing the course of the social outlook of this town. A course that from this side of the House we have been able to maintain. How many times have the Government had to do a U-turn as they are doing here today this morning. This has been government by the Opposition not government by the Government.

HON CHIEF MINISTER:

From London.

HON MAJOR R J PELIZA:

From here, from this very House and if it is from London all the greater shame to him because that is really government by remote control from London. And of course if I may say a great flattery to myself. But it has not been me, it has been my Honourable Friend on my left here, Maurice Xiberras, and of course Peter Isola and all my other colleagues. In fact, I was surprised to hear the Minister of Labour say that he has introduced these changes because of the pressure from the Gibraltar Trades Council. But, in fact, the pressure came from this side of the House. This is where the matter was raised and this is what has brought the change in the position and I am very glad that in the four years that unfortunately Gibraltar has had to put up with the present Government the Opposition has been able to make the Government maintain certain standards, not as high as we would like, but at least we have helped considerably in getting things on the right course. And I am very glad to say that it hasn't required so much persuasion. This has been quite simply accepted by the Government. But on other occasions, I think, if one reads Hansard, it will be seen how many hours of talking were spent just to get the Government to see sense. What I am very glad is that the Government has seen sense very quickly, but I am very very sorry that the Chief Minister was so small as to try and even pass, as it were, the blame to the previous administration because other committees are in the state that they are and therefore he thought that he would have to bring this one to that level. I am very surprised

to hear that logic but of course obviously there was never any logic in this Government, there was never any policy and thank God that there was a strong Opposition to see at least some measure of good government.

HON A W SERFATY:

I was expecting the Honourable and Gallant Member to get up and try and make some political capital out of this because, with all due respect, this is typical of the man. What did his Government do in relation to these other Bills where the same provision, apparently, is included? What he is saying now is just political capital, that is what it is.

MR SPEAKER:

If there are no more contributions I will ask the Mover to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I really am quite terrified at the complete lack of consideration and homework which the Members of the Opposition have given to this Bill. They have fulminated by, with the greatest possible respect, they haven't even given consideration to what the general position is. You start off with the basic provision in the Interpretation and General Provisions Ordinance, which I mentioned earlier, that the power to appoint - and this is not only so in Gibraltar it is certainly in the United Kingdom - the power to appoint includes the power to revoke and here it is provided unless a contrary intention appears.

As the Chief Minister has said there are some 13 other Boards or Committees in Gibraltar where there is a power to revoke at will. Now let us take a case. What is going to be done if an appointment is made for a specific time, let us say for a period of 3 years, and the appointee doesn't bother to turn up at a Board? A Board could be completely frustrated. Supposing under its provisions you need a quorum of four, supposing nobody ever turns up. The Governor must have power in those circumstances to remove a member. That is one obvious example. There may be other cases where a member appears at a Board but gives absolutely no help at all. He just sits mum. What use is a member like that on a Board? There used to be an

expression, I think it was called "Reds under the bed". This, in reverse it seems to me the Opposition are assuming that powers are going to be misused. Goodness me, if they are refused I can imagine an outcry.

I think, gentlemen, you cannot legislate for every possible case where there can be removal. There must be an overriding provision for removal at will as there is already in these 13 other cases, and trust whoever is responsible for the appointment, to exercise his functions properly in removing. We are already trusting him in his appointment, why should you then distrust him when it comes to the question of removal? There is no reason for that at all. If the appointing body wished to abuse his powers it would be the simplest way to do so by making an appointment for one month only and then not renewing. That could be done. But no one would think of doing that, equally, they would never think of removing a person from a Board or Committee for a non-improper purpose.

I am sorry, the Opposition has just not thought about this. They have fulminated, they have roared but I am afraid much as I admire their enthusiasm I am afraid it is entirely misplaced.

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

A J Canepa
M K Featherstone
Sir Joshua Hassan
J L Hoare
A P Montegriffo
A W Serfaty
J K Havers
A Collings

The following Honourable Members abstained:

C Anes
J Bossano
L Devincenzi
P J Isola
R J Peliza
M Xiberras

The Bill was read a second time.

The Honourable the Attorney-General gave notice that the Committee Stage and Third Reading of the Bill would be taken at a later stage in this meeting but not before the 7th June, 1976.

THE CHRISTIAN BROTHERS PROPERTY ORDINANCE, 1876.

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to vest certain properties in the Congregation of Christian Brothers Trustees should be read a first time.

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

HON ATTORNEY-GENERAL:

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

In 1886 and again in 1909, land was granted by the Governor to certain Christian Brothers by name. In one case it was "and for their successors".

HON J BOSSANO:

I was just wondering how Christian Brothers have successors.

HON ATTORNEY-GENERAL:

I am afraid that "successor" includes not merely children but brothers, sisters and other members of the family. Those two pieces of land have always been occupied by the Christian Brothers and of course the original grantees held in trust for the Congregation. The land at the moment belongs not to the present Congregation but to the successors of those original grantees and if they had made wills it would have passed by will and there may have been subsequent wills of the original persons who succeeded, they may have died intestate and it may not even be possible now to find out the persons in whom those lands are vested. Let us take the 1886 case. I think there are three Christian Brothers and we would have to find out who were their successors and whether they left wills or whether there was grant of administration. You would have to find out whether those persons are still alive i.e., to whom the land succeeded, who their successors were, and it would be I think virtually impossible. It would take a

matter of several years to find out to whom this land now belongs. This being so there is nobody who can deal with the land. The land can never be conveyed, it can never be leased, it can never be mortgaged because there is no one who can give a title to that land. Some time ago the matter was considered by the Christian Brothers who decided, because it was accepted that the land, morally though not legally was vested in them, that something should be done about this and Government was approached to order to pass a Bill on the lines of other legislation we have had here before vesting this property in somebody who can deal with it. In 1967 there was set up by the Charity Commissioners in England a body corporate known as the Congregation of the Christian Brothers Trustees and what we are now doing is vesting in that body corporate these two pieces of land which were conveyed by the Governor, one in 1868 and the other 1909, to this body corporate. The third piece of land was sold by the Ministry of Defence - it was the War Office at the time I imagine - in 1963. There was a transaction, the land was sold, the money paid, to the Christian Brothers but no conveyance of the land was executed and it is still vested in the Ministry of Defence. The reason that there was no conveyance was because the persons who were entitled to the conveyance, the persons who paid the money, were unable to make up their minds as to whom the land should be conveyed. I think at that time it is appreciated there were considerable difficulties in dealing with the land and they wanted to consider who was the best person to receive the land. And this is the third piece of land which we are now going to vest in the Congregation and, needless to say, Government has approached the Ministry of Defence and asked for their consent to the land being transferred in this way and the Ministry of Defence of course have said they have no objection at all.

The principles of this Bill I think were asked for before the Christian Brothers decided to leave Gibraltar. There is no particular significance in the fact that we are now vesting land in them, it doesn't mean it is going to go elsewhere necessarily. It does seem a common sense measure and the only way short of expenditure of tens of thousands of pounds in legal proceedings to decide who were the successors of the original holders of the land.

I recommend the Bill to this Honourable House.

MR SPEAKER:

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

HON CHIEF MINISTER:

Mr Speaker, I just want to confirm my verbal intimation to you that I declare a professional interest in this matter and I will take no part in these proceedings.

HON J BOSSANO:

Mr Speaker, I would like to know from the Honourable Member why in fact the land needs to be vested in the Christian Brothers Congregation apart from the explanation that has been given of the difficulty of tracing the successors of the original Christian Brothers. It is difficult notwithstanding the elaborate explanation given in the Schedule, I find it difficult to get a clear picture of exactly what the land consists of or what it is used for and I would like to have some idea of how it affects the community in terms of the use to which the property can be put. If it is just this the private school to what extent can those premises be used for anything else and does it include any land that is used for anything else? We have talked in another Bill about land in Gibraltar being at a premium and it seems to me that the needs of the community must override any historical claims to ownership that there might be. I would like to have a clear idea of why it is necessary to vest property in a private organisation, albeit a charitable one, rather than the property being used by a private organisation but owned by the Government.

HON M XIBERRAS:

Mr Speaker, it seems to me that even though the land involved is of important dimensions and even though I have considered what the Honourable Mr Bossano has had to say about this, and one would like to see a clear as possible justification for measures of this kind and I would therefore welcome clarification of the point which the Honourable Mr Bossano has made, it seems to me that over and above this thing the fact remains that two pieces of land are indisputably the property of the Brothers and on the third, a more recent thing, the third is obviously theirs because they have paid money for it. I appreciate the points made by the Honourable Mr Bossano and I would like to associate myself with him. But overriding all these I think is the fact that the land does belong to the Brothers and it is only for a series of historical reasons that matters have not been put right before and cannot be

put right now other than by this measure. My only other contribution is and I think it is my duty to bring it forward is were there any conditions attached to the vesting of thisland at the time they were vested in the Brothers? I think the House is entitled to know whether the vesting of thisland was conditional on anything being done by the Brothers or any commitments being entered into and then when the House knows about them if there are any such commitments then the House would be in a better position to judge them on their merits.

MR SPEAKER:

I will then call on the mover to reply.

HON ATTORNEY-GENERAL:

The conditions which were contained in the original conveyances to the Christian Brothers both in 1886 and 1909 continued to apply. We are not changing any conditions which have applied to the land since that time. If there has been any breach before now it could have been dealt with, if there is any breach thereafter it can be dealt with. It is purely the title. We are not changing what they can do with the land or what they cannot do with the land, it is title and title alone that we are vesting in this particular body. The Honourable Mr Bossano asked what is it necessary to do this.

I think I explained in my speech on the second reading that it would enable the Charity to deal with the land. Now, let me take the reverse class. Let us suppose that Government wish perhaps, to acquire the land. Say it wished to acquire the land for a public purpose or wished to purchase the land for, let us say, to set up a school. Before it could do so, it would have to itself discover who were the successors of the original grantees in 1886 or 1909. Now if it wishes to do so it merely has to deal with the Congregation, the body corporate. There are various provisions of which I am sure the Honourable Member knows where land is acquired compulsorily. As to what Government must do it must inform the owner of the land and it would take Government years to discover who this was. Equally, if Government wishes to purchase the land it could not do so because it has got nobody with which it can deal and

that is why it is essential to vest the land, to give the title. That is all the Bill does give title nothing more to a body who can deal with the land or if Government wishes to acquire the land or to purchase it Government can deal with. If I could perhaps stress too with regard to the 1963 transaction, this was a sale of land which was at that time vested in the Ministry of Defence. It is title and title alone and how the land can be dealt with is not changed at all by this Bill.

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

MR SPEAKER:

May I for the purposes of explanation alone say that once a Member has declared an interest he is not deprived either from taking part in the debate or in voting. It is a question of declaring an interest and nothing else. It is important of course that the interest should be applied to any intervention by the Member so that Members realise that he is doing so in the knowledge that he has an interest but it does not of course deprive him from taking part in a debate. I am saying this as a general principle and nothing else.

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. This was agreed to.

The Criminal Offences (Amendment) Ordinance, 1976.

HON ATTORNEY-GENERAL:

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

an Ordinance to amend the Criminal Offences Ordinance (Cap 37) be read a first time.

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

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, by and large we tend in our Criminal Offences Ordinance to follow the provisions of the English Criminal law and incorporate them in our law. It is a sensible and fair law and as such it is appropriate for use in Gibraltar. But there are occasions when we incorporate certain provisions and forget some factor which is relevant and which would preclude incorporation in exact terms of the English wording. In England it is an offence to have sexual intercourse with a girl under the age of 16 even if she consents and this is now provided for in our Criminal Offences Ordinance in Section 68. But the draughtsman at the time this particular provision was incorporated apparently overlooked the fact that whereas in England you cannot get married under the age of 16, a girl in Gibraltar can marry at the age of 14. And so the rather ridiculous position exists that you can legally marry a girl of 14 but technically if you then take her to bed you are committing an offence. And so what we are doing is that we are setting that matter right. I have in fact worded the clause in somewhat wider terms because it could be - I haven't made specific reference to the age of 14 - it could be that there could be a marriage which we would recognise here not having taken place here where marriage under the age of 14 is allowed. There was quite recently a case in England of a couple from Nigeria who had married there and the girl was 13 and the marriage was recognised in England and we would recognise it here. And so instead of saying 14 I have given carte blanche.

Now for the second matter with which the Bill deals. In certain areas defined in the Ordinance it is an offence to carry or use a weapon used for underwater fishing. The areas at the moment are Eastern Beach, Catalan Bay, Sandy Bay, Camp Bay or the sea adjacent thereto designated by notice boards erected by the Commissioner of Police. I

think the reason for that is obvious. These are dangerous weapons, accidents can occur and members of the public need to be protected. Recently, it was suggested that the Ordinance should be amended to include certain other places. These were the Varyl Begg Housing Estate, Montagu Sea Bathing Pavilion, Little Bay and Key's Promenade. The Bill could have put those in but if at any subsequent time it became necessary to add another area or delete an area then we would have to go through the process of taking a further Bill to the House. What we are therefore doing is repealing and replacing paragraph 26 of section 244 of the Criminal Offences Ordinance and to say that the carrying or use of these weapons is prohibited in any area designated by the Governor by notice in the Gazette and marked by boards of the Commissioner of Police. This would mean that instead of having to come to the House and take a Bill a notice could be given and the public can be protected merely by the procedure of making subsidiary legislation. I commend the Bill to this House.

MR SPEAKER:

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

HON MISS C ANES:

Yes, Mr Speaker. I welcome this Bill and I am glad that the question of weapons for underwater fishing has been introduced. I hope it is enforced because I find that whereas the law that exists about motor boats approaching the bathing areas in beaches during the summer season is not very strictly being enforced and one finds motor boats approaching as much as they can into the bathing area so that relatives can swim to the boats obviously with the intention of having a little bit of fun but it is dangerous because some times some of them do come at a very high speed and there can be a very serious accident one of these days during the summer season. So I hope that this law is strictly enforced and I hope that the law as

regards motor boats is also enforced.

HON LT COL J L HOARE:

Mr Speaker, I support this Bill. I am not very much affected by section 2, but certainly by section 3. This started off as a suggestion from a body to one of the members of my staff because they had reason to believe that spear guns were being used along the Promenade causing a public danger and when I looked into this to my horror I found that there was only legislation covering a limited number of beaches and there were other beaches which had been in use for a long time which were not covered. Therefore I brought this to the notice of the Honourable the Attorney-General and agreed that to prevent delays and having to bring a Bill for each particular area to this House it should be done by Order. So therefore on these grounds alone because they constitute an essential safeguard for the swimmers I will certainly support this Bill.

HON P J ISOLA:

I quite agree with Section (2). As far as subsection (3) is concerned we agree with the principle of the Bill. The only thing we want to be sure of is that as notices will in fact be put up by the Commissioner of Police and that is very much a non-defined domestic matter, we would certainly like to see the need for ministerial agreement to the areas where spear fishing is prohibited. I don't know whether that would be done by amending it to the Order of the Governor-in-Council or whether the Governor in this case is the Minister of Public Works but certainly we would like to have some assurance that in actual fact the position is that it is subject to democratic control.

HON ATTORNEY-GENERAL:

Yes, you have got to have two processes here.

You have got to have the Governor deciding in the first place that a particular area is going to be included and he makes the order in the Gazette. Thereafter the Commissioner of Police puts up notice boards. If the Commissioner of Police chooses to put up notice boards which is not covered by an area in the Gazette then they are meaningless. This is merely an added safeguard to give members of the public knowledge of where they must not carry spear guns. If an area should have been declared by the Governor by order and no notices put up, then in my opinion no offence will be committed. You must have the added safeguard to the public and they have got to know not merely by reading the Gazette but actually seeing the notices where they cannot carry these weapons.

HON M XIBERRAS:

Can a spear gun be classified as a weapon, Mr Speaker?

MR SPEAKER:

A weapon could be anything. I think the Honourable the Leader of the Opposition may be referring to a firearm. A weapon could be anything.

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

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a subsequent stage of this meeting if necessary today if this House agrees. This was agreed to.

The Immigration Control (Amendment)(No 2) Ordinance, 1976.

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that a Bill for an Ordinance to amend the Immigration Control Ordinance (Cap 74) to confer certain rights on the husbands and children of Gibraltarian women be read a first time.

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

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that this Bill be now read a second time. Honourable Members will recall that in November last year there was a question put by the Honourable Mr William Isola asking as to what was Government's policy towards granting to women the right to transmit residence to their husbands and children. Government's reply was that they were, in general, sympathetic but that this was a matter of the widest implications and a matter that should be considered very carefully. Government also said that it was satisfied this was a matter of local policy on which, if possible, there should be the widest agreement between Members on both sides of the House. Subsequently, the Honourable and Learned Mr Peter Isola tabled, although he did not move, an amendment and it was withdrawn because it was agreed that perhaps it did not meet all the possible situations which might arise. Government has now been able to give consideration and, if I might say so, after a certain amount of consultation between myself and the Honourable and Learned Mr Peter Isola to whom I am extremely grateful for both his help and the views he advanced. Let us look at what this Bill does and I would hope the House will bear with me if I am a little more verbose than usual because I think it is a matter of very great importance to the House. I would like to start by looking at the two sections which are removed from the Ordinance.

These are sections 13 and 14 which are removed by clause 4 and I will propose to read them to the House.

"13. The Governor in Council may in his absolute discretion grant a certificate of permanent residence to any person who satisfies the Governor in Council that he -

- a. is or has been married to a woman who is a Gibraltarian by birth or who would, had the provisions of the Gibraltarian Status Ordinance been in force at the date of her birth, be entitled at that date to have been registered as a Gibraltarian under the provisions of paragraph (a), (b) or (c) of section 4 of that Ordinance;
- b. Is a British Subject or in exceptional cases of other nationality;
- c. is of a good character;
- d. has a sufficient knowledge of the English language;
- e. has his permanent home in Gibraltar;
- f. has been resident in Gibraltar for not less than 15 years;
- g. intends to make his permanent home in Gibraltar; and
- h. is over the age of 21 years."

Section 14 very much follows 13 but I would point out the difference.

"The Governor in Council may in his absolute discretion grant a certificate of permanent residence to any person who satisfies the Governor in Council that he -

- a. and this is exactly the same as (a) of the previous section so I shall not read this.
- b. is a British Subject or in exceptional cases of

- other nationality;
- c. is of good character;
- d. has a sufficient knowledge of the English language;
- e. intends to make his permanent home in Gibraltar;
- f. is over the age of 21 years;
- g. has adequate housing accommodation available for his occupation in Gibraltar; and
- h. is in the opinion of the Governor in Council of good character and likely to be an asset to the community."

As Members will see in Section 13 the two additions which are not in 14 are "has his permanent home in Gibraltar" and (b) "has been resident in Gibraltar for not less than 16 years." And the difference in Section 14: "that adequate housing accommodation available" and "is likely to be of good character and an asset to the community." Those two we are taking out and I would stress in any event that in both of these cases it was only a grant in the discretion of the Governor. Now, I would like to deal with husbands. The third relevant provision as far as a husband is concerned is that contained in clause 3, the new section 7A. This deals with the right to reside, that is, to receive a permit of residence, not of permanent residence, just the right to reside. And I would stress that the wife must be living in Gibraltar. If she is not here then of course he is not forbidden to come in but it is a question of discretion as in every other case. Where the wife is residing he has the right. Subject to the conditions of this section a man who is married to a Gibraltarian woman should have the right to a permit of residence if his wife is living in Gibraltar. And then to a certain extent we cut down that right. Notwithstanding anything contained in subsection (1) the Principal Immigration Officer may refuse a permit of residence to an unmarried woman on grounds of public policy, public security or public health, (b) if the parties are legally separated. Of course it is completely illogical that a man should come in when he is not going to live with his wife

because they are separated which is likely to be so and, thirdly, if he satisfies that notwithstanding that the parties are not legally separated they are not living together. So you get the two cases. Where there is a legal separation he hasn't got the right and (b) where the marriage was broken up but they are not legally separated, he hasn't got the right. He must be living with his wife in order to obtain the right. And then we come to the conditions under which a permit may be cancelled. On the grounds on which it can be refused, obviously, public policy, public security or public health, if the marriage is ended by divorce, if the parties become legally separated, if the woman dies or if the parties cease to live together. And again I would point out that the certificate does not have to be cancelled, it may be cancelled. In certain cases there would be no suggestion that the permit would be cancelled because the wife had died. Let us suppose a man has been here nearly long enough to get a permit of permanent residence and his wife dies. In these circumstances it is inconceivable that the permit would be cancelled. On the other hand if he has just arrived here with his wife and within perhaps a week or a month she dies then in those circumstances perhaps the permit of residence could be cancelled. There would be no justification for a continuance of his presence in Gibraltar. But before a permit is cancelled all the circumstances of the situation would be considered. And in subsection (4) the question of the public health is, if I may put it that way, defined and it is the same definition as we have for refusing EEC nationals the right to reside in Gibraltar. Still dealing with the husbands I will ask the House to turn to clause 4 and the new section 13. This gives the right to permanent residence if a man is married to a Gibraltar woman and has been here for 5 years since the 1 January 1976. "A man who is married to a Gibraltar woman and who has resided in Gibraltar for a period of not less than 5 years commencing on or after the 1 January, 1976, shall be entitled to a certificate of permanent residence if he and his wife have been married to each other for not less than 5 years he and his wife are not legally separated and he and his wife are living together." We have put in the 5-year period from the 1 January, 1976, so that if there are applications we have got time to consider them and to consider whether the permit of residence which he will be entitled to under section 7A should or should not be cancelled. We are giving ourselves a breathing space but there is one important point which I would make and it is this. By section 13(a) the Governor-in-Council may in his absolute discretion grant a certificate of permanent

residence to any man who is or has been married to a Gibraltar woman notwithstanding that such man is not entitled to a certificate of permanent residence under the provisions of section 13. Let us suppose you have the case of a man who will be coming up for a certificate under the existing Section 13. Let us say he has been here 14 years. In another year's time he would have been granted a certificate under the existing 13. We do not wish to make that man wait for a further 5 years from the 1 January, 1976, and so what we do is he would be given a certificate under 13A. So no rights are being taken away.

When a certificate of permanent residence is granted under Section 13A, conditions may be attached to it. And this is by reason of an amendment to Section 20 which is included in Clause 5 of the Bill and just as at the present conditions can be attached so in the future where a certificate is granted conditions can be attached to it. And, lastly, dealing with husbands, if I could touch the point of cancellation.

Section 24 which is in fact untouched by the particular Bill reads as follows:

"The Governor in Council may at any time cancel a certificate of permanent residence issued under this part if he is satisfied that the holder thereof:

- (a) has shown himself by actual speech to be disloyal or disaffected towards Her Majesty;
- (b) has at any time been sentenced in any country to imprisonment to a term of not less than six months; or
- (c) has failed to comply with any other conditions to which the certificate is subject.

(a) and (b) will continue to apply to the man who gets a certificate of permanent residence as a right. Disloyalty, imprisonment - the certificate may, not must, may be cancelled. Quite clearly in the case of imprisonment unless it was a serious offence but I agree that most offences for which six months have been awarded would be serious. If not all that serious then quite clearly his certificate would

not be removed. And again (c) the conditional one, will only apply where there has been a certificate granted under discretion with conditions attached.

May I now come to children. And it is perhaps slightly anomalous. Some persons would perhaps say very anomalous because at the moment the children of a Gibraltarian woman have got no right to reside in Gibraltar. If they are born outside Gibraltar, they are granted certificates of residence but they have got no right to do so and this we are now giving to them. And I would refer the House to Clause 3 with a new Section 7B. The child under the age of 18 of a Gibraltarian woman should have the right to reside within Gibraltar if his mother resides within Gibraltar and he is residing with her. Again I would stress this is a right. There could be a discretion where for some reason, a quarrel between the family, the child is not living with his mother he is living somewhere else, in those cases as at the present a permit would be discretionary. And then subsection (2); a child who is residing in Gibraltar by virtue of the provisions of subsection (1) shall, on attaining the age of 18, have the right to a permit of residence so long as his mother is residing in Gibraltar. He hasn't got to go when he is 18, his mother is here and he can continue to stay here. We come to the question of giving a certificate of permanent residence a little later on. But if he is not entitled to a certificate or permanent residence because the parties haven't been here long enough he has still got the right to reside if his mother is here. Of course if his mother goes or his mother dies then the question will arise of discretion and I have no doubt that as far as I am aware there have been no complaints about the way the discretion is being exercised at the moment and one would doubt whether there would be any complaints in the future but the position is there, if the mother goes or the mother dies, the status quo would be maintained. And an important point in Section 7B, a child will include an illegitimate child.

We then come to the right of permanent residence of children of Gibraltarian women and there I would refer Members to the Section 13(b) included in Clause 4. A child of a Gibraltarian woman if he has resided in Gibraltar for a period of not less than 5 years commencing at any time on or after the 1st January, 1976, shall be entitled to a certificate of permanent residence provided that no child shall be granted a certificate of permanent residence by reason of the fact that he has
resided

in Gibraltar for 5 years unless and until he has reached the age of 18 and is residing in Gibraltar on attaining that age. So, if you have a Gibraltarian woman married with a child in Gibraltar, if she spends perhaps the first 6 years of the child's life here and then leaves with him and never comes back for some time, he will not be entitled for the rest of his life to a certificate under this section because he wasn't in Gibraltar at the age of 18. I think it could open the way to abuse if there was an absolute right to a certificate if a child had lived here at any time for 5 years. But don't forget there is still of course a discretion to grant a certificate of permanent residence even though the child is not entitled to it. And that is included in Section 13(c). The remaining Clauses 5, 6, 7 and 8, are amendments to the existing sections not of principle but consequential on the rights which we have given to husbands and children under the clauses on which I have spoken at some length.

Mr Speaker, I commend the Bill to this House.

MR SPEAKER:

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

HON MISS C ANES:

I think if the Honourable attorney-General remembers there was some correspondence exchanged between the Chairman of the International Women's Year Committee and himself I believe on the rights of women and so on. I think this was one of the subjects that was mentioned. But I would like clearance on a point. On the question of a child of a Gibraltarian woman, does this apply only to a child born to a Gibraltarian woman married to a non-Gibraltarian but not born in Gibraltar? What about a child born to a Gibraltarian woman in Gibraltar? Has that child got the right of the status of Gibraltarian or has he got to have his nationality? I would like clearance on that point.

HON ATTORNEY-GENERAL:

Mr Speaker, could the Honourable Member please repeat that.

HON MISS C ANES:

What I would like clearance on is, if the child of a Gibraltar woman has the right to a permit of residence does it apply only to a child born to a Gibraltar woman married to a non-Gibraltar born outside Gibraltar? What about the position of a child born to this couple in Gibraltar? Does that child have a Gibraltar status or has it got his father's nationality?

MR SPEAKER:

Are you asking whether a child born in Gibraltar from a Gibraltar mother and a non-Gibraltar father will acquire the right of residence by the fact that he has been born in Gibraltar.

HON P J ISOLA:

We welcome this Bill and the principle it seeks to put forward and that is to give rights to Gibraltar women to transmit rights to their husbands and their children. I believe it is under the European Community Ordinance or the Immigration Ordinance that once somebody is born in Gibraltar he has no problems or she has no problems and what we are here concerned with mainly, is the right of a Gibraltar woman to be able to give or transmit to her husband the right to reside in Gibraltar, to work in Gibraltar, and after a reasonable period of time, to have a right of permanent residence. And also similarly to children. I think the Honourable and Learned the Attorney-General has taken great pains to explain the proposed Bill to the House and I am sure we are all very grateful to him for the care in which he has done this because it is an important piece of legislation that gives women in Gibraltar

rights which would have been unheard of, I think, 30 years ago, it gives them very important rights, it gives them an identity of their own and this with all the other legislation that has been passed in this respect should go a long way to assuage doubts women may have that they are second class citizens. I think soon we will have to start thinking in terms of legislation to protect the rights of men. Mr Speaker, we welcome this Bill and support it fully.

HON LT COL J L HOARE:

Mr Speaker, I would just like clearance about the difference between a husband and a child. In the case of the husband be living with a Gibraltar woman but that is not the case with a child. Is this intended or just an omission?

HON J BOSSANO:

Mr Speaker, although a move towards equality is to be welcomed I would like to know just how far away from equality we still are because it seems to me that notwithstanding the fact that this gives certain rights to Gibraltar women those rights have got constraints placed on them which would not presumably apply to men. I think that there is a lot here in the conditions attached to the rights of women who marry presumably non-EEC nationals because EEC nationals would acquire a right to a permit of residence in Gibraltar.....

HON ATTORNEY-GENERAL:

If I may put the Honourable Member clear on this. An EEC national has only got the right to come to Gibraltar to take up employment or to be self-employed. He has not got a right to come to Gibraltar on a holiday, he has not got a right to come and reside in Gibraltar. It is purely for the purpose of taking up employment or becoming self-employed and that is the policy which goes throughout the

whole of the community and it is quite clear from the Treaty.

HON J BOSSANO:

Assuming that most of us have to work for our living and assuming the bulk of people are likely to marry Gibraltarian women have to earn a living, an EEC national notwithstanding the absence of an amendment such as this would, on coming to work in Gibraltar and marrying a Gibraltarian woman, be able to ask for permanent residence after 5 years in Gibraltar. I understood, Mr Speaker, that EEC nationals after residing for 5 years could in fact obtain permanent residence.

MR SPEAKER:

Yes, but not on the same conditions as the husbands of Gibraltarian wives.

HON J BOSSANO:

In fact this is what I am trying to establish, Mr Speaker. The reason for bringing the EEC nationals into it is because I would like to know to what extent this new right is likely to increase the number of potential residents. Whether in fact it is something that is likely to affect non-EEC nationals primarily or whether in fact it is.....

MR SPEAKER:

This Bill only affects and will increase the population in Gibraltar to the extent that Gibraltarian women will marry non-Gibraltarians. I think that is clear.

HON J BOSSANO:

But if with the existing law, for example, a local girl who marries an Englishman will have no difficulty in her husband residing in Gibraltar because he can get a permit to work in Gibraltar and then after 5 years he can obtain residence, if that is the case then in fact the people who may be suffering today from not being able to obtain permanent residence in Gibraltar are those who are not EEC nationals and therefore it is a smaller group that is involved than just all non-Gibraltarians who marry local girls. That is one point that I wanted to get more information on, the extent to which this is going to have an influence on the numbers that might be involved because of the question of nationality. And the other thing is that as regards the conditions that may be attached or the grounds on which a permit of residence may be refused, I can see certain situations arising, Mr Speaker, where it would appear to me that the right of the Principal Immigration Officer to refuse a permit could be a very harsh decision. For example, there is the question of husband and wife not living together even though they are not separated. Well, I think one of the situations that I have come across where sometimes the husband has not been a Gibraltarian national has been where they are living with their in-laws and there is trouble between the in-laws and the husband, not between the husband and the wife and the husband has got to go elsewhere to live and is not living with his wife although in fact he is in perfectly good terms with his wife but he wouldn't be living together with her. That is the sort of situation which on a strict reading of the letter of the law it would appear to go contrary to the spirit of the law as the Honourable and Learned the Attorney-General has explained it. And this would apply also for example with regard to 7A, where the parties cease to live together and the permit may be cancelled. Another thing that concerns me somewhat is the question of the diseases which constitute a potential danger to public health. For example, if a man is living in Gibraltar with his wife and he contracts a disease that the Immigration Officer should have the right to cancel his permit and send him packing seems to me a very harsh power to be able to exercise. I know that the Attorney-General will counter this by telling me that the Governor in Council may in his absolute

discretion grant a certificate of permanent residence to any man and that therefore presumably representations could be made in situations where there is obvious hardship but nevertheless I myself don't like being involved in passing laws which gives anybody absolute discretion and I would think that the right to exclude somebody from Gibraltar because he is not a Gibraltarian and contracts a certain illness whereas presumably a Gibraltarian contracting the same illness would remain in Gibraltar notwithstanding the fact that he is as much of a potential danger to the public health seems to me to be discriminatory and the fact that a Gibraltarian man with a wife with that disease could still insist that his wife should stay here notwithstanding the danger to public health seems to me a clear instance of where the man has got a right which the woman is denied. I would like to know from the Honourable and Learned the Attorney-General to what extent these sort of qualifications fit in with what is considered acceptable, for example, in the EEC or in the United Kingdom. Do these sort of conditions apply? Does he know whether other European countries have restrictions of this type? I appreciate that perhaps in Gibraltar because of our limitation of size we are more sensitive to the pressure of population and to the danger to the community of anything like a particular illness and so on that there may be in other places but nonetheless I would like to know how we fit in with what is considered acceptable in Europe. Are we being very progressive or in fact are we at the tail end in regard to the restrictions that we have placed on the husbands of Gibraltarian women. And as regards the child of a Gibraltarian mother I would like to think that any child whose mother was Gibraltarian could look on Gibraltar as his home regardless of the nationality of his father. The fact that he has a right to reside here if his mother is here but not the right automatically to come and settle in Gibraltar, is something that I don't find very palatable because after all we do have a lot of immigrants in Gibraltar and we have a lot of people who settle in Gibraltar who have got absolutely no connection with Gibraltar and I don't think that opening the door wider to descendants of Gibraltarians is going to produce an avalanche of people wanting to settle here any more than when we opened the door to the EEC in 1973 we found that contrary to expectations, 300 million Europeans did not arrive on the Mons Calpe to settle down here.

HON CHIEF MINISTER:

Sir, I think there is one thing that ought to be made quite clear, I don't mean to Honourable Members opposite but generally, that there is still despite this that this goes some way as the Honourable Lady has said to give some rights to the husbands of Gibraltarian women, but we are far from the concept that the same as when a man marries a foreign or a non-Gibraltarian woman she becomes a Gibraltarian, we have not reached the stage, and I don't think it was even the intention when this matter was raised, that a Gibraltarian woman should give the status of Gibraltarian to her husband. That this Bill does not do and I don't think it was ever intended that it should be done. Perhaps now, as it was said before, these rights that are being given now would have been unheard of 30 years ago. Perhaps in 10 years what we are now not able to do may be perfectly proper. This is, I think, progress and this is how it should be. So first of all there is nothing here which derogates from present practice at all. And the present practice as I understand it is that the permit of residence of people even who separate from their wives so long as they are well behaved and they have got employment and they have been authorised and so on are allowed to remain here even if they have a tiff with their wife or with their wife's parents.

Now, the section about the absolute discretion of the Governor who was put there originally deliberately but I would like to say that in practice that is a misnomer. He has an absolute discretion but there is an advisory committee which looks at applications for permanent residence on the basis of the Immigration Control Ordinance and will continue to do presumably under this Bill but subject to the powers given under it and also for Gibraltarian status of people who have been born out of wedlock in Gibraltar or have lived here for a certain time but the father was not Gibraltarian. These applications are not looked at and decided by the Governor by looking at the papers and saying: "I like this or I don't like". These are gone through by a statutory committee which is advisory but it is set up under both Ordinances, they look at every case, they see the report, they recommend and it goes to the Council of Ministers and it goes to the Governor in Council. In my experience since the Gibraltarian Status Ordinance was enacted apart from the

period of the last administration I have never seen the Governor not carrying out the advice of the advisory committee nor in fact in very rare cases perhaps a suspension of a decision of the advisory committee by either the Council of Ministers or the Gibraltar Council. And I think that all the powers that are given here are additional to the powers that exist now and certainly especially made additional to husbands of Gibraltarian women irrespective of whether they are EEC nationals or not. The EEC nationals have got their own rights under the Treaty and that is irrespective. This is an additional one specifically geared to give the Gibraltarian woman married with a non-Gibraltarian more sense of security that she will be able to live here with her family which I think is the main purpose of the Bill. If a woman is married to somebody who is not a Gibraltarian and she wants this to be her home and her husband's home there is much more protection under this Bill than there was before even though the gates have been rather wider open since the other gates were closed and in general particularly also since EEC. So it may not go as far as one would want it to go but it goes as far as I think, if I may say so with respect, the ingenuity of the Attorney-General and with the help and ideas of Members who have looked at this, have been able to do so.

In so far as the point raised by the Honourable Lady, no doubt the Attorney-General will answer to that. Of course now anybody who is born in Gibraltar whether his father is a Gibraltarian or not has got a right of permanent residence which does not necessarily mean that he is a Gibraltarian if he was born now, that is, after 1925, unless the other conditions in the Gibraltarian Status Ordinance are complied with.

HON M XIBERRAS:

Mr Speaker, as with many issues which have been lying dormant and have been creating injustice over a great number of years, this Bill is essentially a compromise but a compromise for which women in Gibraltar should be indebted to Honourable Members of this House because it is a basic right which is being given to them. The inspiration of the Bill has undoubtedly come from Honourable Members on this side of this House especially Mr Peter Isola who has worked in

conjunction with the Attorney-General whose own work has been, I think, if I may say so, perhaps one of the best contributions that he has made in this House during the time that he has been a Member of it. Having said this, let me say that it is something which is appreciated by those who are concerned about these matters. I know that the Committee for Women's Year was most appreciative of the idea of it having been put forward, and would be equally appreciative of the results of our deliberations. Mrs Ellicott told me personally that this was the biggest step that had been taken since she took up politics many years ago and I am sure Honourable Members will be gratified that this is the case. However, a compromise it is and I think the elements of the compromise bear some comment. Controls over residence and immigration have been a characteristic of Gibraltar over many years and it would have been too much to expect that after so many years they should have fallen completely by virtue of this Bill in this important subject. I do not think that the Honourable Attorney-General is at all to blame for this because he is dealing with something which has very deep historical roots and which no particular House I think would be capable of sweeping just like that. If the House has chosen to go for a compromise I think it is praiseworthy because it is going to remedy very definite injustices that exist today. But we should not lose sight of some of the arguments which have been put to the House by the Honourable Mr Bossano and have been picked up by the Honourable and Learned the Chief Minister.

I believe that it is a fact that in EEC or some of the countries in EEC there is much greater freedom given to the non-member husbands of member wives and it is a situation towards which we must strive. I am conscious of the dangers, possible dangers, involved. They are not dangers of numbers as the Honourable Mr Bossano was referring to, they might be dangers of propinquity. They might be dangers of another sort with which Honourable Members will be familiar. But within the compromise I am sure that the spirit of the Bill is such that those involved in its implementation will not place undue constraints on the granting of these rights. There is machinery and a machinery that has been used over a great number of years which will ensure that the Governor does not exercise these powers arbitrarily or against the spirit of the law. It is interesting for Honourable Members to reflect too the fact that the general approach to the

concept of constraints in the law are those of EEC which relatively recent in Gibraltar but the constraints of public health, public policy and so forth which made their appearance in this Chamber when we first began to talk about EEC legislation have served a useful purpose in arriving at this compromise and since they are to be a feature of our legislation no doubt for the future. I think they are sufficiently reputable to be used in this connection. Of course, I would have liked to have seen a greater advancement but I have explained why I am perfectly satisfied with the present compromise. I do not think that we can ever on moral grounds fall short of the proposition that there should be equality of rights in this important respect. I think it is an obligation that we are gradually taking on as more and more legislation about women's rights reach our statute book and in this important and seminal point we should not delay an investigation of the granting of full equality of rights to women. I cannot say the same, Mr Speaker, that I am entirely satisfied with the provisions for the children. I think, along with what Mr Bossano has said, that even maintaining the compromise, even allowing for controls, it might be possible to devise a formula which is perhaps slightly more favourable to the children of the marriages we are discussing. I think perhaps the right should be given but a proviso should be made that they can be taken away and the 5-year qualification period which includes the date when the person comes of age and reaches the age of 18, does not seem to me to be either sufficiently fair to him or to her, and I see no reason - and I hope the Attorney-General will tackle the point - why the matter could not be put in a different way. In other words, that the person would have the right but could be deprived of it if there was some sort of impediment in the view of the Governor.

HON ATTORNEY-GENERAL:

If the Honourable Member will give way. I would be grateful if the Honourable Member would make slightly more clear what he is seeking.

HON M XIBERRAS:

Yes, that the person reaching the age of 18 should have the

right of residence whether he has reached the age of 18 in Gibraltar or not, and that the powers of the Governor to deprive him of that right should then be written into the law, it is an inversion of the present position. I hope I have made myself clear.

Mr Speaker, nonetheless this is one of the more important Bills that have reached this House in this Session and I am very glad that Honourable Members of this House have all had an opportunity of contributing to its reaching this point.

MR SPEAKER:

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

HON ATTORNEY-GENERAL:

Mr Speaker, the first point I would make is that a child of a Gibraltar woman born in Gibraltar has the right of permanent residence at the moment. The second point; the Honourable and Gallant Colonel Hoare suggested that the child didn't have to be living with the mother whereas as far as the husband was concerned he had.

HON LT COL J L HOARE:

Although a child under 18 by Section 7B it is not covered under Section 13.

HON ATTORNEY-GENERAL:

No, after the age of 18 the child doesn't have to reside with the mother. He can stay here as long as his mother is here. He might go out and go and work. And so we don't want to make it a condition that he should be living with

his mother. That would seem to be somewhat nonsensical. **Provided** his mother is here that is sufficient. The Honourable Mr Bossano suggested that after 5 years an EEC national had the right of residence. Of course that is not so, he has a right to continue to work here but it is only as long as he is working and as far as obtaining a certificate of permanent residence goes, that is contained in Section 54 of the Ordinance, he has been working here when he retires, when he reaches the age of entitlement to an old age pension. I don't want to go into all the provisions of the Ordinance but that is so. The Honourable Mr Bossano raised the question of diseases and asked whether they were acceptable as far as the Community were concerned. The answer is of course yes and they are already contained in the Ordinance as far as Nationals are concerned and this was taken from the Directions of the Community itself. It was suggested that it was unfair that a certificate of residence might be cancelled because the parties were not actually living together and the case was instanced where there might be a certain amount of trouble with parents-in-law. That of course is a valid point but of course in those circumstances the certificate would not be cancelled. You cannot enumerate the case where because the parties are not living together a certificate shall not be taken away. There could be many reasons why they would be justified in not depriving a husband of a certificate of residence merely because he wasn't living with his wife. She might have been in an asylum and in those circumstances why should you take it away. But you have got to give discretion to deal with a case where there is a blatant attempt to get round the law, perhaps what you might call a marriage of convenience, the parties come in and they don't live together and in those circumstances it is only right that we should take it away. The Honourable the Leader of the Opposition stated that he understood greater freedom was given by countries of the Community to non-member husbands of member wives. I don't know the answer to that one because that has nothing to do with the Treaty at all, it would deal entirely with the law of the particular country concerned. But as far as the Treaty goes we have given all the rights under the Treaty we are bound to give, these go far beyond the power given by the Treaty and of course they go far beyond the rights in the UK at the present moment. I take the point that there is an argument for saying that any child of a Gibraltar woman should have a right to

reside in Gibraltar. This may come in due time but it would mean of course that a Gibraltarian woman who left, married outside Gibraltar and a child was born outside Gibraltar, that child if we gave the absolute right could come back to Gibraltar. Supposing she left when she was 20, she had a child at the age of 40 and the child would come back 80 years later when the child was 60 years old. It is perhaps a right for which we are not yet ready but which will certainly be considered in the future. And there is always of course the discretion to grant a certificate.

HON M XIBERRAS:

Has the Honourable Member considered my suggestion that the right should be given and the power retained to take it away. Rather than the right to give the power being discretionary?

HON ATTORNEY-GENERAL:

I don't think really that that is an advantageous approach. You take the case that a child appears who clearly it is not desirable that he should be given the right to reside, should not be given a permit of residence. It is somewhat farcical to say: "You have got the right to reside but we can take it away." In those circumstances you have to go through the formality of granting him a right which you would never have granted if he had not got it, and then taking it away because you have got the right to do so. I think it is preferable at this stage and of course amendments can always be made - this is the second amendment to the Immigration Control Ordinance Bill this year - there is no reason why if a good case can be advanced for this that it should not be done but I would be entirely opposed to taking Committee Stage amendment to this Bill because they are matters which have got to be thought out with considerable care and that is why the previous meeting of the House persuaded the Honourable Mr Peter Isola to withdraw a proposed amendment because immigration is such a complicated matter that a Committee Stage amendment can land you in the very greatest trouble. If arguments can be put forward then

they will be considered and possibly more legislation taken but I would suggest that unless there is any glaring error in the particular Bill it is left as it is at the Committee Stage.

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

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a later stage of this meeting but not before the 7th June.

This was agreed to.

The City Fire Brigade and Fire Services Ordinance, 1976.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to provide for a City Fire Brigade in Gibraltar; to set up the duties of the Brigade; to confer powers and duties on the Chief Fire Officer in relation to the prevention of fires and to the elimination of fire hazards; and to matters incidental and consequential thereto, be read a first time.

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

HON ATTORNEY-GENERAL:

Mr Speaker, we find strange bedfellows in the Public Health Ordinance. We have sewers, safety of buildings, nuisances, water supply, infectious diseases, rats and mice,

public baths, lodging houses, maintenance of streets, fire fighting and rating. As Members will appreciate this of course stems from the days that all these matters were the responsibility of the City Council and it was useful to put them together. We need new provisions regarding the Fire Brigade and it is considered better that there should be separate legislation than that we should amend the Public Health Ordinance. I would go through the Bill with reasonable speed, if I may do so, commenting on the new sections and the sections which, so to speak, have been lifted from the present Ordinance.

I shall be moving an amendment at the Committee Stage to include in the Bill the power of the Brigade to deal, in addition to fires, with other calamities. If I might take one possible example, last year when there was a very heavy gale near Catalan Bay and there was a lot of masonry and ironwork flying around, in those circumstances it would only be proper and right that the Fire Brigade can assist.

In Clause 2 of the Bill we have put in a definition of fire hazard and it is somewhat wider than it is at the moment because it enables the Chief Fire Officer to take proceedings or take steps where any building is dangerous as far as fire is concerned for the absence of fire fighting equipment, lack of fire escapes, the presence of materials which might increase the likelihood of fire. What we are dealing with here is people's lives and we must take all reasonable precautions to protect them.

Section 3 is the existing section 275 and section 4 is also part of the existing section 275 which gives the Governor power to appoint members.

Section 5, I think, calls for no comment, it merely says the Chief Fire Officer shall be charged with the direction of the Brigade and section 6 enables him to delegate his powers.

Section 7 sets out the duties and here I will add 'calamity' in due course and Section 8 repeats the existing section 277 where agreements are made with the Dockyard Fire Service for mutual assistance. Section 9 is the existing Section 278 of the Public Health Ordinance and Section 10 gives a right of entry for certain purposes. I would ask Members to compare the existing Section 336 of the Public

Health Ordinance which at the moment applies to the Fire Brigade, where there is a right to enter premises already.

In Section 11 there is in fact a typographical error which I am sure all Members will have spotted. In subsection (1) subparagraph (c) after the word 'which' in the fifth line there should be three words 'fire hazard eclipse' - I will deal with this at the Committee Stage - and then the words 'a notice' go back to control (a), (b) and (c). It is no good stopping a fire hazard if you cannot do anything about it. And for this reason the section gives the Chief Fire Officer powers once he has spotted the hazard to serve a fire abatement notice telling the person concerned what he must do. The important thing is that an appeal lies against any such notice to the Court and that is contained in Section 12 and there are various grounds set out there under which he could appeal against a fire abatement notice. And they are based on the grounds already contained in the Public Health Ordinance where you can appeal against a notice compelling you to carry out certain activities. You can say: "The demand is unreasonable. I am not the person on whom the demand should be imposed; the time given me is not sufficient." So we give the right of appeal there.

Section 13 gives the right to abatement and there is one important point in this section which is new. At the moment, if under Section 41 of the Public Health Ordinance a building is found to be unsafe because of lack of escape, a notice can be served on the owner compelling him or ordering him to provide means of escape, he must be given a reasonable time to do this and if he fails to comply within a reasonable time then Government can do it itself. The new provision here is that if he has been served with a notice and has not started to comply within a reasonable time, Government can move in. It is not much good, in fact, no use at all serving a notice because premises are dangerous because people's lives are involved, if you cannot do anything about it until the notice has expired. It may require a considerable amount of work. Let us suppose the work is going to take 18 months. You give the owner of the building time, he does nothing and it is quite clear that after, shall we say, 6 months, he won't be able to finish in that time. At the moment you can do nothing until the 18 months have expired and all that time people's

lives are at risk. So now we are providing that if it is clear - you can give him a starting date - if he hasn't started and he can always appeal against the starting date, if he hasn't started then Government could move in and do the work itself. And it is considered that it is reasonable bearing in mind the great disastrous consequences that could follow from fires in Gibraltar.

Section 15 is a new provision that allows for closing Orders in certain circumstances where there is an immediate risk of fire but again the order does not come from the Fire Officer, it comes from the Court. If the abatement notice has not been observed the only person who can close is the Court.

Section 16 allows for recovery of expenses - there is no valid reason why Government should bear the financial burden of improving or making premises safe if the owner refuses to do so, and the remaining sections are all sections which are taken from the present Public Health Ordinance with, I think, one or two small exceptions which are purely consequential and don't deal in any way with powers of the Fire Service.

Mr Speaker, I commend the Bill to this Honourable House.

MR SPEAKER:

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

HON MISS C ANES:

On page 28 at the very bottom under (c) where it says: "The overcrowding or any place of public entertainment or public assembly such as might render escape in the event of fire materially more difficult". I was given to understand recently by a member of the Fire Brigade that in a place where a play is being staged or some other performance is taking place, if it is for profit, it is required that the group putting on this performance must

notify the Fire Brigade and must provide for fire equipment. But if the performance is for charitable purposes there is no need to notify the Fire Brigade. To my mind it seems inconceivable because the people attending this performance whether it is for charity or profit could find themselves in danger in case of fire regardless of whether the proceeds may be for charity or otherwise. I wonder whether it would be possible to include that the Fire Brigade should be informed regardless of whether the performance is for charitable purposes or for profit. I hope I have made myself clear.

HON LT COL J L HOARE:

Mr Speaker, I fully endorse what the Honourable the Attorney-General has said in introducing the Bill. He has dealt with it and there isn't really very much that is new but there are a couple of points I would like to bring to Members' notice.

If I may answer first the Honourable Lady, subject to correction by the Attorney-General, I think this is something which should come not under this law but under the Entertainment Ordinance. The main objection to this Bill, Mr Speaker, is to have in a cohesive form all the bits and pieces relating to the Fire Brigade....

MR SPEAKER:

I am afraid that I am pressed for time and as I have said before I don't want to cut you down. We can resume at 3.15 and go on.

HON LT COL J L HOARE:

I should probably take another ten minutes.

MR SPEAKER:

Precisely. It is unfair that I should stop you within one or two minutes so we will now recess until 3.15 this afternoon when you may continue.

The House recessed at 1.00 p.m.

The House resumed at 3.20 p.m.

HON LT COL J L HOARE:

Mr Speaker, just before we recessed I said that it was my intention to support this Bill and I also said that the Honourable and Learned Attorney-General had dealt with in great detail on the contents of the Bill so it was not my object to take it in detail. But I did also say that the main object of this Bill was to have in a cohesive form all those little bits and pieces relating to the Fire Brigade which are scattered over all sorts of legislation and also of course to bring the duties of the Brigade up to date in consonance with present practice and usage. The Bill moves, and I think this is one of the greatest innovations, the previous limitation solely to protect life and property - and the relevant amendment to be moved at the Third Reading has already been circulated - and it establishes its much wider responsibilities which it is only fair to say they already carry out even though they have no statutory duty to do so. I think that it might be relevant that to quote from last month's return - I get a return from the Brigade on what they do during the month - and in the month of April, 1976, they turned out 44 times, so that averages three calls in two days. Of these there were only nine relating to fire, four of rubbish, three to vehicles, and two, cooking pots left unattended. One in Maidstone House and the other one in a mobile home at Europa. But in addition to those nine, Mr Speaker, there were 35 other call outs. And these range from rescue operations.....

MR SPEAKER:

We are talking about the general principles of a Bill which will enable the Brigade to go out, that I accept. We are not debating the service which is being given by the Fire Brigade.

HON LT COL J L HOARE:

What I am trying to say, Mr Speaker, is to point out the kind of calamity which is now provided for which wasn't previously. Rescue from lifts, authorised entries, and special services ranging from pumping of oil spillage, petrol leaks and so forth. So here we now have authority for the Brigade to be employed on that kind of duty. The other major changes have already been mentioned by my Honourable and Learned Colleague and that is the provision to have on any abatement notice the commencing date and a termination date and by another section of the Bill - Section 13 - that if there is insufficient progress being made the Chief Fire Officer can then take steps to have the work carried out. At all stages, Mr Speaker, there is provision for appeals to the Court if anybody feels aggrieved. The Bill was published on the 8th of April, 1976, so there has been ample time for anybody concerned to bring forward objections. There have been no objections as far as I am aware and the Bill was referred specifically to the Chief Fire Officer, the Transport and General Workers Union and to the MOD who have a corresponding Fire Brigade. Their comments and suggestions have been given consideration and have resulted in these amendments. I would also like to inform the House that we are currently engaged in negotiating a new mutual assistance agreement with the MOD. I wholeheartedly support this Bill, Mr Speaker.

MR SPEAKER:

I now call on the Mover to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I don't think there is anything which I can usefully add.

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

HON ATTORNEY-GENERAL:

Mr Speaker I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a later stage of this meeting but not before the 7th of June.

This was agreed to.

The Infants (Amendment) Ordinance, 1976.

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that a Bill for an Ordinance to repeal and replace that part of the Infants Ordinance (Chapter 78 of the Laws of Gibraltar) as relates to the guardianship of infants, be read a first time.

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

HON ATTORNEY-GENERAL:

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

Part I of our Infants Ordinance makes provision for the guardianship of infants. That is, persons under the age of

18 and the term is synonymous with the expression 'minor' which is also used in our laws. There are in fact certain provisions in exceptional circumstances for the legislation to apply to children between the age of 18 and 21. Our present Ordinance is based on parts of different United Kingdom Acts from late Victorian times onwards. There are some 6 different United Kingdom Acts which used to apply and the provisions of which are incorporated in Part I of our Ordinance. In 1971, a consolidated Act, if I may put it that way, was passed in the United Kingdom, the Guardianship of Minors Act which repealed all the provisions of the other Acts with certain small modifications none of any significance. There was a further Act in 1973 which amended the 1971 Act but which introduced a fundamental new principle. We are now in the Bill before the House doing away with that part of our Ordinance which had the six United Kingdom Acts and putting in the provisions of the 1971 Act, as amended. The fundamental principle to which I should draw attention is that now a mother is given equal rights with the father over a child. There used to be the common law provision that the rights of the father were superior to those of the mother. That is now done away with and, as I say, they have equal rights. I do not think that there are any other provisions of the Bill which require attention except for one and that is that in certain circumstances now a Court on an application may direct that an infant be given into the care of either a specified person who presumably would be the probation officer or a specified institution. That would only be where there is no other fit person or persons willing as far as the Court can see to undertake supervision of the child.

I think that is a reasonable provision. It is for the Governor to specify the institution and quite clearly at least one springs to mind in Gibraltar which would be a very appropriate institution to take charge of infants in certain cases.

Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

Before I put the question does any Honourable Member wish

to speak on the general principles and merits of the Bill?

HON P J ISOLA:

Mr Speaker, we welcome this Bill. It brings in the concept of equality of rights for parents over the guardianship of children and I think this redresses a situation that has been in existence for many years where fathers have always had the control of children to the exclusion of the mother in law until a Court has ordered otherwise. At least with this Ordinance they both start on the same footing with the same rights and the introduction of that principle into our law I think will be very helpful in a lot of matrimonial matters and matrimonial disputes that occur unfortunately so often.

We welcome this Bill.

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

HON ATTORNEY-GENERAL:

Mr Speaker I beg to give notice that the Committee Stage and Third Reading of this Bill will be taken at a later stage of this meeting and with the consent of the House if the situation should arise today.

This was agreed to.

The Maintenance (Amendment) Ordinance, 1976.

HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to move that a Bill for an Ordinance to amend the Maintenance Ordinance (Cap.96)

by removing the maximum limit of sums which may be ordered to be paid under that Ordinance, be read a first time.

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

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that this Bill be now read a second time. Those Members of the House who have got long memories will recall that this morning I said that in many cases we based our laws on the laws of the United Kingdom if they appear fair and sensible and if they appear capable of useful application in Gibraltar. In 1960 we introduced the Maintenance Ordinance based on the United Kingdom Act of the 1950's and we followed the provisions pretty closely. When we passed our Ordinance there was a provision in the United Kingdom Act that the Magistrates Court could award such sum by way of maintenance as it considered reasonable but not exceeding in the case of a wife £7.50 and in the case of a child £2.50. There was also, in fact, a provision which I imagine has never been used in Gibraltar where a wife can be ordered to pay maintenance to her husband if he is sick and incapacitated and there could be a maintenance payment ordered to be paid to a dependant parent. In the middle of the 1960's the maximum amount payable under the Act in England was removed and it was left to the sole discretion of the Court to decide what was reasonable. There is of course always an appeal to the Supreme Court if a part against whom an award has been made considers it too high. Be that as it may, the position is still in Gibraltar that a Court cannot award more than £7.50 to a wife however affluent the husband may be, nor can it award more than £2.50 in respect of a child however affluent the father may be. This is the same for a legitimate as for an illegitimate child. So we would have the case of a very rich man, his marriage breaks up, his wife has nothing, and he cannot be ordered to pay to her more than £7.50 a week and cannot be ordered to pay more than £2.50 a week in respect of a child. That seems to Government to be unnecessary and unduly restrictive and so

the limit is taken away and the Court is left to decide in every case what is reasonable and one other factor which is somewhat anomalous; if proceedings are taken in front of the Supreme Court there is no limit at the moment on the amount it can award. It is only the Magistrates Court which is limited in amount. This being so there are cases where it would be much simpler to take a case and apply for maintenance to the Magistrates Court but lawyers have been compelled to take the matter to the Supreme Court in order that they can get a reasonable award. We are not necessarily imposing a greater burden on the person who cannot afford to pay maintenance, we are merely saying that in every case the Court must take all circumstances into account but is not restricted to a maximum. Mr Speaker, I commend the Bill to this House.

MR SPEAKER:

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

There being no response Mr Speaker put the question which was resolved in the affirmative and the Bill was read a second time.

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a later stage of this meeting if necessary, with the consent of the House, today.

This was agreed to.

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to move that Standing Order 30 be

suspended to enable the House of Assembly (Public Offices) Bill, 1976, to be read a first time.

MR SPEAKER:

This is the rule which provides that a period of time must be given for the circulation of the Bill before it can be considered by the House.

Mr Speaker put the question which was resolved in the affirmative and it was agreed that Standing Order 30 be suspended in respect of the House of Assembly (Public Offices) Ordinance, 1976.

HON P J ISOLA:

Mr Speaker, in my copy of the Agenda this Bill appears as No.13 and not as No.11.

MR SPEAKER:

The order in which the Bills are taken does not really matter provided they are taken at the right place in the order of business. There are still the Stamp Duties Ordinance and the Income Tax Ordinance to be taken for First and Second Readings.

HON CHIEF MINISTER:

The Bill also appears as No.13 in my copy of the Agenda.

MR SPEAKER:

The answer is that in the note the Ministers get for the

purposes of the sequence of events it was marked in that order by the officer who was understudying the Clerk of the House. Of course there is no reason why we shouldn't deal with the other two Bills first if Honourable Members would rather do it that way. We will therefore proceed with the Stamp Duties Ordinance.

The Stamp Duties (Amendment) Ordinance, 1976.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Stamp Duties Ordinance (Cap.147) by removing the liability to stamp duty of certain instruments, be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have the honour to move that this Bill be now read a second time. Sir, the object of the Bill is to give effect to the second of the two revenue proposals which I announced in my Budget Statement, namely, to abolish stamp duty on cheques, bills of lading, receipts and passport application forms. This is achieved by Clause 4 of the Bill and the House will notice that it has been necessary to make a distinction between a cheque and other kinds of bills of exchange and promissory notes. This is because the Schedule to the principal Ordinance makes the same distinction. A cheque, Mr Speaker, is of course a bill of exchange. It is legally defined as a bill of exchange drawn on a Bank payable on demand and for the purposes of the Government's proposals it is cheques that they are the more relevant. Other kinds of bills of exchange are much less frequently used and revenue from them or from the Stamp Duty payable on them is negligible.

Sir, I do not think that it is necessary for me to say more

about this Bill other than to remind the House of the reasons I gave in my Budget Statement for this decision, namely, that the administrative cost of collecting and accounting for the stamp duty revenue on these bills and the inconvenience, we consider to justify at this stage their removal. I might remind the House that the amount of revenue loss which I gave the House in my Budget Statement by this removal would be in my estimation about £5,000 in a full year. Mr Speaker, Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON MISS C ANES:

Mr Speaker, when will this become effective because since it was announced at Budget time practically everybody has been issuing receipts without stamping them. I would like to know when will it become effective so that in future people who are now issuing receipts will know that they are legal without the stamp.

HON ATTORNEY-GENERAL:

If the Bill is passed by this House and if it is assented to by His Excellency the Governor, both of which circumstances I believe to be the case, the Bill will come into force upon publication in the Gazette which I would imagine to be on Thursday of next week.

HON M K FEATHERSTONE:

It appears that the Opposition welcome this Bill. I am very pleased to see they do because I first mooted the

suggestion about 1970 and it was turned down at the time. The then Financial Secretary said it would cost about £5,000, perhaps the effects of inflation will not make it so irksome to the Government.

HON MAJOR R J PELIZA:

Mr Speaker, I think that the Honourable Mr Featherstone should know that it was about then that we started digging the gold mine. Since then a number of years have gone by and we can afford to do it now.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to give notice that the Committee Stage and Third Reading of this Bill will be taken at a later stage in this meeting and with the consent of the House, if we reach that stage, today.

This was agreed to.

The Income Tax (Amendment) Ordinance, 1976.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Sir, I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance (Cap.76) be read a first time.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

This Bill, Sir, seeks to make four amendments to the Income Tax Ordinance. Three of these are of substance and the fourth is consequential. The first amendment, which is set out in clause 2 of the Bill, seeks to give effect to the change which I announced in my Budget statement on March 23rd, namely, that for persons over the age of 65 the first £870 of assessable income in the case of a single person, and the first £1370 of assessable income in the case of a married couple would be exempted from income tax.

For the convenience of the House perhaps I might recapitulate very briefly what the present position is. As the law now stands, an individual who proves that at any time during the year of assessment either he or his wife was of the age of 65 or over, he is exempt from tax if he also proves that in the case of a single person his assessable income does not exceed £870 or in the case of a married person that he is entitled to claim a deduction for the wife and that his assessable income should not exceed £1305. But if the person concerned has an income in excess of these amounts then the tax free limits are £550 in the case of a single person and £1050 in the case of a married couple, plus 15% of the difference between his actual income and £3,000. That, Sir, is the present position. The change which I announced in the Budget statement and which is given effect in clause 2 of the Bill, is to make the first £870 of assessable income in the case of a single person and the first £1370 in the case of a married person or married couple exempt from tax irrespective of that person's total income. The additional 15% relief will continue to apply in respect of the difference between that person's actual income and £3,000.

The second amendment which is set out in clause 3(1) of the Bill, relates to the Government's undertaking to increase the allowance in respect of handicapped children. The House will remember that this undertaking was given in an answer to a question by the Honourable Mr Bossano. What is now proposed is that the allowance given to the

parents of a handicapped child attending an approved school in Gibraltar should be increased from £300 to £400. If such a child is attending an approved school in the United Kingdom or in the Republic of Ireland, the allowance which at present stands at £400 will be increased to £500.

The third amendment concerns the dependant relatives allowance. The present position is that no allowance can be claimed in cases where the dependant relative has a total income from all sources in excess of £250. Moreover, where the dependant relative's income is greater than £150, the allowance which at its maximum is £100, is reduced by the amount by which the dependant relative's own income exceeds £150 and here the House will recall that it was at the Committee Stage of the Income Tax (Amendment) Bill which was debated last November that the Honourable the Independent Member proposed an amendment to increase these income limits and to increase the amount of the allowance which could be taxed. The amendment also included a restriction regarding the period of residence of the dependant relative in respect of whom the allowance was claimed. The Chief Minister at the time explained that the restrictions which the Honourable Member proposed in his amendment could give rise to a charge of discriminatory treatment and might also have had wider repercussions.

There was also the question of the revenue implications to be considered. Nevertheless, the Government gave an undertaking to consider what could be done to improve the situation and in the light of this undertaking the Honourable Member withdrew that amendment. It is now proposed, firstly, to provide that the present limitation placed on a dependant relative's income from all sources should be increased from £250 to £400. This figure is on a par with the income limit in the United Kingdom and it is the same as the basic national insurance retirement pension. It is also proposed to provide that the point at which the income level of a dependant relative activates a reduction of the allowance should be increased from £150 to £250 and to meet the situation which the Honourable the Independent Member sought to improve in this amendment last November, it is proposed to increase the allowance of £100 to £150 in all cases where a dependant relative is ordinarily in Gibraltar. By increasing the income limit of the dependant relative a person claiming the allowance in respect of a

relative who is in receipt of an elderly persons pension or of supplementary benefits and has no other income, will become entitled to the full allowance of £150 if, that is, the dependant relative is ordinarily resident in Gibraltar.

The last amendment which is set out in clause 4, is consequential. Lest there be no doubt let me say categorically that all the amendments in this Bill will if passed and assented to be deemed to have come into effect from the 1st of April, that is, the 1st day of the financial year.

Before I resume my speech I would like to just say one word which I hope will get to all pensioners or rather all those who are over 65 and who are in employment or in receipt of a pension from which income tax is being deducted at source under the PAYE arrangement. I strongly advise all those persons, and it is all those persons whom I have described, to call at the Income Tax Office as soon as possible in order that they may insure that their PAYE codes are amended to take account of the increase in personal allowances in clause 2 of this Bill.

Mr Speaker, Sir, I commend the Bill to the House.

MR SPEAKER:

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

HON MISS C ANES:

In the case of a married woman, a working married woman who has the right to be taxed as a single person, what is the position as regards the allowance to the husband because if the husband is allowed an allowance for his wife and children, if any, if a working wife is also allowed an allowance for herself does she also receive the allowance to her husband? Does one person get two allowances? I would like to have that point clarified, please.

HON J BOSSANO:

Mr Speaker, the ability of the Financial and Development Secretary to find a way around this problem I think is most welcome to the House. I think the Government recognised when the matter was first raised that there was an area here in the case of dependant relatives where there was a need to make provision in the Income Tax Ordinance to ensure that with the falling level of the purchasing power of money the burden on those who support their dependant relatives could be somewhat alleviated by revision of the allowances without at the same time opening a loophole in the law which could be used and could not be controlled. I am glad that the Honourable Financial and Development Secretary has been able to devise a way of protecting those in need without at the same time opening the door for everybody to drive a cart and horse through it. I think as regards the question of the relief for over 65's, as I understand it, the position will be that the smaller the income the greater the relief because the relief is 15% of the amount by which a person's income falls below £3,000. I think this is quite a clever device. I would, however, welcome some indication from the Financial and Development Secretary of how this compares with the UK provisions where I know there is a cut off point for income but, certainly, the idea of the provision being proportionate to the level of income below a certain figure seems to me to be quite a good way of doing it and I welcome the way in which it has been done.

MR SPEAKER:

I will now call on the mover to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg the indulgence of the House. I was endeavouring to find the answer to the legal point that the Honourable Miss Anes raised and I am not sure that I have got it.

If before I sit down it cannot be passed to me from the Honourable the Attorney-General, then I will ensure that she is duly informed in relation to her question. As regards the Honourable Mr Bossano's point there again, too, I cannot answer his question as I stand here but again if I cannot find out the answer before we finish the Committee Stage I will certainly ascertain it and make it available to him.

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

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill will be taken at a later stage in this meeting if the House consents and we reach that point today.

This was agreed to.

MR SPEAKER:

I have now been able to find out why the House of Assembly Bill got into the wrong place. It so happens that there was a preliminary agenda prepared by the Clerk before he left for Jersey. It was then thought that the Bill was not going to be dealt with at this meeting and therefore it was taken out and then later on it was then decided that it was going to be ready for this meeting.

That is my information but anyway it doesn't really matter. We will now deal with the Bill in question.

The House of Assembly (Public Offices) Ordinance, 1976.

HON ATTORNEY-GENERAL:

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

an Ordinance to provide that the holders of certain public offices shall not be disqualified for election, that the holders of other public offices may stand for election and for matters incidental thereto, be read a first time.

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

HON ATTORNEY-GENERAL:

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

Under the 1964 Constitution Order there was a provision that no holder of a public office could either stand for election or, if elected, sit in the House of Assembly. There was provision for the legislature to make exceptions to this particular provision and in fact there was the Legislative Council Public Offices Ordinance and that provided that certain offices should not be deemed to be public offices and the holders were not debarred from election. These were an office of emolument under a department of the Government of the United Kingdom which is classified as an industrial employment by the employing department, any office of emolument under a department of the Government of the United Kingdom which is classified as clerical employment by the employing department and which is on or below the rank of Grade I clerk or its equivalent, any office of emolument under the City Council which is classified as clerical employment by the City Council, and which is over or below the rank of Grade I clerk or its equivalent, and the office of Deputy Coroner.

When the 1964 Constitution Order was repealed this particular Ordinance fell into desuetude. In fact to avoid all doubts we are repealing it by the present Bill but it has had no effect whatsoever since the 1969 Constitution. Section 28 of the Constitution provides that provision may be made for various purposes. They are that a person shall not be disqualified for election as an elected member by virtue of holding or acting in any public office specified by the Legislature and, secondly, a person may stand as a

a candidate for election notwithstanding that he holds or is acting in any public office if he undertakes to relinquish or as the case may be, to cease to act in that office, if he is elected as an elected member of the Assembly. By this Bill we are providing that two categories of persons will not be disqualified for election as elected members of the Assembly by virtue of holding public office and these two categories are any office of emolument under a department of the Government of the United Kingdom which is industrial employment - and as Members will see industrial employment is defined as meaning employment of which the terms and conditions are decided after negotiation in the Official Employers Joint Industrial Council - and, secondly, any office of emolument under a department of the Government of the United Kingdom which is of the grade of Clerical Officer or of a grade prescribed by order of the Governor as being a grade equivalent to or below the grade of Clerical Officer. We have left a certain amount of flexibility there so that if for any reason a new post is created and it is felt that it is equivalent to Clerical Officer, then it can be prescribed and the holder if he so wishes will not be disqualified for election to the House of Assembly. The second class of officer is the officer who may stand for election but who will have to resign from his employment if he is elected. That category is specified in the Second Schedule, it is any office of emolument under the Government of Gibraltar which is industrial employment. They can stand but if elected they have to resign their employment within 30 days. The Bill makes provision for the form of undertaking which such a public officer must give before he stands for election and provides that if elected if he doesn't resign his office within 30 days or within a month he loses his seat in this Assembly. Mr Speaker, I commend the Bill to this House.

MR SPEAKER:

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

HON CHIEF MINISTER:

Sir, this culminates a considerable amount of discussion which has been going on between myself and the Leader of the Opposition over a long time and prior to that between my predecessor and myself as Leader of the Opposition at the time. And that is because there is a very wide area of difference between the approach of the two parties to this matter that as far back as August, 1973, the views of both parties were cleared and submitted to the Governor for the Secretary of State's decision on the matter. The point was that whereas we on this side were prepared to allow a certain number of people to be able to stand for election and resign the view of the Opposition as no doubt will be explained by the Leader of the Opposition was that quite a number of people, I remember in particular, for example, the question of school teachers and so on, who it was alleged their employment was in no way in conflict with any duties that they could have in the House could stand for election and remain as Members of the House and yet retain their posts. This goes to the root of the question of holding an elected post whilst under the service of the Crown. There was an area of movement certainly in order to meet changed circumstances but unfortunately as yet no reply has been received. As has been explained by the Attorney-General, when the new Constitution was enacted in 1969, as a result of that, something which had cost us a considerable amount of equal representations and trouble to try and get people in the employment of certain categories in the employment of the Crown by virtue of the Ministry of Defence and DOE and so on to stand for election that lapsed as the Attorney-General has said. Since the time for the next election was approaching and there was no reply despite repeated reminders and repeated personal representations on every opportunity I have had when I have been in England to get a reply one way or the other from Her Majesty's Government none has been received, it seemed to me a great pity that whilst appreciating that the views of Honourable Members opposite we could not do anything in respect of that, the least that we could do before this Legislature's life came to an end was to at least restore those who had had this ability to stand for election to be given the right to do so for this forthcoming election.

The attitude up till recently - and I can quite understand it - by the Leader of the Opposition was: "Well, we want it all or we want a decision on it" which I think was fair enough but since that was not likely to happen certainly within the powers of this Legislature this time I thought, and I so informed the Leader of the Opposition, and sought his agreement to bringing a Bill that would at least enfranchise as I called it several times, give the right to stand for election to quite a number of people employed in the Ministry of Defence who had had it before after a long struggle and who had been deprived of it consequentially and without intention by the last Order-in-Council. I did not want to do this by virtue of a Government measure if there was not some element of agreement on the part of Members opposite and in the course of some of our deliberations in respect of the Constitution Committee I took advantage of that forum in which to raise this matter. I would certainly not have brought this measure to this House if I thought that because Honourable Members opposite want more they were going to oppose the Bill for the reason that I would not like to think that any precedent would be created, that anything of a general nature in relation to elections should be decided by the Government with the majority of the day. I felt and feel very strongly that there had been agreement last time when this Ordinance to which reference has been made by the Attorney-General was brought to this House and I felt it would be improper for a Government even though it is a measure which gives a lot of rights though not all the ones that the Opposition wanted, I felt it would be improper just to say that I bring a Bill because we have a majority to pass it.

In addition to that advantage has been taken for something for which we have obtained clearance and which was one of the areas in which there was agreement on this question when it was generally decided and that is the position of people in industrial employment. The number of people who were entitled before the last election to stand for election though they were in industrial employment in the City Council the proportion of course was not too small because the City Council had a rather substantial labour force in relation to the labour force employed by the Government as it then was. But again there not by virtue of the Order-in-Council which revoked that Ordinance but

by virtue of the merger of the City Council with the Government those who were previously City Council industrial employees became Government employees and therefore were deprived from standing for election without resigning beforehand.

It would be rather hard for a person to have to give up his job, stand for election, lose and then have to seek his job again. The advantage in this case is that he has not got to give up his employment until he is elected so that he can carry on in his job whatever that job may be, if it is an industrial employment, carry on in his job, stand for election and if he is elected then resign and if he is not elected then he carries on with his job. This may not be ideal but it is the lesser of the evil particularly in so far as the people who were seeking to stand for election could be. I really said that I wanted that this should be brought by agreement and though the Leader of the Opposition reserved his position I ventured to bring it to the House because at least he informed me that the Opposition would certainly not vote against this measure. It is up to the Opposition to decide and I hope that they will vote in favour and make all the reservations that they wish about the future and about their representations. I can understand that perfectly. They hold certain views very strongly and I respect them. I don't agree with some of them but that should not deprive one body of people who had a right not to continue to have that right. Because I found that it would not be opposed but there might be either agreement or abstention but in order to give more people and in some measure to meet the criticism often raised in this House which is understandable that a great number of people are deprived of standing for election because of their employment, in official employment at least it would meet a body of them and the criterion exercised this time is the same except, as the Attorney-General has said, that the classification has been re-defined in order to be able to make it more flexible in the sense that it would be anybody in the employment of the Ministry of Defence, DOE or the Crown by virtue of the UK Government of the grade of a Clerical Officer or of a grade prescribed by order of the Government as being a grade to or below the grade of a Clerical Officer.

Nowadays posts are being changed every day and it would be

very difficult to say but I think the criterion at the time of the 1964 Ordinance in so far as the people who are non-industrial was the nature of his remuneration because that would determine the extent to which it would be in conflict for him to be in the House and to be in the employment of the Crown by virtue of the United Kingdom Government. This is a question of having a little of what you want more or having nothing at all. We feel that in order to make up in some respect for the inordinate - and I say this deliberately - inordinate delay that there has been in considering representations which have caused considerable amount of consultation between both parties from the United Kingdom as to what would be acceptable, I sought and obtained approval before even speaking to the Leader of the Opposition to restore that position at least to what it was before the 1969 Constitution and to introduce a system whereby people in industrial employment in the Gibraltar Government could stand for election without having to resign their post which would not be the case if this Bill is not passed.

I thought the Leader of the Opposition will state his objections of course I hope that if he raises any point that requires some immediate or political answer he will be good enough to give way for me to explain the position. I have tried to explain the position as clearly as possible so that there should be no doubt as to what we are about. We do not consider that this is the end of the matter because we have put other people in though not as many as has been suggested by the other side. But this at least is something that restores rights that were conferred before and had been taken away by a consequential unintended result of the previous Constitution and I feel the least that we can do before we come to the end of the life of this House is to restore the rights to those who were deprived of them and give facilities for those who didn't have them before.

HON M XIBERRAS:

Mr Speaker, the Chief Minister referred to the culmination of a series of consultations between himself and myself on this matter and I must disabuse him of this. It is not the culmination I am sure that in tenor with what he has

said in ending his intervention the matter cannot be allowed to rest where it is and I am sure there will be considerably more consultation on this important issue.

The Chief Minister was right in saying that I committed my colleagues not to vote against the Bill on the consideration that with the totally untenable position which exists at present it would be better for the image of Gibraltar and in practice that at least some people should be totally enfranchised. But I also told the Chief Minister in no uncertain terms that I could not commit myself to vote in favour of the Bill and my colleagues do not intend to vote in favour of this measure. We think it is something of a conscious salver for one or more parties. We think the minimal concessions that have been made do not redress the position, far from. We entirely agree with the Chief Minister that the delay has been absolutely inordinate and I, personally, am surprised that he has been able to clear the present Bill in time for submission even on the minimal terms offered. I am surprised because after two years of agreeing to put our different points of view to the Secretary of State and several more of discussion and argument between us to try to reach a common view there has still been no reply from the Secretary of State. If that in a matter affecting the basic democratic rights of people here is hardly the sort of thing to allow to pass without a protest and our strongest possible protest is not to vote in favour of this Bill unless Her Majesty's Government and the Secretary of State's Office take note of this that 72% of the adult population of Gibraltar of working age in employment have been deprived from standing for election to this Assembly unless they resigned their jobs. That is totally untenable and it is a black mark on the Foreign and Commonwealth Office to allow the position to go after considerable efforts have gone into trying to reach a common view here in Gibraltar, to allow this thing to go for over two years. So, Mr Speaker, we will not vote in favour of the Bill, we will not vote against, we shall abstain, and as I told the Honourable and Learned the Chief Minister I reserve also the right to put my argument on this issue against the Bill fully and frankly.

Mr Speaker, apart of the disadvantage in the early stages of this unden which we have laboured is that the two political parties were not ad idem on this matter. For our

part we were surprised in the early days of this matter that the Association for the Advancement of Civil Rights would not move as far or even three quarters of the way as far as we would have liked to have moved. Our inspiration was that in a small community like Gibraltar where people had to do various jobs and we have part-time politicians we have heavy Government employment in the UK Departments and the Gibraltar Government, special consideration has to be had for that other principle which is very important in a democracy, the right of persons to be able to stand for election. Things were aggravated by the fact that they were part-time politicians and that our remuneration was minimal and therefore the position in which a number of the males in employment of employable age were placed was a totally unfair one and Honourable Members in this House - I refer to the Honourable Mr Canepa, the Honourable Mr Bossano and myself - have in some way or another been affected by this. We wanted to ensure on as broad a front as possible that the right of the people to choose their representatives and the right of the people to stand for this House was safeguarded. Unfortunately we found ourselves at loggerheads. My Colleague the Honourable and Gallant Major Peliza as Chief Minister as the Honourable and Learned the Chief Minister, then the Leader of the Opposition, were unable to resolve this matter. The point of view of Honourable Members opposite at the time was that the impartiality of the Civil Service was a delicate thing and therefore they felt unable to draw the line where we would wish it drawn. Let me assure the House that throughout those deliberations and the intervening period we have been equally concerned with the impartiality of the Civil Service. But we felt that in order to balance equitably the two principles involved, the right of representation and the right of Civil Servants to stand for election, it was necessary to make special allowance in the case of Gibraltar taking into consideration the reality of the situation now within our own Gibraltar Civil Service and the degree of political participation which actually goes on whether we like it or not. Those two principles, I think, were very lucidly put forward in a letter by the Teachers' Association - and it is no coincidence that both Mr Canepa and myself were in that Association at that time - in which we represented to the Secretary of State long before I think we thought of standing for election ourselves, that they should be a proper balance between those two principles suited to

Gibraltar, and we quoted various examples. Mr Speaker, I am speaking in very broad terms in trying to outline the inspiration of both parties on this matter. Equally in broad terms let me say that this is an issue with which the Foreign and Commonwealth Office has been confronted before in other parts of the world. I remember Mrs Judith Hart in the days of which I am speaking, 1965-66 or so, dealing with this problem and speaking in Parliament in respect of some Caribbean Island. I think it was the Bahamas, I am not absolutely certain about it, and there the problem was the same. I believe certain gentlemen called the Bay Street Boys had a monopoly of Government and it was the wish of the people to try to get adequate representations.

The composition of this House, Mr Speaker, is not such that Honourable Members could without difficulty show people that it is representatives of all classes of the Community and those of us who belong to a particular social scale have got there by resigning our jobs. Therefore all Honourable Members of this House should strive to create the best facilities possible for representation in this House. All these arguments were put in 1968 at the Constitutional talks and my recollection is that Lord Shephard agreed that this was a matter for this Legislature to decide. And so under Section 28 of our Constitution it says: "If it is so prescribed by the Legislature - (a) a person shall not be disqualified for election as an Elected Member of the Assembly by virtue of his holding or acting in any public office specified (either individually or by reference to a class of office) by the Legislature. (b) A person may stand as a candidate for election as such notwithstanding that he holds or is acting in any public office specified (in the manner aforesaid) by the Legislature if he undertakes to relinquish or, as the case may be, to cease to act in that office if he is elected as an Elected Member of the Assembly". This is the second expedient which is partly used in the Bill at present before the House. "(c) Any office specified (in the manner aforesaid) by the Legislature being an office the emoluments of which are paid, directly or indirectly, out of public funds, but which would not otherwise be a public office for the purposes of this section, shall be deemed to be a public office for those purposes." The spirit of these subparagraphs is that it is a matter for this Legislature to decide who

will stand for election and who will not stand for election. And this is a document which obviously has the consent of Her Majesty's Government. It has been propounded, however, that the the Governor has a special responsibility in this respect. Firstly, as head of this Legislature and, secondly, by virtue of the special responsibility in respect of the Civil Service. It is my contention and the contention of my colleagues that these three subparagraphs should outweigh the other considerations in a matter which has to deal with the democratic representation which is important to the people of Gibraltar and in a matter which has to do with the sort of Member we are going to get in this House ourselves. I am all for consultation and I am all for seeking the views of London on this matter. But two years, Mr Speaker, is more than time for adequate consultation and therefore I feel that after two years, after continuous pressing by the Chief Minister as he has told us and after he has received no reply, I feel the Bill at present before the House is inadequate. I feel that Honourable Members should certainly aspire to more than that. I would say that even within the points made or the attitude taken by the AACR this Bill is still inadequate, it falls short of my general impression of what was possible.

HON CHIEF MINISTER:

If the Honourable Member will give way. Of course it is inadequate even in the areas in which we were agreed. I am not saying that it is not and I am glad that the way the Honourable Leader of the Opposition is putting it is that they have had in their time of office as much difficulty as I have had in getting a reply whatever the agreement is, but there is one point I would like to make clear in respect of other points which he has made and that is that he says he is surprised that I have been able to obtain permission to proceed with this. I said that I wanted this because this was the least that they could do to amend for their failure to reply to us because this was restoring the situation and this was asking for nothing, really, but to restore the position. That is why I have done it. It is not that I consider that either an adequate answer has been given or that the matter has

been met.

HON M XIBERRAS:

Mr Speaker, the points in answer to which the Chief Minister stood up made by me was that even within what the Chief Minister in answer to a question on the famous 72% had to say, the present terms of the Bill fall short of that position. And my surprise is in respect of the relative ease with which the Chief Minister has been able to get the agreement of the Official Side for this Bill.

HON CHIEF MINISTER:

It was not easy I can assure you.

HON M XIBERRAS:

Well, certainly as regards time. It has taken them much shorter time to give their agreement to this than the two years they have spent deliberating on the original proposition. And the first point which arises out of the Chief Minister's last intervention is that the difficulty that we encountered during our term of office was that of persuading him and his colleagues to find a common view with us. It was not a difficulty of sitting against the Official Side because like him we felt that we would be in a much stronger position and it would even be decorous to have a common Gibraltar view on this matter. But we were unable to do so and eventually when we got to the position of reporting our differences to the Deputy Governor what was reported to the Secretary of State was a divided view.

HON CHIEF MINISTER:

If I may say so, the argument that the Leader of the Opposition is using is self defeating because even in the

areas where we were agreed we have not obtained approval.

MR SPEAKER:

May I say that I will not allow any more interruptions. We are debating the general principles and we must not debate what would happen other than what has been tried to achieve now.

HON M XIBERRAS:

Mr Speaker, the Chief Minister is quite right even on the matters on which we were agreed but the Chief Minister has not been able to obtain approval.

The Chief Minister has not, on this occasion, for the purposes of this limited Bill gone with my support, not have I had any knowledge of the consultations on the basis of this Bill. So my argument, I believe, stands and that is that with a common Gibraltar view we would stand a much better chance of obtaining what we wanted.

Mr Speaker, as the House will recall, the question that was raised on this 72% and how the Chief Minister said: "at the stroke of the pen we can enfranchise a certain number of people". I believe it was something like 3,000, perhaps I am wrong. It was something like 3,000. And then on a subsequent occasion he came back and the pen had apparently slipped and the number was somewhat less than that. His metaphor cannot have been well chosen, it is not as easy as doing it with a stroke of the pen, and now the pen has slipped very far down the page or very far up and a good number of people have been excluded.

Because if it was our common view our minimal as the lowest common denominator between us that at least we should restore the position to before the merger of the City Council and the Legislative Council, we would have a very different Bill before the House. We would have certainly those of Grade I clerks status and below in the UK Departments able to be members of this House and retain their jobs in the UK Departments. But also we would have been able to have if this common view had borne fruit in the Bill industrialists of Gibraltar Government for

which Honourable Members opposite have a special responsibility also being able to retain their jobs having fought successfully to become members of this House. The Bill, as Honourable Members are aware, does not allow these Gibraltarians in the Gibraltar Government to do this. The concession here is that they need not resign until they know or one month after they know that they have been elected. And in the same breath I must say that this concession for some reason is not applied to the non-industrials in the Gibraltar Government, let us say, of Grade I Clerk status and down. Those would have to resign on nomination as my colleague opposite had to do and as I myself had to do. But these people, some of them at least, were enfranchised in this way in the days of the City Council and therefore here we are not restoring rights at all. We are not even offering them some sort of compensation and the position is just as it was before. With all due respect to my Honourable Friend, Mr Bossano, one must look realistically at the areas from which candidates would come. And it is not amongst the industrials that candidates normally have come in the experience of this House.

One candidate that has come of industrial status was Mr Albert Risso, and he was in the City Council, and he was an industrial, and in fact he had to come down in grade when eventually he became a Member of this House. But....

HON CHIEF MINISTER:

Just one correction. He did not go down in grade, he didn't go up to the expected one. He opted not to.

HON M XIBERRAS:

Therefore, Mr Speaker, what do we have here? A conscious salver as I say. Who is going to feel better for this, the image of democracy in Gibraltar, the Foreign and Commonwealth Office, Honourable Members opposite or Honourable Members on this side of the House? The practical effect of this is not going to be that great. It might very well be we might enfranchise one or two, I

doubt it, potential candidates, and the Bill solely has the merit of intent on the part of Government, intent to enfranchise more, that is all it has. But we certainly cannot support it and will show our dissatisfaction by abstaining.

MR SPEAKER:

Has the Honourable Member finished?

HON M XIBERRAS:

Not quite, Mr Speaker, at least I think not quite.

Mr Speaker, there is one more reason for not voting in favour and that is that when you have an unjust situation, a blatantly unjust situation as this one is where 72% of the male Gibraltarians of employable age are excluded from this House, then you have the strength to be able to push your case and to arrive at a satisfactory solution. But if some water is allowed to go through the dam, if the pressure is allowed to slacken if some concession is made, then obviously the situation is if only minimally, less bad than it was and the inclination is always to allow matters to go on further. They will say: "After all, in 1976 we made this much of a concession and, therefore, I am concerned that Honourable Members and the Foreign and Commonwealth Office should know that this is regarded as no concession at all and, if anything, they should thank Honourable Members of the Opposition for not voting against the Bill.

HON CHIEF MINISTER:

I am sorry, because if they had said they were going to vote against it I would not have brought it and I told him that very clearly.

HON M XIBERRAS:

The Honourable Member is not hearing me properly.

MR SPEAKER:

As I understand it the Opposition intend to abstain.

HON M XIBERRAS:

I have said so and I have said nothing to the contrary. But it is very hot under the collar, Mr Speaker. What I am saying is that the Foreign and Commonwealth Office can thank us for not voting against this Bill. But at the same time we must record our strongest protest.

The Chief Minister can rest assured we will hold by our stated word. He need have no worries on that score and at the same time I promised that I would be hard in criticism of the present Bill for reasons which are not entirely attributable to him but it is a cap which he can choose to wear or not.

HON A J CANEPA:

Mr Speaker, I would like to make one thing perfectly clear first of all on behalf of the Government and on behalf of the Party to which I have the honour of being a member. We do not regard the Bill now before the House as any concession whatsoever. We are not making any concessions, it is not intended to be a palliative, it is not intended to be a conscious salver at all. This is something that could have been done two years ago were it not for the fact that we have been awaiting this reply from the Foreign and Commonwealth Office.

Two years ago we could have restored the petition of the industrials and others who were covered by this Bill to what it had been prior to 1969. It is not a question of making concessions when you are restoring something. You

are making a concession when you have a claim and you are going beyond what you were prepared to offer. The Honourable Leader of the Opposition has referred to a letter of which, quite rightly, he and I were co-authors in 1967 or 1968 or thereabouts. I do not have a copy of the letter. I do not think he has a copy of the letter either, but I seem to recall quite clearly, Mr Speaker, that the letter did not deal primarily with the question of civil servants and school teachers in particular standing for election. It dealt primarily with other sort of political activities such as membership of political parties, members of executive committees of political parties, the ability to write openly to the press and sign letters on matters of political controversy, may be even criticising the Government - and one has a pretty good memory and recalls the Honourable Mr Xiberras being rapped over the knuckles for entering the arena that way and his name appearing in the correspondence column, I think, of the Gibraltar Chronicle.

This is what the letter of the GTA was about because in those days the fact of the matter was that teachers and other Civil Servants were able to stand for elections of the City Council and there wasn't a queue of us or a queue of Civil Servants lining up for these elections. We weren't so concerned, Mr Speaker, in those days about political activity at the level of election as representatives of the people. That wasn't bothering us so much in those days. I would just like to put the record right.

This Bill, Mr Speaker, restores the position for a very substantial number of those persons that are covered by the 72% that we have heard so much about. The industrials formerly employed by the City Council, industrials now in Government employment and non-industrials in the Ministry of Defence up to the level of what used to be the Clerk Grade I which would now I imagine be a clerical officer in the MOD and at present in the Gibraltar Government what used to be a Clerk Grade I is a senior clerical officer. And let me make quite clear that the attitude of our Party - because a great deal of play has been made about the civil rights aspect of it - we consider and we are in no doubt that we are safeguarding the right of the people of Gibraltar generally and of the electorate but not having those who would wish to be master and servant at the same time being elected to office over the electorate and over

the people of Gibraltar, generally. In taking that attitude, in taking that stand we consider that we are furthering the civil rights of the people of Gibraltar, generally, and on that issue I do not think that there is going to be a great deal of room for compromise. As regards this question of master and servant let me say quite clearly that it is my own view that the position is quite untenable. It is quite untenable for a civil servant, for a school teacher, to be a Member of this House to be a Minister, in particular, and to continue in Government employment. It is quite untenable, it is incompatible, it is physically impossible to do so. You cannot these days devote the time public life requires that one should devote to in Gibraltar and at the same time keep such a job and therefore the only alternative really is that if one feels that one would like to widen one's vocation which formally may have been to teaching children to widen that vocation to serving a wider public, the only answer really is to resign and to take the plunge. But we must ensure and I hope that over the next two weeks the House will be doing something about that, we must ensure that people who resign and take the plunge into public life and give up employment are able to and do receive a salary that will enable them to maintain a family. If that pre-requisite if that point is safeguarded I can foresee no problems.

HON J BOSSANO:

Mr Speaker, I shall be voting against the Bill. I regret I cannot be as charitable to the Honourable and Learned the Chief Minister as the Leader of the Opposition has been. I think he has outdone himself in his charity. As far as I am concerned, the Honourable and Learned the Chief Minister is here to fight for the people of Gibraltar and not to make excuses for Whitehall. That, Mr Speaker, is my view and I can tell the Honourable and Learned Chief Minister that as far as I am concerned if he thinks that this does not go far enough then he should bring to the House the Bill that he thinks goes far enough and ask for the support of the House, not bring a half measure here and blame the British Government for not doing it. If he hasn't got the guts to face up to the British Government

then he is in the wrong place. I can also tell the Honourable and Learned the Chief Minister that if any worker wants to stand for election and does not want to give up his job then, certainly, the workers of Gibraltar will face the British Government and let the British Government get a worker thrown out of this House of Assembly when the time comes if they have got the guts to do it.

MR SPEAKER:

We are discussing the general principles of a particular Bill before the House. What people are prepared or liable to do in other sets of circumstances is not the concern of the House at this particular moment. I am sure you know what I mean.

HON J BOSSANO:

Perhaps you do not know what I mean but I tell you, Mr Speaker, that I am prepared to do it and I am not talking hypothetically.

MR SPEAKER:

I am not suggesting that you haven't got the courage, the intention or the will to do it. You are out of order because it is not the place or the time to say it in. That is what I am saying.

HON J BOSSANO:

Well, I think it is very appropriate, Mr Speaker, to say it at this time because if the British Government is going to have second thoughts about it like they had about "UK EYES", the only sort of language they are going to stand is the language that I am going to speak here in this House. And I am sorry that it has to be done this

way because obviously other ways have failed but, as far as I am concerned, the fact that there has been no answer for two years is no reason for bringing a couple of months before an election a Bill to the House which is considered inadequate by all the parties in the House who have the responsibility to the people of Gibraltar to put matters right. In 1972, when I was involved with talks with the Government to find out their views on this as a member of the Integration with Britain Party, the AACR did not have the sort of view that they have now. I have quite a clear recollection of the sort of conversation we had at the time and they were adamant about the conflict along the lines that the Honourable Mr Canepa has expressed himself about the conflict and about the impossibility of enfranchising even industrial workers of the Gibraltar Government. I have quite a clear recollection of this. Perhaps the passage of time has made them think about it again and they have moved and if this is the case it is to be welcomed but I have quite a clear recollection of it and I also have quite a clear recollection in 1973, Mr Speaker, when I applied for a job as an industrial worker in the St Bernard's Hospital to answer a telephone at night and I was told after I had been interviewed that if I was given the job I would be asked to leave the House of Assembly because the interpretation of the Honourable and Learned the Attorney-General was that there would be a conflict of interest between my duties as a night telephonist to answer emergency cases and my duties to the people of Gibraltar in the House of Assembly. What hypocrisy and humbug, Mr Speaker. How can anybody take honour in being a member of an Association for the Advancement of Civil Rights and defend that as having anything to do other than with the suppression of civil rights.

HON ATTORNEY-GENERAL:

Mr Speaker, if I might intervene. I advised on what the position would be if the Honourable Member took public office. I never advised as to whether there would be a conflict of interest. I merely advised on the legal position.

HON J BOSSANO:

I know but the legal position is defended because there is a theoretical conflict of interest, this is not the legal position as defended.

MR SPEAKER:

What the Honourable the Attorney-General is saying is that as the law stood then and as it stands now under the Constitution it would be unconstitutional to allow you to take the job and to be a Member of the House. Whether there would be conflict of interests in your particular circumstances is what the Honourable the Attorney-General has said he did not rule on, nor to the fact that the law forbade the circumstances that you were going to allow yourself to get in.

HON J BOSSANO:

Thank you, Mr Speaker. I am well aware that he did not rule on the fact that there was supposed to be a conflict of interest but what I am saying is that the refusal to enfranchise individuals in that sort of job is defended by using the argument that it is incompatible, for example, to be the night telephonist of St Bernard's Hospital and the Minister for Medical Services. Now, I don't think it is incompatible, no more incompatible that it is to be a businessman and to be in the House of Assembly or to be a lawyer and to be in the House of Assembly. The House of Assembly in a democracy must be a microcosm of a society if the conflicts of the city society are going to be reflected and are going to be resolved by verbal battle instead of battles outside. That is my view of the function of the democratic system and it is a view that I have expressed here whenever I have had an opportunity to speak on this matter. But I can tell the Honourable and Learned the Chief Minister and I hope the message gets to the mandarins in Whitehall, that the working class in Gibraltar is not afraid of battles in the streets and if that is the only way that things are going to get changed they will get

changed that way and in fact.....

MR SPEAKER:

That is where I came in, Mr Bossano, when I said it is completely and utterly irrelevant to the point at issue. We should be speaking on the general principles of this particular Bill.

HON J BOSSANO:

I hope it produces results and that it is not irrelevant.

Now, as regards the situation with industrial workers, in fact, the man who was most closely identified with the organisation of the Trade Union Movement and the working class in Gibraltar, Mr Risso, for many years paid adequate service both as a representative of the people as an employee of the City Council where he was working as an industrial and there was no conflict, nobody suggested that because he was an elected representative he used to lord it in the Public Works Garage. He had his own position there and he accepted that there he was an employee and outside he was a representative of the people. But that is neither here nor there, Mr Speaker, this is purely an institutional difference. The reality of the situation is that he was paid out of public funds and that he was an elected representative of the people and that the Government could pass laws which could affect him as an employee of the City Council which was an inferior institution I can tell Honourable Members that in the code which explains to industrial workers their right in the Ministry of Defence in the United Kingdom of which I have a copy, it specifically says that an industrial worker has got the right in the Ministry of Defence in the United Kingdom to stand for Parliament. And I can also tell Members that my branch of the Transport and General Workers Union, the Public Sector Branch, will not pay kindly at all to discriminate as between one group of our members, who will have the right to stand for election, and another group that will not have the right. Because now that we are in the post Scamp era we are bringing everything in Gibraltar

into line with UK as regards conditions of work, pay and allowances and so on, it seems to me that if MOD and DOE workers are going to enjoy a right which Gibraltarian workers are not going to enjoy, then there is a discrepancy, a discrimination and certainly if they continue to be deprived of it I shall certainly have to seriously think of tabling a claim to the Gibraltar Government for a compensating allowance to make up their inferior conditions of employment, Mr Speaker. But at the time that I applied for this job in the hospital I felt quite frankly, Mr Speaker, that quite apart from the merit of the job which I thought was in those days of meagre wages not badly paid, I thought that it was worth attempting to get the job in order to challenge precisely the sort of situation that we are facing today and I deeply regret, Mr Speaker, that I did not continue in my attempts. I may say that the position there was that I failed to get an answer about the vacancy and that I tried in other areas of Government employment and I also failed to get answers and there is no doubt at all as far as I am concerned in my own mind that there was a deliberate plot to avoid the issue by not refusing me employment which I could condemn as discrimination and by not giving me employment which would have resulted presumably in my having to be evicted from the House presumably from the Sergeants on duty as we do not have a Sergeant-at-Arms here. Presumably somebody would have had physically to eject me because as far as I was concerned this was such an important constitutional issue that I would have welcomed the opportunity of taking up employment with the Government and then refusing to leave the House of Assembly and have to be carried out, possibly. I doubt very much whether I shall have time to do it in the time that is left before the next general elections but I shall seriously consider making the attempt unless we are going to get some movement on this because I think that after all the attempts that have been made from what I have heard from the Honourable and Learned the Chief Minister and the Leader of the Opposition to get together to convince Whitehall, really, Mr Speaker, the time has come for stronger measures and, certainly, I am prepared to take the stronger measures and therefore I am afraid I must regrettably make it quite clear that I shall vote against the Bill.

HON A P MONTEGRIFFO:

Mr Speaker, whilst respecting Honourable Members' views opposite, whilst respecting their distinct approach to ours in this particular issue, I say this with the greatest diffidence and respect that I hold - and I am not saying this in a paternalistic manner - for the Honourable Mr Bossano. But I wish that when he stands up to say he is going to fight for rights he would not necessarily because quite frankly I do not think it enhances either the prestige of this House or the prestige of the Transport and General Workers Union to say that they are going to battle in the streets. Quite frankly, I do not think this is a democratic approach however strong we must fight and however strong we.....

MR SPEAKER:

I am afraid I must stop you. I have stopped the Honourable Mr Bossano from making any reference to that sort of thing and I am not going to allow anyone to discuss whether he should or shouldn't have said it. Whether he should or should not have said it I think I made very blatantly clear already.

HON A P MONTEGRIFFO:

I am appreciative of your ruling, Sir. I am glad you have allowed me to say what I wanted to say. I think it is unfair to say that because we hold the view that Civil Servants should be as detached as possible from the political affairs of Gibraltar and hence they should not hold ministerial posts and at the same time be ruling the people of Gibraltar as Civil Servants, that we are being less undemocratic or that we are less aware of the civil rights that we have been fighting for for quite a number of years. It is a matter of opinion and I still feel that our opinion is the correct one because my experience - and I say this with the greatest regret - my experience in Government and my worry is not about Civil Servants at the top interfering in politics. But you

reach a stage in Gibraltar which was mentioned I think by the Honourable Leader of the Opposition, where we all know that unavoidably because of the smallness of the place and because our connections with the people working in the service who have got a daughter and a couple of relatives in the service surely they are not going to stay put whenever they find that their father or father-in-law is being denigrated of course they will do what they may not possibly do in the UK because they are more detached. Anybody who works in Whitehall and commutes to Brighton is more detached than people here in the service but what we cannot do is to give our blessing to that situation or even make it worse by putting it in the Statute Book.

HON M XIBERRAS:

Will the Honourable Member give way?

HON A P MONTEGRIFFO:

Yes, by all means.

HON M XIBERRAS:

Does the Honourable Member apply the same criterion of conflict of interests in a small society to the question of businessmen?

MR SPEAKER:

No, we are not going to enter into a debate as to how far the enfranchisement should go because otherwise it would get out of hand.

HON A P MONTEGRIFFO:

Mr Speaker, I don't, because there is a completely different

situation. Everybody who stands for Parliament has got some sort of interest of his own in other spheres of life but the difference is saying one thing politically here and perhaps as a Civil Servant having to say something else because you are part of the administration and there is where the conflict lies. You cannot have a teacher saying in this House that he wants the comprehensive system of education and then the Government of the day saying they are not going to have comprehensive and he as a member of the Opposition says he wants a comprehensive service.

MR SPEAKER:

Yes, but we are now departing from the point at issue.

HON M XIBERRAS:

If the Honourable Member will give way.

MR SPEAKER:

It is for me to decide whether the Honourable Member should give way or not otherwise he is not entitled to give way.

HON M XIBERRAS:

Mr Speaker I resent the idea put forward by the Honourable Mr Montegriffo. What he is implying is that there is a conflict of interest between what the teacher teaches in school and his relationship with the Government. Schools are not there for indoctrination with Government views and that is why.....

MR SPEAKER:

No, no, you are out of order and I am not allowing it.

HON A P MONTEGRIFFO:

Mr Speaker, I will end up by saying that I fail to understand how there would be discrimination by emphasising the MOD industrials and in a way not going the whole hog with the Government where there is in a way discrimination but it is not a discrimination that doesn't exist in UK where the Honourable Member is focussing his attention. There the same thing happens. If you are a member of a City Council as an employee unless you resign you cannot be a member of the City Council and I assume that if you are employed in any job which comes under the wing of HM Government they cannot stand for election either. He would have to resign. No one agrees - and we haven't said so from the Government benches - that this is either the ultimate thing or that we are taking new ground. No one has claimed that and I never expected that this could have brought the controversy that it has brought about though I expected, quite rightly and properly, that Honourable Members opposite would have made all the reservations and put their point of view across. All we are saying is that if we do not get a reply from Whitehall - and you can get all the battles in the street you want and you may still not get what you want from Whitehall. That is a different matter and how far that matter is carried through and how far it may affect generally in Gibraltar is something that one has got to take into account before one launches oneself into that sort of battle. All we are doing is that we are restoring as far as we can within the present Constitution the right, as far as it is possible, that people had up to 1969 within the present limitations of the present Constitution. That is the interpretation that I give to the Constitution because if we were not giving that interpretation we would not be asking Whitehall. And therefore I do hope that that even if the Opposition abstain and however violently we may disagree as to who should stand or not stand no imputation should be made from either side of the House that anybody is depriving anybody of their rights.

I think my Honourable Colleague on my right put it very well when he said that at least our approach, different as it may be from the Opposition, was in a way, maybe in our madness if you want to put it that way, protecting the civil rights of the people.

HON MAJOR R J PELIZA:

Mr Speaker, this is a matter which touches on the political freedom of the individual. It is as fundamental as that. It is as fundamental as having the right to vote and therefore it is not extraordinary that this should have caused so much argument at this particular meeting, perhaps even heated argument. I think it has got to be understood that democracy does not consist only in the ballot paper, but very much so in the people who are represented in this House and the interests that are represented in this House. And by cutting out 72% of the electorate of this right we are, I think, doing a great disservice to democracy. I am sure that this would be intolerable in a place like Great Britain and the whole outlook of the independence of the civil service would have had a lot of rethinking and something would have come out that would have fitted in with true democracy. When we came into Government in 1969 one of the first things we attempted to do was precisely that, to put this right. It was a very difficult task because against us we had the then Opposition and also the Official Side. So headway was very slow if at all. One has to be frank on this issue, and one has to bring out the facts and then I think make deductions from them. This conflict of view between the now Government and the present Opposition goes back further.....

MR SPEAKER:

I called the Honourable the Minister for Medical and Health Services to order and I must also call you to order.

We are not going to analyse the consultations and the meetings that have been held and why they failed and who

said what. What we are now debating here is whether the law should be changed to enfranchise a certain number of people to the extent that you have anything to say which is relevant and contributes to this point you are completely in order but let us not stray from the point at issue.

HON MAJOR R J PELIZA:

Mr Speaker, what I am trying to establish is that the Chief Minister has said that the best he has been able to do is to restore the situation prior to the new Constitution and what I am trying to say is that the reason for that is because he hasn't tried hard enough.

MR SPEAKER:

Fair enough, but don't let us make a detailed analysis of it.

HON MAJOR R J PELIZA:

To be able to establish that, Mr Speaker, I have to show through facts and in plain language that obviously he was against this change right from the beginning. It goes back to the Constitutional Conference and unless I can produce those facts I cannot support my argument.

I am going to be brief, I am not going to give a historical account of the Constitutional Conference - I think they are well known - what I am going to say is that at that particular meeting when the question of deciding who would be able to stand for election was discussed, Lord Shepherd was prepared to consider even the inclusion of teachers standing for election. And the persons who objected were the AACR, the leader of which was Sir Joshua Hassan, and there were two independents who supported the view of the IWPB and that was my Honourable Friend Mr Peter Isola and Mr Solomon Seruya who is not here in the House today, but I am glad to say has become the Ambassador of Israel to

the Philipines. I think it is a great honour and I offer my congratulations to him - if I may say this en passant, Mr Speaker. It is a great honour for Gibraltar that a Gibraltarian to have reached such heights. But coming back now to the attitude - this is the important thing, the attitude - the same difficulties that we found at the Constitutional Conference we then found again when discussing this matter with the then Opposition. There was no give way. We presented the problem that there is no true democracy in Gibraltar unless we allow more people to stand for election. The principle in a very strict narrow view was that this was not possible because of the independence of the civil service. That above everything else. To hell with democracy, there might be a little conflict of view. But surely there are ways and means of finding a compromise and a consensus about this. I might say too that we had the Official Side against us and therefore unfortunately we have to go to the elections without enough time to be able to put this issue to the people of Gibraltar or in the form of a Bill in this House as my Honourable Friend has just said to prove that finally what is said in this House by the elected members should carry a lot of weight.

MR SPEAKER:

Yes, but we are departing again. I must call you to order. I would like to have merits and general principles of the Bill.

HON MAJOR R J PELIZA:

These are my general views.

MR SPEAKER:

Not on the Bill but on what should be done to the Constitution.

HON MAJOR R J PELIZA:

Mr Speaker, I think we have to clear this matter up.

MR SPEAKER:

No, not now. If you want to bring a motion you are free to do so.

HON MAJOR R J PELIZA:

What I say is that the Chief Minister has said that once.....

MR SPEAKER:

Whatever the Chief Minister has said is not the point at issue. The point at issue is the Bill.

HON MAJOR R J PELIZA:

Well, are we going to leave this House under the impression, Mr Speaker, that we haven't got more democracy or that people will not be able to stand for election at this coming election simply because the British Government have blocked the way or is it because we haven't tried hard enough? I think it is a matter that needs clearing up.

MR SPEAKER:

Perhaps it is a matter which the Opposition may wish to raised by way of a motion. I have to apply the rules strictly. If I were accused that I have not been liberal then would be accused unfairly. I have been as liberal

as I can but I am going to start drawing the line. At this particular juncture you are out.

HON MAJOR R J PELIZA:

Well, Mr Speaker, obviously I bow to your ruling but it rather cuts my flow. I am sorry I cannot express views which which I think are appropriate just before the coming elections when I do hope that this becomes an election issue because I have no doubts that people who think and know about this will realise how outrageous it is that after 4 years of this Government we should be given the excuse that all we can do is restore the situation prior to the Constitutional Conference in 1968. In fact, as my Honourable Friend says, we are not even going anywhere near it. For instance the employees of the City Council who were free then are not free now. They will have to resign. The excuse is, Mr Speaker, that now they come under the Government but before they were in the City Council. The functions are the same but the employer is different. We have had the example of the Honourable Albert Risso who I think made great contributions in this House representing his class and his interests. He had to sacrifice promotion notwithstanding that his boss happened to be the Chief Minister at the same time and so there was a conflict of interests, the Mayor, the Chief Minister and the City Council employee. And things went on without any apparent clashes of difficulties. I honestly believe that the Government is making too much of this independence of the Civil Service. I think we all agree there are certain grades that of course should not be able to carry on in Government employment and at the same time serve in this House. But let us go all the way and say it is so, we should have the independence on the Civil Service.

A Government which is really keen in enlarging the enfranchisement of the electorate for this purpose would have found another way out in time for the Bill such as perhaps allowing a person to stand for election with payment, working out a reasonable allowance in case he had to go if elected, assuring him reinstatement in his employment either if not elected or after he left this

House. All those things could have been done.

HON CHIEF MINISTER:

If the Honourable Member will give way. Those are the provisions which were in the submission which was sent to the United Kingdom on the part of the AACR, all those, I don't know what his recollection is of. the 1972 meeting, but I can assure him it is in the August, 1973, submission they were what they are now.

HON M XIBERRAS:

Mr Speaker, is the British Government then not agreed to these proposals? Could the Chief Minister say that?

MR SPEAKER:

No, no. We are not going to have the Chief Minister being given way by someone and then the Chief Minister giving way to someone else otherwise we will start the debate again.

HON MAJOR R J PELIZA:

I think the question, Mr Speaker, is when the Chief Minister went for this Bill did the British Government object to it? The answer obviously, I suppose, is no.

HON CHIEF MINISTER:

I said we had to have what we had before.

HON MAJOR R J PELIZA:

But surely I think, Mr Speaker, in a matter of this

importance, and it wasn't right in my days when obviously the election was unexpected - certainly I did not expect to go back to the people so quickly for circumstances of which we all know - surely on a matter of this importance with the Government and the Chief Minister belonging to an association which has so much respect for civil rights, surely, he should have seen ahead and said: "Well, time is getting short, there is only one year to go. If I can get something out of this let us get the Opposition together, let us have a delegation, let us see the British Government, let us approach the Members of Parliament." I have no doubt that if I were to write to some Members of Parliament today telling them what has happened there would be questions in the House of Commons. Of course there would be questions in the House and some officials would have had to move to get this through because this is anti-democratic and it is incredible that it should happen in a Government which holds the cradle of democracy, it is impossible. I don't believe that this has gone high enough. I don't believe that there has been enough pressure and I do believe that much more pressure should have been brought to bear. And for that I think I hold the Chief Minister responsible. He has not done enough and it is no use here to try and clear his conscience by saying: "Well, rather than have nothing at all let us go back to what we were before." But, he added: "If you don't agree, abstain. I will not even bring this back to the House." And this is why I said before in this House that the Chief Minister was pointing the pistol at his head.

HON CHIEF MINISTER:

I think it is less than fair to say that. It was done in a perfectly frank way. I said: "I intend to do this, will you agree with it, if you don't agree with it I will not bring it." The Leader of the Opposition said: "We will not oppose but we will abstain." I said: "In that case I don't mind bringing it and please think about it." There was no pistol at all. The Leader of the Opposition could have said that he opposed it and the Bill would not be here today.

HON MAJOR R J PELIZA:

This is precisely the point.

MR SPEAKER:

We are not going to debate the reason why the Bill was brought.

HON MAJOR R J PELIZA:

And so we find ourselves heading for another important election. An election which is going to decide the future of Gibraltar at a very critical stage in changing times and, tragically, so many people are being deprived of the right. We can always make sacrifices. We all know that my Honourable Friend Maurice Xiberras had to make tremendous sacrifices. We all know that he got a bloody nose and perhaps two black eyes.....

MR SPEAKER:

Again this is not relevant to this Bill.

HON MAJOR R J PELIZA:

I think we have to point out the consequences of this.

MR SPEAKER:

The consequences are that some people who would like to stand for election will have to make the sacrifice of having to resign. But let us not go into repetition as to who did it before because we have heard it all.

HON MAJOR R J PELIZA:

Mr Speaker, we have another example of this House, our Honourable Friend the Minister for Labour followed in Mr Xiberras' footsteps. He didn't get black eyes and a red nose because he managed to get in here. And if this is the way that we must carry on before we have two representations in this House I think it is really below the pride of the Members of this House and I think it is time that we took issue with this seriously and, if necessary, in coordination between Government and Opposition, and we should again knock at the door of the British Government and see what can be done. I don't think it is too late. We still have until July. If the Honourable Chief Minister really means what he says it is not too late to organise a delegation to the British Government, it is not too late to approach Parliament, if there is no result from there and it is not too late to do what my Honourable Friend Joe Bossano has said, i.e. introduce a Bill saying what we want and if that is rejected from the House let everybody know that this has been rejected, not by the elected members of Gibraltar or even perhaps by the Governor, but by some member of the British Government, some official perhaps in the FCO. This I think is the strong attitude that this House should take and I commend to the Chief Minister that if his feelings are as sincere as they appear to be, to take that sort of action.

HON M K FEATHERSTONE:

I will be very brief, Sir, and I will try and speak completely to the Bill and not go over everything else like the Honourable Major Peliza has just given us. It appears that the Opposition has made considerable use that only 72% of the male working population are at the present moment unable to stand for election. Here is an opportunity for that 72% to be reduced, I calculate, to something around only 30%. Perhaps, too many, I quite agree.

HON MAJOR R J PELIZA:

If the Honourable Member will give way.

MR SPEAKER:

No, I will not have a single interruption from now on.
I am sorry.

HON M K FEATHERSTONE:

At least this is a very good step in the right direction. Perhaps the only weakness in the Bill is that the position as it was in 1969 is not being fully restored because people who were then in the City Council could stand for election and today due to the perhaps fault of the last Government we have no City Council any more, the merger perhaps did not bring all the benefits that we were promised and this of course is one of the benefits that we would not have got. But, Sir, it does appear to me that the way the Bill is framed at the moment it is enfranchising a considerable number more and although perhaps not as much as we would want in the long run it is a good step at the moment and I would suggest to the Opposition that it is far better not to follow the Spanish proverb: "Better blind than one-eyed." This will make the body politic at least one-eyed. Reasonably well sighted it is a step in the right direction and we can go further next time.

MR SPEAKER:

I will call on the mover to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I do not think I wish to reply. The matters

which have been aired do not, as I understand it, deal with the actual provisions of the Bill.

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

Hon A J Canepa
 Hon M K Featherstone
 Hon Sir Joshua Hassan
 Hon Lt Col J L Hoare
 Hon A P Montegriffo
 Hon A W Serfaty
 Hon J K Havers
 Hon A Collings

The following Honourable Member voted against:

Hon J Bossano

The following Honourable Members abstained:

Hon Miss C Anes
 Hon P J Isola
 Hon Major R J Peliza
 Hon M Xiberras

The following Honourable Members were absent:

Hon I Abecasis
 Hon L Devincenzi
 Hon W M Isola
 Hon H J Zammitt

The Bill was read a second time.

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a later stage of this meeting but not before the 7th June.

The House recessed at 5.30 p.m.

The House resumed at 6.00 p.m.

COMMITTEE STAGE

HON. ATTORNEY-GENERAL:

Mr Speaker, I beg to move that the House should resolve itself into Committee to consider the following Bills clause by clause. The Christian Brothers Property Bill, 1976; the Stamp Duties (Amendment) Bill, 1976; the Criminal Offences (Amendment) Bill, 1976; the Infants (Amendment) Bill, 1976; the Maintenance (Amendment) Bill, 1976; the Medical and Health (Amendment) Bill, 1976; the Income Tax (Amendment) Bill, 1976, and the Family Allowances (Amendment) Bill, 1976.

The Christian Brothers Property Bill, 1976.

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

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

The long title was agreed to and stood part of the Bill.

The Stamp Duties (Amendment) Bill, 1976.

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

The long title was agreed to and stood part of the Bill.

The Criminal Offences (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 Infants (Amendment) Bill, 1976.

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

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

The long title was agreed to and stood part of the Bill.

The Maintenance (Amendment) Bill, 1976.

Clauses 1 to 7 were agreed to and stood part of the Bill.

The long title was agreed to and stood part of the Bill.

The Medical and Health (Amendment) Bill, 1976.

Clause 1

HON ATTORNEY-GENERAL:

I would like to make an amendment to clause 1. I beg to move that clause 1 of the Medical and Health (Amendment) Bill, 1976, be replaced by a new clause as follows -

- | | |
|---|--|
| <p>"Short title and commencement.</p> | <p>1. This Ordinance may be cited as the Medical and Health (Amendment) Ordinance, 1976, and subject to the provisions of subsection (2) shall come into force on publication in the Gazette.</p> <p>2. Sections 11, 13, 14 and 17 of the Ordinance shall come into force on the 1st September, 1976.</p> <p>3. Any regulations made under section 46 of the Medical and Health Ordinance, 1973, as incorporated in that Ordinance by section 11 of this Ordinance, may, if made before the 1st September, 1976, be expressed to be made under the said section 46 but shall not come into force until on or after the 1st September, 1976."</p> |
|---|--|

Mr Chairman, the Bill envisages the concept of a general sales list which will only allow certain specified

medicinal products to be sold other than in a pharmacy. There may well be shops at the moment which are selling goods other than those which are going to be on the general sales list and the Honourable the Minister for Medical and Health Services has given an undertaking that shops which have got these will be allowed to dispose of them. For that reason it is considered appropriate that the main sections of the Bill shall not come into force until the 1st of September but that at the same time we will publish within the next two or three weeks the general sales list. That itself shall not of course come into force until the 1st of September but shops will know to what they are going to be restricted on and after the 1st of September. It gives them a breathing space to get rid of the stuff they cannot sell thereafter rather than putting them out of count at the moment.

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

Mr Speaker then put the question which was resolved in the affirmative and new Clause 1 was agreed to and stood part of the Bill.

Clauses 2 to 22 were agreed to and stood part of the Bill.

The long title was agreed to and stood part of the Bill.

MR. SPEAKER:

I would like to come back to the Infants Bill and perhaps seek further clarification. There isn't a Schedule in my view. What section 6 does is a consequential amendment and section 6 reads -

"The enactments specified in column 1 of the Schedule are amended to the extent specified in column 2."

Now, if there is another Schedule then the Schedule here should read Schedule 2. I would like a clarification because what Clause 6 refers to is one particular Schedule

which is not being repealed and then you are adding another Schedule. Am I wrong?

HON ATTORNEY-GENERAL:

Mr Chairman, it is a Schedule to this particular Bill and Clause 6 says:

"Enactments in the Schedule are amended to the extent specified therein."

MR SPEAKER:

I am sorry but I am still not clear. Let us take Clause 6 first. What does Clause 6 do?

HON ATTORNEY-GENERAL:

It provides that enactments specified in the Schedules of the Bill are amended.

MR SPEAKER:

Then why provide a Schedule which needs amendment?

HON ATTORNEY-GENERAL:

Because they are amendments to other Ordinances and the format, in fact, which I have adopted here was the same format as they adopted in the United Kingdom when they introduced this particular legislation.

MR SPEAKER:

I am trying to clarify to make sure that you are achieving your object and nothing else. This is something which I have raised out of context but I want to make sure that you are achieving your object. If you are happy that that is the case then I am happy.

THE INCOME TAX (AMENDMENT) BILL, 1976

Clause 1 was agreed to and passed.

Clause 2

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, may I deal first of all with a specific question which the Honourable the independent Member asked in relation to this particular clause in respect of the cut-off point, I think, in the United Kingdom. I am advised that in the United Kingdom the single person's allowance is £1,010. The married person's allowance for a spouse over 65 is £1,555. Then there is provision that when the income exceeds £3,250, the allowance is reduced by £2 for every £3 of the excess over £3,250 until the normal personal allowance is reached, that is, £735 for a single person and £1085 for a married couple. The cut-off point which has been worked out for me is therefore £3,413 if the individual is a single person and £3,705 if it is a married couple. Now, Sir, with your permission, Mr Chairman, and the consent of the House, I would like also to answer the question that the Honourable Lady asked although it is not, I must say, strictly relevant to the particular Bill. She asked about the position of a working wife. The position, I am advised, is this. If the wife opts to have her income aggregated with that of her husband, the allowances will be all, of course, payable by the husband. He will get the married person's allowance plus a further allowance for his wife's earned income which is the same as a single person's allowance. If on the other hand she is treated as a single person and taxed in her own right, then the husband's allowance will be the married person's allowance and she will get the single person's allowance. This is undoubtedly an incentive, as it was intended to be, for wives who are able to do so and wish to do so, to take up employment.

HON AJ CANEPA:

Sir, there is a point which I think the House might find of interest. Bearing in mind that social insurance pensions, that is old age pensions, are not taxable, a couple over the age of 65 could have a total income of £2,020 which is very nearly £40 a week without paying any income tax. That income would be made up of £1370, which is the relief accorded under this clause, and about £650 which a couple at the rate of £12.50 a week old age pension would currently get. In the case of a single person over the age of 65, he can have an income of £1270 which is about £25 a week made up of £870 relief allowed under this clause and an additional £400 from a social insurance pension. So I think, Mr Chairman, that I am sure the House will note that persons over the age of 65 having reached retirement age, are rather generously treated for income tax purposes.

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

Clauses 3 and 4 were agreed to and stood part of the Bill.

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

THE FAMILY ALLOWANCES BILL, 1976

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

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

THE HON ATTORNEY-GENERAL:

Mr Speaker, Sir, I have the honour to report that the Christian Brothers Property Bill, 1976; the Stamp Duties (Amendment) Bill, 1976; the Criminal Offences (Amendment) Bill, 1976; the Infants (Amendment) Bill, 1976; the Maintenance (Amendment) Bill, 1976; the Medical and Health (Amendment) Bill, 1976; the Income Tax (Amendment) Bill, 1976, and the Family Allowances (Amendment) Bill, 1976 have been considered in Committee and agreed to, in the case of the Medical and Health (Amendment) Bill, 1976 with amendments, and I now move that they be read a third time and do pass.

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

The Bills were read a third time and passed.

MR SPEAKER:

I think perhaps it would now be an appropriate time to recess until tomorrow morning at 10.30 when we will start with the Private Members Motions, which is the only matter left on the Order Paper.

The House recessed at 6.15 pm

THURSDAY THE 20TH MAY, 1976

The House resumed at 10.30 am.

PRIVATE MEMBERS' MOTIONS.

HON J BOSSANO:

Mr Speaker, I beg to move the motion standing in my name, namely, that this House calls upon the Government to state clearly its views on the Morgan Report on the salaries of top civil servants and to further state whether it proposes to implement the recommended increases.

Mr Speaker, the Morgan Report has been in the possession of the Government since late December and in answer to a question of mine in a previous meeting of the House, the Chief Minister made it quite obvious by the way that he replied to the questions, that a policy decision had been taken not to proceed with the implementation of the recommendations contained in the Morgan report or indeed to give any indication as to whether it was intended to implement such proposals or not until the rest of the labour force had taken a decision on their own pay. I distinctly remember the Honourable Minister for Labour talking about the tail not wagging the dog, although in this case of course it is a very thin dog with a very fat tail that we are talking about. Now, we find ourselves in a situation where the bulk of the labour force has, in fact, settled the basic pay dispute which has been the result of protracted negotiations since last November, and therefore the Government has got absolutely no excuse, if ever that was an acceptable excuse which to my mind it wasn't, Mr Speaker, but it has no longer even that excuse for its continued silence on what its views are regarding the Morgan Report. There has been a considerable amount of comment on the recommended increases in the press but there has not been any detailed analysis of the Report or any criticism of the Report based on the very considerable number of flows and inconsistencies that it contains. I certainly think the House is owed an explanation from the Government whatever the Government's intentions are on the Report. Having had the Report for such a long time and having been able to study it in depth, it is inconceivable that the Government should not have come across all the many flows and inconsistencies that there are in it and I am sure that they must have found at least as many as I have done and probably more. But I will not deprive them of the opportunity of telling the House I shall just, Mr Speaker, in my closing contribution to the motion make up for all the ones that they miss out. I am sure the Government would much prefer to tell the House why the Report in fact needs to be rejected in view of all the many inaccuracies there are to be found in it. My surprise, Mr Speaker, is that it has taken the Government such a long time to find them because they are not very difficult to find, they are quite obvious. The Government will by its attitude today indicate whether the Report can be considered by outsiders as something which the Government itself has engineered or whether it is in fact the result of somebody coming out from UK and coming to his own conclusions. Let me say, Mr Speaker, that I myself belong to the school of thought that think that the Government has engineered it - to eliminate any possible doubt - and I think they have engineered it, Mr Speaker, because as I think I have mentioned previously in the House, the situation that we have here as we discovered in answer to one of my questions to the Honourable the Financial and Development Secretary, is that when Mr Morgan arrived in Gibraltar with a brief to look at certain posts in the civil service he was handed a fait accompli because as he says himself in Chapter 2 of the Report, "it was decided that the posts in that scale should be graded as follows" and this refers to Scale 7, the A & P posts, which are below the posts that Mr Morgan was supposed to look at. Therefore, Mr Morgan was not given the freedom to look in any direction as high as he wanted and as low as he wanted for comparisons in the UK. He could only look up because the floor was provided for him by the Government and he says this quite clearly. He says: "Upon this determination of Government, the lower

limits of salary points for consideration by the Commission automatically became £4,150 for 1974 and £4,280 for 1975". And indeed, Mr Speaker, right there the inaccuracies start appearing. The mathematical equations are inaccurate right from the beginning, right from the floor that Mr Morgan found himself provided with. Now, I believe, Mr Speaker, that what we need in Gibraltar is to pay people well and to get in exchange for that value for money and that this has got to be applied throughout and that it must be seen to be applied throughout and that unless, in fact, it is seen to be applied throughout it cannot be applied anywhere because nobody will agree to demands being made on him if he thinks the same demands are not being made on another group. And if we demand efficient service and pay high wages I am convinced that Gibraltar's economy will flourish and that the business of Government will be run well and efficiently. But I do not think that this Report points in that direction. The report, Mr Speaker, is ostensibly the baby of Scamp. I believe one particular newspaper, I cannot remember which one it was, called it that "the baby of Scamp". Well, of course, it isn't the baby of Scamp, it is the illegitimate child. Illegitimate, Mr Speaker, because it was born out of wedlock, I am afraid, Mr Speaker. Because the report contains two serious deficiencies. First of all that it has a floor whereas no floor has been provided for anybody else in the public service to my knowledge and, secondly, the only other floor that other workers have had to contend with has been the floor of mark time basis, they could not get less than they were already earning. But in the case of these posts Mr Morgan was precluded from suggesting anything below £4,270. Whether that is too high or too low is immaterial, the point is that he was precluded from suggesting anything below that and that, in fact, for some reason which he makes no attempt to justify he decided that the differential between his lowest recommendation and the £4,270 should be of the order of some £300 so that the minimum point on the scale he recommends becomes £4,600 because he considers without saying why he considers that this is so that this is the order of differential that there must be. But no explanation is given as to why that differential is required and no attempt is made to refer this size of differential to anything in the United Kingdom. In fact Mr Morgan says that he cannot find in the report appropriate analogues. Now, since everybody else in Gibraltar in the public sector has had to accept - some less willingly than others - a change in relativities because the relativities that existed in Gibraltar previous to the introduction of the principle of parity was different from the relativities that existed in the UK in very many cases, what justification is there for saying that the relativities at the top must be retained? Is it, in fact, that by some miraculous coincidence the Government have established for the lesser grades the UK relativities all these years without knowing it and now that they have looked to UK they find that the existing relativities are the correct ones. That the position of the Postmaster vis-a-vis the Superintendent of Telephones is exactly the same in UK as it is in Gibraltar and that therefore there is no reason for altering the position of one relative to the other because they are both equally classed in UK and they have always been equally classed in Gibraltar and therefore the groups must say the same.

There is no indication that this is so because in fact for some peculiar reason Mr Morgan was unable to find an equivalent in UK. He couldn't find an equivalent for the Postmaster in UK. I don't know how the postal services are doing these days in UK, Mr Speaker, perhaps the Honourable and Gallant Major Peliza can help us there and tell us how they are managing with postmen and postal high grades and postal executives but no Postmasters, there are no equivalents in UK. He couldn't find one, Mr Speaker, and he couldn't find an equivalent for the Superintendent of Telephones and in both these cases he introduces new concepts which certainly are not mentioned in the Scamp Report and I would certainly like to know from the Government since I have accused them on innumerable past occasions of discriminating its favour of one group of workers and against another and in particular of discriminating in favour of non-industrials in their interpretation of the Scamp recommendations, I would like them to say whether they consider that the concepts that Mr Morgan introduces in his report are valid concepts and whether they are valid just for the officers

mentioned in the Morgan Report or whether they are valid for everybody and I am referring specifically to the hybrid and portmanteau concepts mentioned by Mr Morgan which are either intended to blind us with science or intended to justify the unjustifiable. Now I think the Official Employers have taken a particularly hard line in their negotiations with industrial workers and I am glad that the industrial workers decided by a majority to accept the pay because I think it would have been bad for Gibraltar if we had had a major industrial action. But I still believe that the decision of the Official Employers that the Scamp recommendations meant rigid comparison with UK where each worker has been provided virtually with a job description - and there are 4,200 of them - and that job description matched to a UK job description in order to establish what the accurate banding should be that, Mr Speaker, to me seems a peculiar way of interpreting the recommendations made by Sir Jack Scamp on page 50 of his Report where he says: "I recommend that as a guiding principle the parties should aim to establish a more stable relationship between the Gibraltar and the UK wages and salary rates. Such a Gibraltar rate approximate to 80% of the UK rates for corresponding grades of employees. I emphasise at once that within this formula some element of flexibility could be retained to take account of local circumstances where this is in accordance with the wishes of both parties." Well, it has not been in accordance with the wishes of the employers and the Union, in an effort to meet the wishes of the employer, has accepted a rigid matching of jobs with UK and the only flexibility that it has demanded in exchange has been that this rigidity should not be imposed overnight, that the rigidity should be placed in. That if we have a man on Band 14 and the employers insist that that job is Band 4, then at least that we agree to do the movement over a period of time and not overnight. That is the only thing that the Unions have got in exchange for their contention that there is a great discrepancy between the Scamp recommendations and what the employers are saying. This flexibility, in fact, which Scamp recommends I think

is very obvious in the whole tenor of the Morgan Report and indeed as I said this concept of a hybrid post which the Morgan Report makes great play of I would from the Government an indication of whether they consider this to be a perfectly valid way of comparing jobs in Gibraltar with UK and whether they consider it is perfectly valid for everybody. Whether I can also talk about hybrid posts when I talk about street watchers / road sweepers in the JIC because there are two jobs and it is done by one person so if that is a hybrid post then does that merit special consideration or are only the hybrid posts at a particular level considered to be worthy of a special payment to make up for the nature of the hybrid post. And the other thing is of course this question of the postmanteau posts where there are responsibilities that go beyond what is the analogue in UK. Again the Morgan Report notwithstanding the fact that Mr Morgan claims he cannot find UK analogues, uses this question of the post being a postmanteau one to justify a wage which in any case is irrelevant because if there is no analogue it does not make any difference whether the job description here or the responsibility here are greater or smaller than what they would be in UK because there isn't supposed to be a UK equivalent anyway. And so using that, Mr Speaker, we find that the Commissioner of Police is supposed to have responsibilities for immigration, marine and Special Branch which are not contained in the UK post and which are sufficient to compensate for the fact that the post referred to in UK is that of looking after a population of 90,000 sufficient to compensate for that and more, that is, that that makes the 90,000 analogue too low because of immigration, marine and Special Branch. Well, I would certainly like to know when the House comes to vote the money how much we are paying for immigration, marine and Special Branch, because if the cost of that is an added consideration in the remuneration of the Head of the Department then I think the House would like to know to what extent that recommendation has been justified by referring to it and how much of his time it takes up. The Honourable the Financial and Development Secretary will recall that I asked him when we were discussing the estimates how much of his time he spent as Commissioner for Currency and a number of other duties which were specified on different pages of the estimates because it looked to me very much as a trade unionist as if he was preparing his pay claim with all his remarks in the columns telling us all about his multiple duties. I think the hybrid post concept may justify a slight improvement what would otherwise be justified but one can hardly claim that because a person occupies 50% of his time on one particular function and 50% of his time on another particular function, there is a great deal more work being done that needs to be paid more because obviously if there isn't enough work to occupy him 100% doing something, then his time has got to be split up 50/50 to two jobs. And one would only, I think, be justified in special treatment where the two jobs were so different that they required a versatility of skills which meant a great deal more in terms of training and qualification. This would hardly, for example, apply Mr Speaker, to the functions of the Registrar of the Supreme Court who is Registrar of Companies, Births and Deaths. Presumably he does the same thing to register a birth as he does to register a death and if there are more births than deaths then he is going to spend more time registering births than registering deaths. The only thing we can do is kill a few more people to ensure that the balance is restored. But it hardly justifies additional payment because it isn't the same as being for example, Superintendent of Telephones and Postmaster which is a role

that is combined in UK where the telephones are part of the GPO and in that case one could argue that the person in charge needs to have a technical knowledge of the postal side and a technical knowledge of the telecommunications side. But in UK it wouldn't be considered a hybrid post because it would be a normal thing and in Gibraltar we haven't been able to find an analogue because there instead of having a hybrid of course we have got something that presumably we will have to coin a new word for because it is the converse of a hybrid. We have got somebody employed on less than they would be employed in UK at that level. Unless, of course, we are comparing the Postmaster with what would be known in UK as a Crown Postmaster responsible for something like a small town or village Post Office which are not very many in number but for which there is an analogue one that I might say would not look very attractive to the occupant of the post in Gibraltar, no doubt that is why it has not been found. But I have the information, Mr Speaker, if the Government has difficulty in obtaining information on the analogues, in an effort to help. I think, Mr Speaker, that Mr Morgan must have been misled certainly in some of the remarks that he makes because he mentions e.g. in the case of the Postmaster he talks about the fact that no special qualifications are required for the post, it carries responsibilities which is normally of a routine nature but the holder of the post needs to have a wide knowledge of international postal law procedure and organisation. Now, I do not know how we go about providing the occupants with this wide knowledge of international postal law. I imagine the previous occupant, Mr Hoare, a man who had very many years in the Post Office, must have acquired that knowledge through being there but he certainly did not start with it. And I imagine the person who started now knows nothing at all not only about international postal law he does not know anything at all about local postal law. He has never had anything to do with it, he has just been put there from another department because this is the way that we organise our civil service where we move persons from one department to another. But one can hardly justify a salary for an occupant who is recruited to a post to be trained with no knowledge at all on the basis of the knowledge that the job requires because if it is important to have knowledge of international postal law, procedure and organisation I would have thought that it was vitally important that in future all Postmasters should rise from the ranks and then they can start off as postmen and eventually get to Postmaster as indeed they can in the GPO in UK and in smaller places like Jersey and then through their long service in the Post Office acquire this knowledge of postal law which is considered sufficiently important by Mr Morgan to be virtually the only remark that he makes to justify his recommendation. Because we cannot expect somebody who comes from the Housing Department or from the Treasury to have any knowledge at all of postal law. And if we have to train him for the job then we certainly cannot use what he is expected to learn as justification for paying him while he is learning because he may not succeed in acquiring that postal law, he may spend all his life there and never get it, and then what? We would have been paying him for nothing, Mr Speaker, out of hard earned

money that other people have had to contribute in taxes. So it is very important that we do not make mistakes. Now, one of the other arguments used in the recommendations, and these are all arguments, Mr Speaker, that I am putting because I am calling on the Government to state clearly their views on the Morgan Report and therefore I am stating some of my views and I shall retain some of the others for later on.

HON CHIEF MINISTER:

If the Honourable Member would give way. I would be grateful if he would deploy as much of the argument as he can now because nothing that he says at the end of the debate is going to have any effect, in practical terms,

HON J BOSSANO:

Well, Mr Speaker, that encourages me now to think that anything that I say now will have some effect.

HON CHIEF MINISTER:

Eventually, perhaps.

HON J BOSSANO:

Ah, well, I am encouraged to deploy more arguments, Mr Speaker. I think, Mr Speaker, something else that I would like the Government to look at is the question of the recommendations made at the end of the report for the 1976 Review. And there, there is a complete departure from Scamp and it is quite extraordinary that that departure from Scamp should be explained away by Mr Morgan on the argument that to do otherwise could give unprecedentedly high increases to public servants in this group. He says that if in fact the officers in the group were allowed to proceed after 1975, which increases related to increases that take place in their equivalents in UK, they could get large increases which would place a very difficult burden on the Government. Well, of course, Mr Morgan was talking through the back of his head. Mr Morgan knows very well that there is a pay policy in UK and that the officers in the UK are going to get a flat rate of £6 a week provided they are below £8,500, he knows that. So there is absolutely no danger of anybody in this group in UK getting too high an increase. Not now, Mr Speaker, that is not in 1977 and not in 1978 because in 1978 we know that there is an even tighter limit than in 1977 and after 1978 nobody knows what is going to happen because the Morgan Report only makes recommendations as far as 1978 because it is supposed to be the consequence of Scamp and Scamp only makes recommendations as far as 1978. So there is absolutely no danger of there being higher increases than he recommends in 1977 and 1978 but there is a certainty that the 76% of UK would produce less than he recommends. That is a mathematical equation, there is no doubt about that. 76% of the PTO scale, the 4% more plus

the 76% of £6 would produce less than this introduction of a new Grade 10 with the £350 differential above which the Grade 9 would be with another £350 on top so that the chap in Grade 10 which does not exist would get £350 more than the £6 limit which the PT0+ would get, and then the chap on Grade 9 would get £50 more than that because he has now got a differential of £300 between the PT0+ and himself. And this extra differential would keep on working itself up the scale. And Mr Morgan knew when he wrote the report about the £6 limit, so he knew that the argument that he put in the report that to allow salaries at the top to be determined by what would happen to UK analogues would give too much, was totally false. And that is not the only thing that is totally false in the report, Mr Speaker. Another thing that is totally false in the report is the statement at the end in paragraph 13 on Chapter 8 that the final comment to be made on the size of the increases is that they cannot be regarded as excessive if account be taken of the exclusion of senior civil servants from the 1972 pay review. But of course if account is taken of the exclusion of civil servants from the 1972 pay review, these increases would not be considered as excessive as they look. But of course the civil servants were not excluded from the 1972 pay review. The civil servants in 1972, the lettered grades, had an increase, Mr Speaker, which was of around £490 to £480. The group F went up by £470. Group A went up by £491, Group D went up by £481. The industrial workers had £1.85p a week and even with COLA the increase at the top is still two and a half times the increase at the bottom because COLA then was about £1. £2.10 I am told. Well, Mr Speaker, that makes it still over twice as big. And to me to get an increase at the top twice as big as at the bottom is not to exclude the people at the top. So they cannot be considered to have been excluded. And I think another interesting statistic, Mr Speaker, is that the top 30 civil servants cost Gibraltar in 1970 £64,197 which according to Mr Morgan was the last time their salaries were looked at. And on the basis of his recommendations they would cost Gibraltar now £182,230, namely, an increase since 1970, of 284% which in fact, Mr Speaker, no industrial worker has had - I do not know whether any other group of workers has had an increase of this magnitude but certainly I can assure the House that no industrial worker in Gibraltar has had his salary increased since 1970 - and I am going back to 1970 in both cases because Mr Morgan says their salary has not been looked at since 1970 - an increase since 1970 of the order of 284%. So I think the House will be interested to know what the magnitude of the cost of the top echelon is and was on the basis of the figures recommended here. Another interesting feature, Mr Speaker, of the Morgan Report is this casual rounding off where Mr Morgan e.g. produces figures for the groups which are supposed to be 70%. Now, if one gets those 70% figures and one works them back to produce the 100% figure, then e.g. one gets that in Group 6, Mr Speaker, there is a recommendation of £5,550 and this is supposed to be 70%. Now, if this is supposed to be 70%, Mr Speaker, it follows that 100% must be £7,929. But then if 100% is £7,929 it follows that 72% is £5,708. But, of course, it is an untidy figure £5,708 so what Mr Morgan does is he rounds it up by £292 a year - I only wish he had done the same for the industrial workers, they would have had a very handsome increase if everybody's wages had been rounded up by an extra £292 a year - to produce £6,000 which in fact is not 72% of the base figure but 76% of the base figure. No attempt is made anywhere in the report to explain or justify this. I am sure the

Government must have noticed this in their close scrutiny of the report over the last six months, and of course I am sure the Government must be grateful for the fact that notwithstanding that the Trade Union Movement were advised of this discrepancy a very long time ago they decided that they would not use this to insist on 76% for everybody. I am sure the Government appreciate that, because it could have been used, of course, Mr Speaker. I think, Mr Speaker, that I have covered my major misgivings about the report. I may say that the whole thing as far as I am concerned seems to start from the wrong premises (a) because it provides insufficiently detailed justification for its recommendations, it attempts to retain existing relativities and I think that whether direct analogues in UK produce higher or lower rates than are recommended by the Morgan Report, if in fact the basis had been direct analogues with UK, there would have been less ground for complaint whether the increases turned out to be still as unpalatable. Because after all, Mr Speaker, I think the Government has got at its disposal the taxation system to rectify very great anomalies in income if it wishes to do so and therefore if at the gross income level we find that the percentages produced higher net figures for some groups than for others, then the Government can do something to rectify it because as Mr Morgan says he was not allowed to take such differentials into consideration. Now, in fact, as we know at the level of £8,000 to £10,000 the UK tax system is quite penal and therefore if we work out net figures the percentages look quite different. I also think, Mr Speaker, that the House would like to have some clarification from the Government as to what is the position of UK-recruited officers in the service who get special allowances and accommodation and things like that on top of their salary and whether, in fact, these things are taken into account in any revision of salary that may result from this or whether in fact this has absolutely no bearing on their remuneration. Mr Speaker, I commend the Motion to the House.

MR SPEAKER:

Then I will propose the question which is that this House calls upon the Government to state clearly its views on the Morgan Report on the salaries of top civil servants and to further state whether it proposes to implement the recommended increases.

HON. M. XIBERRAS:

Mr Speaker, I think I should because of the nature of the motion, contribute at this stage so as to put forward our general support of the motion which essentially seeks clarification of the Government's attitude in relation to the Morgan Report. Mr Speaker, I have no doubt that following the wage review and the recommendations of Scamp it was impossible not to have an exercise similar to that which has been performed at the invitation of the Government by Mr Morgan. The Scamp recommendations, whatever the parentage might be, have been very influential on our wage structure and have introduced a principle which was bound to have an effect on the higher echelons of the civil service. Therefore that there should have been an exercise by someone to look at these higher

posts was to my mind inevitable. Unfortunately, Mr Speaker, as with most of the negotiations and the period of gestation surrounding Scamp and, by extension, Morgan, the climate with regard to a clear looking at the major principles involved both in Scamp and what turned out to be the Morgan exercise, was hardly a reasonable one and hardly one in which big decisions could be taken - and there are big decisions - could be taken with equanimity, with serenity and for the lasting good of Gibraltar. That formulae have come out of the Scamp Report which we hope will be of lasting value and that that the general recommendations of Morgan may be of lasting value I think are no tributes, if I may say so with the greatest respect, to Honourable Members opposite who were forced into an acceptance of a principle they found repugnant after considerable upheaval in Gibraltar and by consequence were forced into this kind of revision of the salaries of the higher civil service. I detect, therefore, in what the Honourable Mr Bossano has had to say, the feeling of resentment which people who have been involved in long industrial action and long protracted perhaps unnecessarily protracted negotiations on the Scamp Report must feel, the feeling of resentment they must feel when faced with increases of the order which Morgan proposes. I am also aware or would be surprised if the Government, especially the Honourable Mr Montegriffo, were not suffering from acute embarrassment in this debate because in 1970 - the Honourable Mr Bossano mentioned the date - in relation to what was done then in respect of the higher civil servants the Honourable Mr Montegriffo came out with the much quoted cry of "the Government of the day has cheated the workers". I do not know how he or his colleagues justify their acceptance of the Morgan recommendations as a whole or if they are not going to accept it then I am sure that the Honourable Mr Montegriffo's acute embarrassment must be shared by some of his colleagues. To have such a report on their hands at this stage must be a clear argument for rejection. But again we shall not know until later whether in fact the Government is rejecting this, Mr Speaker, I am not going to take the line taken by the Honourable Mr Bossano of analysing the report in detail. I do not hold with all the things that he has said but again there are several which I think are of general importance and go beyond a simple comparison of posts. I think the application of the universally accepted criterion of Scamp which should have been essential to the Morgan recommendations. I think that in this respect Mr Morgan has been a deviationist and that his deviation has, in fact, gone against, in a financial sense, the industrial worker and the general clerical grades as these clerical grades would have been treated according to a strict interpretation of Scamp. The differentials, the rounding off and so forth have been mentioned by the Honourable Mr Bossano and these things are bound to raise eyebrows after protracted negotiations amongst industrials and non-industrials. Mr Speaker, the lack of a rational climate in these two reports - I refer now to Morgan - has presented, to my mind, the general new look of the upper echelons of the civil service, and I would gladly hear the views of the Honourable the Chief Minister and Honourable Members opposite, which was undoubtedly due since the last look of the upper echelons service was taken in 1970 in relation with the - and I always forget his name - no, it was not Marsh - the Coutts Report, thank you, which was produced following or just before or during the constitutional talks which started the nuts and bolts of the Exercise. And therefore this opportunity where the relativities were going

to be anchored generally in UK, presented an excellent opportunity for dealing with the structure, standing and calibre of the upper civil service not so much as of now but as of the future rather than a simple look at the posts and a more or less arbitrary or not very closely argued set of figures. Mr Speaker, Mr Morgan makes reference to the need for reorganisation in Government departments but he says that it is not within his terms of reference to do this but that a look at the reorganisation of these departments would have been beneficial to the structure of the civil service before Mr Morgan took the plunge of his recommendations, cannot be doubted. Mr Morgan himself becomes a hybrid or perhaps a bit schizophrenic when he tackles the question of the Labour and Social Security Department. It was with great regret that I saw a downgrading there in respect of salary for the Director of Labour and Social Security but this was the result of Mr Morgan intimating that perhaps a certain reorganisation should take place. Now, it is rather unsure ground for a report of this nature when we are dealing with all the Heads of Departments, we are dealing with the top structure of the civil service at a cost of £281,000 and as Mr Bossano has I imagine rightly said, a 284% increase from 1974. It is a major development of the top civil service. Mr Speaker, I knew about Morgan only after his appointment, the Chief Minister told me about it. In that aspect of things which relates to the effect which Mr Morgan's salary recommendations would have had on the future structure of Government I would naturally in that broad sense have liked to have given certain opinions on this. I was told about it in connection with something else and there the matter rested and I am sorry that a more progressive step has not been taken by Mr Morgan probably because Honourable Members opposite and the Chief Minister were undecided about the changes which obviously need doing. Mr Speaker, I think another criterion for the acceptability of the report and one which the Honourable Chief Minister might tell us about or the Honourable Financial and Development Secretary or someone, is how acceptable it is to the people involved, I am not talking generally about the level of recommendations but I have heard certain very disgruntled noises not concerning the overall financial implications or benefits for the holders of the post but questions of status. There is, of course, the rather badly argued references to certain departments which are not at the moment manned by Gibraltarians. Now, this may be a chicken and egg situation that because of the importance of the department we have not had up to now people capable of doing those jobs, or the other way round. But, certainly, it is more than a coincidence that those posts which are not filled by Gibraltarians, have had higher salaries recommended and this is of course bound to be a bone of contention and I would welcome clarification from the Government especially from the Chief Minister who when in 1969 the previous administration appointed an outsider, Mr Martin from the UK, to be Director of Public Works, said in this House that Gibraltarianisation was essential and that he was sure that there were people who could do the job. I would welcome clarification of Minister's intentions now that salaries have been set or are almost set or on the point of being set, as regards the general approach in the context of the report to the Gibraltarianisation or the localisation of posts. Mr Speaker, my Honourable and Gallant Colleague, Major Peliza, often spoke of the need to pay doctors their true worth and this aspect of the report is welcomed on this side provided, again, that we get the necessary clarification from the Minister for Medical and Health Services as to how acceptable these sums recommended

have been to the doctors involved and which of the alternatives recommended by Mr Morgan for the doctors as regards their conditions of service have, generally, been accepted by the doctors. I think the community has to, whether it likes it or not, to pay doctors well; but, equally, it is entitled to a good return for that money, and we would like to see that situation got absolutely right, especially in the present circumstances. Mr Speaker, the Honourable Mr Bossano spoke about the Government's attitude that because they did not want the tail to wag the dog they would leave the acceptance of this or the negotiations and consequent information on the conduct of negotiations with acceptance or rejection for a later stage after the decks had been cleared of the other problems surrounding Scamp. Now, I can see no other reason for this than avoiding the embarrassment which I was referring to earlier bearing in mind what Honourable Members had to say in 1970. I can see it would be somewhat embarrassing for the Government, but these things of course, always are. However, I think that clarification of the position of the Government even at this stage and especially after the acceptance of the industrials, would be a reasonable request of Honourable Members on this side and I hope the Government gives as much of it as possible otherwise of course the result is further resentment against the general level of the recommendations which need not be and is not entirely merited. Mr Speaker, I said something about the general calibre of the service and I think that although we all must say especially those of us who have worked in Government and that includes I think all of us here who have worked with officials, that we are appreciative of the work that they do but no doubt this is the case in the United Kingdom as well and periodic reviews are carried out in the United Kingdom about the general standards, methods of recruitment and so forth in the service and I think we must not be in such a position here such as being so over sensitive as not to allude to these general considerations when discussing the salaries of civil servants. I think that the previous administration did its bit, perhaps not a complete exercise in the time available, but, certainly, we established the Productivity and Training Unit which was supposed to go somewhat higher up the grade than it is doing as I understand at present, it invited recruitment and the first recruits are already in post and it was generally concerned in granting scholarships and so forth for the strengthening of the civil service. Not for a moment, Mr Speaker, do I mean that those who have not been able to take advantage of these methods of recruitment and training are not worth their salt now. This is a continuing process which I in my profession as teacher have to face and which everybody has to face for the betterment of the body politic. I think it is the responsibility of the Government not to contemplate high expenditure of this nature without a thought for the future and without a thought for the demand which a more complicated future will make. And therefore perhaps the Honourable the Chief Minister will give us his thoughts on this, whether they have got a coherent plan in this respect. I think the public at large deserves to be informed about these matters. So, Mr Speaker, in essence I have said that the Government has a duty to clarify because this is not purely a question of a matter of increasing wages - and we all stand by the fact that people should be remunerated according to the job that they do - it is also the possibility of a reorganisation, a departmental reorganisation and this opportunity appears to have been lost but I would be glad to hear views to the contrary. It also has a very definite bearing on the standard

of the higher echelons of the civil service in the future and it is of very great public interest because if we spend £281,000 without a plan for the future then, of course, we are not acting terribly responsibly and I have therefore no hesitation in the terms I have put forward of supporting this motion.

HON CHIEF MINISTER:

I am very glad, Mr Speaker, that the Honorable the Leader of the Opposition has chosen to express the views generally of the Opposition on this matter because since I will not have a right to reply and since I am going to speak generally for the views of the Government, whatever other contributions Honourable Members will make it is good to know how not only the Honourable Independent Member is thinking but how the Opposition is thinking in this matter. The motion calls on the Government to state clearly its views on the Morgan Report and whether it proposes to implement its recommendations. I will say from the start and will give very good reasons for it and in fact the reasons that we had have been reinforced by what has been said particularly by the mover, that the Government cannot accede to the motion. But before I go on to give the reasons I will clear up one or two matters which I think are required to be cleared up. First of all I never said, and I have the Hansard here, that the Morgan recommendations would only be examined when the labour claim was settled. The word labour or industrial workers was never mentioned in the whole of the rather rigid cross examination on the supplementaries of the 1st March the replies of which if I may say so with some humility I am very proud because I was being put into a corner to give our view at a time when no views could be expressed. But I did say in the principal answer that "no decision will be taken on the Morgan recommendations until it is clear that the pay policy referred to has in fact been generally established and accepted through substantial progress having been made in the negotiations with grades structurally related to the grades covered by the Morgan Report." It was never mentioned and in fact in the course of after about 9 or 10 questions I had to say that I would have to go back to my original prepared answer and repeated it again so that the question of the labour force claim had nothing whatever to do with the question of at what stage the Morgan Report would be considered. In that meeting which was in the 3rd of March I made it quite clear and I went on to say "that the acceptance was to be proved by the making of substantial progress in the negotiations with grades structurally related - as I have said - to the grades covered by the Morgan Report". At that time very little progress had in fact been made but I think this week has seen the turning point in the general acceptance of Scamp in that area and perhaps even further. The Police, the technical grades represented by IPCS, the Fire Service and the Prison Officers had settled in late March and April, but within the last few days agreements have been signed with two other large groups, the teachers and the nurses. And as we know the industrial grades have signified their acceptance. Although the Revenue Department the Post Office, the Clerical and Secretarial grades and some Administrative grades still remain to be finalised I think that now, but just now and only now it can be stated that Scamp, as a policy, has been generally and firmly established and accepted. One thing I would like to say before I go on to matters that

I have given a lot of thought to and on which I have prepared notes, and dealing with an accusation made by the mover. I do not know whether he believes it himself when he said it, he is a bit cynical about these things sometimes, but it is absolute nonsense to say that we have engineered Morgan and that that was all prepared by us. If he had taken note of the interest with which I was following his various relativities and his various examples of matters dealt with in Morgan he would have seen that this was really interest in his reaction to it in an attempt to understand his views on it and not just putting a blank eye and saying "Well, we told Morgan what to do, what do I care what either Mr Bossano or anybody else says about it". That is absolute nonsense. We did not engineer Morgan and I think in fairness to the man himself who was a civil servant in his time of very high grading in the United Kingdom, it would almost be an insult to say that he allowed himself to be engineered and he is too clever a fish whether he was fat or thin, he is too clever a fish to be engineered without his noticing it. But if I may digress slightly for the moment without parting from the main theme, I should like to record my satisfaction at the progress that has been made of which I referred earlier. It would be a sterile exercise to go back to events and arguments prior to the publication of the Scamp Report. Whatever views different people might have held about different pay policies the fundamental reason why the official employers accepted the Scamp recommendations was that they held out a hope and a promise of industrial peace. This is stressed in several places in the Scamp Report. Paragraph 5(9) reads: "I now turn to the question posed earlier, what should be the basis of wage negotiations in the future? It is imperative that the parties come to some general agreement on this question, otherwise as the events of the last two reviews have shown they are likely to become continuously embroiled in damaging confrontations which neither side want and which the close knit Gibraltar community cannot afford." And I would like here to say that I am very glad that the negotiators of the JIC whatever their misgivings or whatever their reservations that they themselves may have had as to what the employers offered or not, I must say here that I am sure that I am voicing the feeling of everybody in Gibraltar as the Honourable Mr Bossano himself said I am very glad that their presentation of the case to the bulk of the workers was accepted by the workers. That is a great relief not only to the Government but I am sure that it is a great relief to Gibraltar as a whole and I hope that that is a continuing process. Somewhere else in the Report Sir Jack Scamp says: "One of my objectives is to establish an agreed basis for the conduct of industrial relations in the future". At another place he says: "An end to confrontation is of course an aim of all the parties." Well, I would like to say now not only because of the decision of Sunday but because of something that emerged a few days before then, that I am now myself satisfied that there is a willingness to end confrontation on the part of the Union. I say that now with much more satisfaction than I would have said that three or four weeks ago. He goes on: "It is common ground among those I spoke to that the close-knit Gibraltar community cannot afford a repetition of the sort of confrontation experienced last year." And, finally, he said: "Both the Official Employers and the Trade Unions recognised their common interest in establishing a more stable and orderly framework for their conduct of negotiation. My Report is intended to offer both sides a way in

which they can reconcile their inevitable differences and also promote their common aspirations." And in recording, as I said earlier, my own personal satisfaction and I am sure the satisfaction of everybody at the general fulfilment of the hope of Sir Jack Scamp, I hope it is not considered in any way patronising if I say that all the Unions who have cooperated in the implementation of Scamp should be thanked for this and a tribute should be paid to them and also if I may say so, but perhaps this may not be so easily shared by some people, by the Officials concerned on the side of the Official Employers. Let no one think or under-rate the strains and the stresses under which they also have to work and they have to work ad referendum all the time. It is much easier to ask than to give and to ask for a lot you don't have to ask permission from anybody but to give a little you have to ask permission to a lot of people. We have regretfully had some industrial action in one area and I am glad to say that there are indications that a settlement there may not take very long, but generally speaking the mammoth exercise and the reference to the number of job descriptions that was mentioned by the mover is an indication of what is behind even if that is not accepted literally, involving an entirely new concept in local industrial relations has been carried out over a large proportion of the total grades involved with a smoothness, even though a very dilatory one, which reflects credit on both sides for their goodwill and good faith and sense of compromise and realism. I said at the New Year that I thought there was a growing spirit of understanding and reconciliation, and it seemed to me that Gibraltar the sectors of the society had come closer during 1975 to understanding other people's aspirations as well as the need for compromise. And I then said that I hoped that the spirit would continue in the general interest in 1976. I am glad to see that this has in fact happened and that Gibraltar I hope can look forward to a more stable future still full of arguments, still full of discussions and controversy but less divided, I hope, and more capable of compromise and more peaceful. I think it is perhaps a coincidence that one can see a similar process taking place in industrial relations in the United Kingdom, the source of so many of our imports visible and invisible - we have certainly a temporary import in this House - to return to the Morgan Report and in an attempt to get it into perspective, it is necessary to look back as has been done before by other speakers to the two last reviews of the pay of senior civil servants. In the 1970 Review the previous administration approved substantial increases recommended by Mr Arthur Marsh. Since then, however, the position of the senior grades relative to those below them have gradually deteriorated. The main reasons for these are to be found in the 1972 review and in the interim award payable from October, 1974. In the 1972 review, it will be recalled it was the first review in which settlements were arrived at on the basis of direct negotiation. Prior to that review it had been the practice to appoint Salary Commissioners or Advisers such as Arthur Marsh in 1967 and 1970, who produced comprehensive recommendations which, by and large, were accepted as a whole by the Government of the day. After 1970, however, the Unions insisted that they would agree only to direct negotiations and there ensued for a period of over a year a laborious process of separate negotiations with each grade in the Government service. The senior grades were left to

the last and no negotiations took place. All individual representations were rejected and the officers concerned were simply told of the revised salaries which had been approved for them. No subsequent representations were entertained at the time or later. Generally speaking the effect of the increases which were deliberately kept below as a result of the policy adopted in that review, that the lower paid should get a relatively better deal both by the previous administration and by ourselves following the elections in June 1972. The other major cause of the relative deterioration of the position of the senior grades was, of course, the payment of a flat rate COLA and interim award now running at £435 pa to all grades from the top to the very bottom. In addition, of course, senior grades are not eligible for such arrangements as overtime, payment by results scheme, on-call allowances and so forth, which have the effect in many cases of further closing the gap between junior grades and those above. When the 1972 salaries for senior grades were decided the latter were informed that in future their salaries would be decided on the advice of an Independent Commission from outside Gibraltar. The reasons for this were that clearly the senior grades themselves, a number of whom deal with pay matters could not advise or recommend on their own salaries and the previous system of an outside adviser was therefore appropriate. Secondly, that if only because they were not at least at that time in any kind of Association, there could be no question of applying 1972 principle of direct negotiations and, thirdly, because it was considered desirable to take the matter out of the orbit of politics. And I think mention has been made by the Leader of the Opposition in his intervention this morning about the peculiarity of pay reviews in the United Kingdom from time to time of top civil servants which is made by people of high standing and is made directly to Ministers. I think the last one is called the Boyle Report. The Senior Grades were also informed at the time that the principle on which the Independent Commission would operate would be that of comparison with the earnings of other professional people in Gibraltar rather than of direct or substantial relativities with junior grades. That was the original indication to them and this of course goes before Scamp. This was done because while the other grades were free to negotiate their own levels of pay, this did not necessarily bear any relationship to the grades above, whether in the direction of keeping the gap small or extending it. The idea was to establish a rational basis for public officers whose responsibility might more easily be compared with corresponding employees in the private sector. However, following the acceptance by the Government of the Scamp recommendations the picture changed completely. The reason for an independent Commission remained valid. But the principle on which it would operate was now a different one. Instead of looking for comparable jobs in the private sector in Gibraltar the Commission was required to advise in the context of the pay policy adopted by the Gibraltar Government as set out in the recommendations of the Scamp report. As I have reminded the House, the Government was not prepared to move on the advice given in this context until that pay policy had been generally established. This is the Government's views and in the Government's view this has now about happened, just about, and the Government will now consider the Morgan recommendations and

take a decision on them. The contribution, particularly of the mover this morning, is, I think, very helpful in considering the matter when Ministers do so and I will remind Honourable Members when I stated in the last reply to the supplementaries on the 3rd March that I had made it clear in the reply to a question on another occasion that the decision will be taken by Government and that is the Elected Members without the advice of any of those that are affected by Morgan and Scamp.

MR SPEAKER:

Could we have the number of the question you have referred to.

HON CHIEF MINISTER:

That was question No 75 of 1976. Now is the time to look at it, now, and now is the time to look at the consistencies or the inconsistencies and the merits of it and to consider other people's views on the matter. I am not going to say that considering people's views necessarily means agreeing with them but certainly taking them into account and I look forward to having the Hansard of the Honourable Member's contribution and of the Honourable Leader of the Opposition's contribution. I was glad to note that he agreed in principle that senior civil servants have to have their salaries also looked at and he has made one or two observations as to certain particular matters. He has asked me one specific question about Gibraltarianisation. This goes, in fact, to the root of what we are going to do with the top civil servants and the review that will now take place having regard to that. The difficulties of attracting and keeping local qualified men in the civil service with a personal interest in the place, with a local knowledge and the continuity of appointment is, if I may say so with respect to all others, a much better arrangement than increasing the number of expatriate officers in the Service. I do not say that those who come do not serve as loyally and do their best but long term it was decided many many years ago on the policy of Gibraltarianisation, I think it was in 1952 or 1953, and it has followed continuously and when it has not followed it is because there has been either not available talent locally, local conditions have not suited people, housing problems have created this difficulty, we had it earlier in this meeting about teachers and so on, and the difficulty of providing other amenities and, no doubt, the impact of the frontier has also had something to do with it. That, I think, is no secret. I do not think that the question of reorganisation which was mentioned is being missed. The whole of the Scamp process is subject to staff inspection and it is intended that there will be an attempt at reorganisation in the senior civil service and that will be carried out. The particular point of different people and the criteria which were explained by the Honourable mover are interesting and worthy of consideration as other matters are worthy of consideration. At this stage the Government has not started to consider Morgan in the terms of its applicability, not that it has not considered Morgan or that we do not know what Morgan is all about. It is now as I said at the beginning that the time will come to consider it.

And it is now that any contribution, any views expressed on this matters, will have to be taken into consideration and into consideration by Ministers, as I said before, unaided unless it be to refer matters back to Morgan if this were required as it was suggested at one stage it might have some of the Scamp things referred, to Scamp th: the implications are serious about that and therefore one has to look at them ver considerably. Explanations, perhaps, may have to be asked for but, generally speaking, it is not intended to implement Morgan until we have now considered it and have now considered the effects, and this is a particular point on which other colleagues of mine may have a word, of what has happened with Scamp since we last discussed this matter here and in fact what has happened in the practical implementation of Scamp and how can that affect the Morgan Report. I also have here, which was delivered to me in the House yesterday and I am sure the Honourable Mr Bossano made sure that I got it before I spoke today, the motion that was passed at the last meeting of the Union again which condemns the Morgan Report without particulars, but the particulars have been given today, which has got to be taken into account. There is a reference to exorbitant salaries, I suppose they refer to some others may be less unacceptable, I won't say more acceptable. But it is quite clear that if we are to have a contented and independent, valid and good civil service we have, as the Honourable Leader of the Opposition has said, we have to pay them properly and we have to make sure that we pay them properly and that the money we give for their services is well worth it and that we get good value for it.

MR SPEAKER:

Are there any other contributors?

HON AJ CANEPA:

Mr Speaker, I would like to voice my satisfaction at the events of recent weeks which have been general acceptance of the Scamp Report. The House will recall that at the end of March during the Budget Session I said in no uncertain terms that I considered it to be in the public interest that there should be an early settlement of Scamp and I think the House will agree and I hope the Honourable Mover will agree that the warm response of Ministers on that occasion to what he had to say was and has been clearly reflected in the course of the subsequent negotiations at the Joint Industrial Council. The Government, Ministers, have been unflinching in their determination that the approach to be adopted in the ensuing negotiations should be flexible and I think that we have found an equally helpful attitude from the United Kingdom Departments in the joint sympathetic response that there was to the formula proposed by the Union in order to arrive at a settlement. Now, Mr Speaker, on the question of the Morgan Report, the Chief Minister has dealt in general terms with the motion and I propose to be rather more specific and pick up one or two points that have come to mind. I would just like to add on the question of the engineering of the recommendations the accusation that the Government had engineered them, I should like to quote what Morgan himself has to say about it in Chapter 3 paragraph 10:

"Naturally, the Ministers of the Government who are to be the recipients of the recommendations have expressed no views whatever to the Commission on the matters covered in this Report." I think the Leader of the Opposition himself said that he would have liked to have expressed certain opinions to Mr Morgan. Well I, perhaps, would have liked also to have expressed some opinions to Mr Morgan and I had no opportunity to do so. And I might have had quite a great deal to tell Mr Morgan regarding the philosophy, the approach that I adopt on the question of differentials. And my philosophy certainly isn't that where differentials have been narrowed over a period of time, as undoubtedly they have been narrowed in Gibraltar since 1970 and more particularly between 1972 and 1974, my philosophy certainly is not that differentials have got to be restored all the full way. I am not sure whether I would go a great deal further than half way. But I shall be returning later on on the question of what my approach is to the restoration of differentials and to the sort of differentials that exist in the United Kingdom. I think, as the Chief Minister has said, the comments of the Honourable Mr Bossano in particular in dealing with the details of the Report, have been very useful to Ministers and I am sure that we shall be reading carefully the copy of Hansard during our deliberations. I have obviously read the Morgan Report, Mr Speaker. I have studied it in some detail but I haven't been prepared to come to general conclusions until I could assess what was emerging from the Scamp negotiations. And I say this, Mr Speaker, because it is undoubtedly true to say that the four bench marks that Morgan was able to find in the absence of analogues are not entirely satisfactory. I do not think that he himself was entirely satisfied about having to compare the Chief Fire Officer and the Commissioner of Police in a city of 30,000 with the smallest one that he could find available somewhere, I think it was in Scotland, of 90,000. I don't think that he is satisfied with that sort of situation and one cannot be either. But he did find what Mr Bossano has referred to as the floor namely, the analogues which the Government in its widest sense but more specifically the Government's Working Party, the analogue which has been established with regard to people who were formally in the Administrative and Professional Grades. I am referring on the professional side to Assistant Engineers, on the administrative side those people in Secretariat who are called Assistant Secretaries but who bear no relation of course whatsoever to Assistant Secretaries in the United Kingdom. And as far as this analogue is concerned I do not think that there has been any quarrel on the professional side, on the technical side. The IPCS have accepted the analogue of an Assistant Engineer being equated to a Professional and Technology Officer Grade I, a PTOI, and from there on, Mr Speaker, you have got to build up a structure that is related to that. If an Assistant Engineer is to be paid £4,300 or so, then what is a Senior Engineer to be paid or a Chief Engineer? What is the Deputy Director of Public Works to be paid and what is the Director of Public Works to be paid? It may well be that the ceiling should not be what is in the report, £7,600 or whatever it is, but the baseline the floor from which you must build is, in my view, a fairly impeccable one. I think it is a fairly accurate one.

As far as the Administrative Officers that have been horizontally related to the Assistant Engineers are concerned, let me say, Mr Speaker, that at this stage the Association - I think it is called the Federation - that represents these fairly senior civil servants, has not signified its acceptance

of this analogue. Mind you, Mr Speaker, I am not suggesting that there is any evidence for a different treatment between the PTO I on the one hand (ex Assistant Engineers) and the Senior Executive Officers (formally Assistant Secretaries) on the other hand. And it is also important to bear in mind that those are the grades that are structurally related to the Senior Executive Officers such as the Titulars the Supervisory Officers, the Senior Clerical Officers. They themselves are very far from signifying acceptance to the analogues that have been offered. In fact, the Titulars who have been equated by Government to a Higher Executive Officer are claiming to be equated to a Senior Executive Officer. The Senior Clerical Officers who have no direct analogue in United Kingdom would wish to be equated to be Executive Officers and if that analogue is correct, and already in the case of the Revenue the Government has accepted in their offer that at least 14 Revenue Officers who have been traditionally equated to the Clerk Grade I, to the Senior Clerical Officer, the offer has been that at least 14 of them should be Executive Officers. So again if you build up from there it does not appear to a layman to be unreasonable that the A and P Grade should be equated to Senior Executive Officer, to PTO 1, and that you should get that floor of £4,270 that the Honourable Mr Bossano spoke of. And as I say then you have got to build up to your ceiling up to the Deputy Governor, the Financial and Development Secretary, the Attorney-General, the really top posts in the civil service. Morgan also hints in fact he does more than hint, he actually deals with it in paragraph 4 of chapter 2, he also refers to certain other scales that have already merged and which have now been accepted by the Association concerned namely teachers. The Head Teachers of the two comprehensive schools, Mr Speaker, are going to receive a scale with a maximum of very nearly £5,500. And when you talk of that sort of figure, Mr Speaker, you are already getting into what is now called Group H in the structure for the top 30 posts in the civil service and well into the 9 scales recommended by Mr Morgan. Therefore, Mr Speaker, if you have the Head Teachers of the comprehensive school entitled to a salary of £5,500 a year, the question that immediately comes to mind is; what is the Director of Education to be paid? Now, I am not saying that the Director of Education structurally he may not be related to the Head Teachers. Structurally he is probably vertically related to the Titulars in the Department, to the clerical officers in the Department. But you do have, nevertheless, someone employed by the Department of Education a very senior post, that of Head Teacher, at the level of £5,500 and you must have some differential between the holder of those posts and the Director of Education. It may not be £2,000, it may be £1,000 it may be £500, it is not for me to make that sort of judgment but what I am saying is that you cannot get away from the fact that that level of salary has to be paid in Gibraltar. And the Head Teachers of the comprehensive school their analogues are absolutely impeccable. I do not think anyone will doubt that if a Head Teacher of a group 10 school in the United Kingdom gets a certain salary and 72% of that works out to be £5,500, I do not think there can be any quarrel about that. Possibly the simplest area of finding analogues has been the teaching profession and that is why the Honourable Leader of the Opposition and myself recall the days when the claim from the Teachers' Association was to have a Burnham structure. It was not quite parity. When the Honourable the Leader of the Opposition was Minister

of Labour and Social Security and I helped the Teachers' Association to put in a claim we were asking for 75% that is what we considered to be parity. But that is another matter. So you see, Mr Speaker, it must be accepted, unpalatable as it might be on ideological, or philosophical or even on economic grounds, it must be accepted that we are in for a very high level of salaries. Returning again to the question of differentials. I am not going to question the figure that the Honourable Mr Bossano gave that some of the top civil servants are given by the Morgan Report, increases of 284% since 1970. As far as the industrials are concerned the labourer with the acceptance of a £25 minimum wage for a labourer, will have received from 1970 when they were getting £10 a week, 250% increase. If that is taken into account and we take home pay into account, then it could be said that perhaps 284% compared to 250% is not that unreasonable. Because the holders of these posts are going to pay back at 30% and very likely 40% and, therefore, when home pay is taken into account the differentials are narrowed. He also made reference to the fact that in 1972 these people were paid £400 odd a year. Again, if account is taken of tax their actual increase was nearer to £5 a week which does not compare unfavourably with the £4 a week that the lowest paid industrials got. Our philosophy then was to give the highest percentage increases at the bottom to the labourer, to the clerical officers and so on and taper it off to the end and try to arrive at a norm, the norm being about £250 a year on actual take home pay and I think that that was done fairly successfully. And, of course, there was a great deal of resentment amongst the top 30 posts of the civil service because they considered that the increases that they were getting were a mere pittance and they were, compared to what they had received in 1970. So we have got in Morgan, Mr Speaker, a very sizeable widening of differentials. There has been a very sizeable narrowing of differential in the last 3 or 4 years and there is going to be, whatever is the fate of Morgan, there is going to be if we follow the pay policy adopted in the United Kingdom, a further narrowing of differentials between the lowest paid industrials and these top posts in the civil service over the next couple of years. Therefore, the situation that we have been having in Gibraltar during the 1970, Mr Speaker, is what I call the concertina effect. At one review there is some widening of differentials, later on there is some narrowing of differentials. The application of the £6 a week pay policy in the United Kingdom to Gibraltar is worth a great deal more to a labourer and related industrial grades than what it is to the top civil servant. The application of the 4½% pay deal with a ceiling likewise is worth a great deal more to the lower paid industrials. But I cannot pretend, Mr Speaker, that I am enamoured in any way about the approach that there is in the United Kingdom on the question of differentials. It does not accord with my political philosophy. It is a rat race. I accept that as people gain promotion and as they have to undertake more and more responsibility that they must be paid very, very high levels of salaries. I accept that. May be they are paid for taking decisions, may be they are paid for thinking. If they have the time to think. But as I say as a matter of political philosophy I do not necessarily agree with that and that is why if I dislike anything about Scamp it is that, that I consider that we are linking ourselves on a salary and wage structure in the United Kingdom which is not entirely just in political terms. I do not consider it to be a just structure,

it is one where, perhaps, too much is made of qualifications, too much is made of promotion in what I have called the rat race. So with those comments, Mr Speaker, I think we shall find rather useful what has been said in the debate here this morning and of course the pleasant or unpleasant duty does fall to us on this side to come to a decision about the future of this Report.

HON MAJOR RJ PELIZA:

Mr Speaker, I am very pleased to hear that my Honourable Friend, Mr Joe Bossano, from this side of this House is going to help the Government in coming to a decision over the Morgan Report, but very sad that for this to take place and perhaps even for the Morgan Report to be accepted eventually my Honourable Friend Mr Joe Bossano, had to bring a motion to this House. It of course again shows the lack of leadership from the Chief Minister and if I may say so the way he is up in the clouds even today when he thinks first of all that everything has gone very smoothly when we all know that there have been extremely rough passages in the last few years in Gibraltar on the industrial side and, secondly, the feeling that because he may settle Morgan now industrial peace has returned because I do not think that this is so. It is so because the whole basis from the start was wrong. I would have thought that any person in his responsible position who reluctantly had to accept Scamp, should have realised that this was revolutionary in Gibraltar and would cause a complete change of outlook and restructuring on the pay and salaries of Gibraltar will have realised that even before starting rather than disassociating the labour claim effect from the Morgan Report should have tried to coordinate support and cooperation from all quarters. Now this perhaps has been and will continue to be the greatest exercise ever undertaken in Gibraltar in this respect and I would have thought that a preliminary meeting what one might call a summit meeting of all the interested parties would have been in the order of the day. There I think all these matters could have been resolved where guidelines could have been taken, because there is no doubt everyone knew that the Postmaster of Gibraltar would not be getting, could not possibly get, the amount of the Postmaster in the United Kingdom. And similarly I think as my Honourable Friend pointed out, the hybrid, the man who sweeps and washes the street, there is no comparison in the United Kingdom. So there you are, you see if there is in the report the question of the hybrid and on the other side we bluntly refuse even to consider that such a thing exist there will be clashes and the clashes will continue unless once and for all complete cooperation can be obtained from all the quarters. And of all the leaders of all the sections of Gibraltar can get together at the highest possible level to start afresh. Not leave it down to the JIC to officials who do not understand the political implications and are not even concerned on the social questions. They are strictly concerned with what money they can give and that is all. But this is not so, this is a much greater exercise and if we want to start on the right footing it has got to start from there. If not I think Scamp will not bring peace to Gibraltar at all. The money will have been wasted and if anything it might create even more trouble. I do not believe that we are too late at all because I do not believe that the unions are going to accept 70%, or 72%. I think they are going to be asking for more.

They will go up to 100%. I have no doubt at all. One can see it, it is written on the wall. So, therefore, is it too late even at this stage to try and call a summit meeting, to try and somehow join up the Morgan Report with the other claim and there I think to start thrashing out how we are going to move into the future. I do not believe that the Morgan Report as I think it is the intention of the Government, can be agreed to in isolation with whatever may be going on today or may be going on in the future on the industrial side because there will not be agreement until the industrials think that they have had a fair deal, a fair deal as relates to the clericals, the officials and the uniformed bodies. This cannot be done in a small place like Gibraltar in isolation as I am afraid has been done today. And as we move along there will be changes, as the Chief Minister has already implied, in the structure of Government, in the administration. There will be changes and there will have to be changes in pay packets and salaries as we move along. It is absolutely essential for the sake of industrial peace that Scamp wants to introduce to Gibraltar that some sort of body can be created where the guidelines can be laid and from there on perhaps the JIC has got a very good function to do. But above that I think we want to get right to the top. This, if I may say so, is what is happening in the United Kingdom today. Why is it that there is consensus now amongst the unions in Great Britain? Is it because it was left to a negotiating body down the scale? Or is it because Mr Callaghan himself had discussions with all the leaders of the trade unions? This is what gets the consensus all the way down to the shop floor to the grass roots because whether we like it or not in this day and age the trade unions are very involved in the political life of any society and they are so involved here today in Gibraltar as they are in the UK. And I am very glad of that because the real interest of the people is gradually being represented at the highest possible level. And I commend to the Chief Minister not to go and accept the Morgan Report in isolation but to try and connect it up with the industrials as well obviously not completely by no means disregarding the need of paying well those who hold responsibility. I am not preaching otherwise, I would be the last one to do so. In fact I was told I had cheated the workers because I insisted on that principle and that principle of course still applies. Unlike the Minister for Labour who thinks that responsibility should not be paid for, I cannot agree with that. Well, if you did not say that please explain what you meant.

MR SPEAKER:

No, the Minister does not have to do that.

HON MAJOR R J PELIZA:

Well, all I can say, Mr Speaker is that in a society like the UK which one agrees perhaps is the most equitable in the world today, a policy to pay the responsible people has been accepted even by the TUC. The Honourable Minister for Labour here says that is all wrong and therefore really parity is not the thing to go for. That is what he implied. I cannot agree with that, Mr Speaker. I think that this matter has been

resolved by the highest political, social and trade unionists in the United Kingdom. And I think it would be very silly of us to try and depart from that. I agree that the responsibilities of one place are not identical to the other and this is where the hybrids come in and this is something that has to be sorted out but not in isolation, in consultation with everybody who has got to accept it. This is very much like sharing a cake. And it is no good someone having a knife and cutting big pieces and giving them out because everybody is going to be very dissatisfied. I think it is better to get round the table and say: "We all agree that so and so should have that slice and I think we all agree that so and so should have the other slice. And then I think when the cake is finally cut up there will be no squabble and no quarrels. And this is in fact, as I would have tackled the situation. I say to the Chief Minister that it is not too late. More claims are ahead, I have no doubt of that and when they come I think that unless the procedure or something similar that I am suggesting is adopted as from now industrial peace will not reign in Gibraltar. I believe too and I think the Minister for Labour should bear this in mind that unless we are prepared to pay whatever the Minister's philosophy - I don't know whether the Minister of Labour has a philosophy at all, certainly the Government hasn't because they have been changing left, right and centre ever since they took office and therefore I cannot possibly believe that the Government has any philosophy at all. May be the Minister of Labour has it but I doubt whether the Government as such has any at all. And if he has obviously he hasn't put it to practical use. Let us take the philosophy of the Minister of Labour who says we shouldn't pay so much to the responsible posts. How does he think he is going to get people capable of coming to Gibraltar let alone the Gibraltarians staying here because the Gibraltarians will soon go somewhere else, say, to the United Kingdom where they will be better paid and they are not going to remain in Gibraltar. The Honourable Mr Montegriffo will soon find himself without doctors; the Honourable Mr Featherstone will have no teachers, we have few already but he will have less. We shall have no Director of Education. It is very difficult, as the Minister well knows, to recruit one. And so I think whatever the philosophy it is certainly not down-to-earth. And I would commend to the Minister of Labour to do a bit of re-thinking because otherwise I think Gibraltar will be in total chaos. For the Minister of Labour to say he does not want to pay much more to the higher posts is a lovely political exercise at the coming elections but it is not practical and it is not responsible and I say that is not the way that we are going to solve our problems here. The way is by having consensus, taking everybody in, arriving at a fair deal. I think the workers will understand that if they want a good doctor in Gibraltar he has to be paid for; they want to see the books; who is getting what? How fair is it? When all this is clearly explained people will understand and even the responsible leaders of the trade unions will not recommend that their workers act irresponsibly. I am very glad that even under the circumstances as the Chief Minister said the leaders of the trade unions have acted most responsibly, even against their own wishes and feelings. And that is a great tribute to be paid to my Honourable Friend in this House and to the leaders of the trade unions in Gibraltar. In fact, according to the Chief Minister everything has gone very smoothly. A greater tribute to the trade unions in Gibraltar.

I think one has got to be thankful to my Honourable Friend for bringing this motion here today. It has given us an opportunity to air our views and to make suggestions and I sincerely hope that this does not fall on deaf ears because if it does I think eventually they will be forced to take to the course because other measures will be used outside this House, unwillingly, but it happens. It happened before and I hope they don't leave it for this to happen again. The opportunity is here, it can be grasped. Industrial peace can really return to Gibraltar with prosperity because it has been proved that not only can Scamp bring industrial peace it can bring prosperity. I understand that no less than £2m will be paid by the UK employers when the pay claim is settled. £2m to Gibraltar is a lot of money and no doubt the Government will find in their offers a lot of more money coming in even than they expected and therefore I think we are really on the road to a good life in Gibraltar, to a good standard of living and it would be a great pity that this should be disrupted by industrial strife which I am sure can be prevented.

HON AP MONTEGRIFFO:

Mr Speaker, I am going to speak rather briefly in order to answer one or two questions put forward by the Leader of the Opposition which were directed particularly at myself. But I cannot resist commenting again briefly on the Honourable and Gallant Major Peliza who has got the ability of always putting the cat among the pigeons. I frankly could not understand what he was saying. Certainly one thing I understood, he was completely expressing a philosophy contrary to that which the Honourable Mr Bossano was expressing. In fact, I have got in front of me the motion passed by the public sector of the TGWU where they were talking about the exorbitant increases that were being given to civil servants as regards the Morgan Report, while the Honourable and Gallant Major Peliza has been lecturing us as to how much more we ought to give the Director of Education and so forth. So I do not know which are the views that eventually when we start considering them we shall take into account. But no doubt all this is only creating more confusion in our minds. As regards seeking a consensus as they have done in the UK, one thing is to get the whole of the Trade Union movement to agree to a wage pause which is exactly what has happened in the UK, and another thing is to get different unions who are all gunning and gearing themselves to get understandably so, the highest possible analogue because the analogue that is agreed at this stage is what is going to decide their future. And it would have been very difficult to get industrials expressing views as to what the Financial and Development Secretary or other gentlemen should get in the same way as having the IPCS deciding what the industrials at certain levels should get as distinct to what they think they ought to get themselves. In fact Scamp himself suggested that the negotiations should be conducted with the individual unions, and this is precisely what we have followed.

HON MAJOR PELIZA:

I never said negotiations, I said the guidelines.

HON AP MONTEGRIFFO:

Well, the guidelines were laid down by Scamp and if I may say so, Sir, with respect to the Honourable Mr Bossano they have not been so rigidly applied - and I will give examples - as he has led the House to believe. I can only talk as it affects my Department and I am talking about the less well fed, to put it that way.

HON J BOSSANO:

The Honourable Member is not talking about industrials, I take it?

HON AP MONTEGRIFFO:

I am talking about the application of Scamp.

HON J BOSSANO:

But not to industrials?

HON AP MONTEGRIFFO:

Well, I stand to be corrected but I think this is as far as the tradesmen so we have had some flexibility there and we have not applied the exact analogues even to a labourer. It may be on a mark time basis but certainly the one on the tradesmen was not the exact analogue. What I as a layman myself and I think that was the view expressed by my colleague on my right, will find it difficult in arriving at a fair assessment at what the 30 top people involved with Morgan should get is how much to give them over and above what anybody is getting out of the maximum arising out of Scamp and if I am told now as I have heard from the Honourable Minister of Labour that a Headmaster at the Comprehensive school very rightly so, is getting £5,400 to me it is inevitable whatever the analogues of the others may be - and I hope we do not compare our Assistant Secretary here with an Assistant Secretary in the United Kingdom because it cannot be done - surely it must be over £5,500 to the one who is over the Headmaster and so on and so forth until we reach the top echelon. Unless you expect the headmaster to work for £5,400 and the Financial and Development Secretary to work for £6,200 Well, that is my philosophy too. Let me tell you this, that that is my philosophy and this is where I come to the question put to me by the Honourable Leader of the Opposition. I explained that on quite a number of occasions in this House and also at Budget time. However, having had to lump Scamp which were the words I used at budget time because as a result of the impasse we reached one has got to take into account what are called at the time the extra-parliamentary pressure groups and one has got to weigh things and decide what is best in the interests of the community in order to avoid a worse evil than the one you are trying to prevent. Having accepted that we have found ourselves, as the Honourable Minister for Labour said, with a structure which to me is repugnant in the sense that it is pure capitalistic in outlook. That is the structure in the United Kingdom.

I believe in narrow differentials and that philosophy, if I may say so, was very clearly expressed in 1972. But having had the control to a certain extent or to a lesser or greater extent of deciding wages and differentials in Gibraltar and linking it to this particular system somewhere else, we are deprived of carrying out that philosophy which at least we implemented in 1972. As regards the other question about doctors being happy with this particular offer, I have not been approached collectively by them but living, as I do, close to them I think they are most unhappy about the Morgan offer to them which I would say is less than the analogue of the United Kingdom. So it does appear that in some instances Morgan has not followed the complete and total consequences as the analogues, certainly in the case of Consultants.

HON M XIBERRAS:

Mr Speaker, if the Honourable Member will give way for a moment. Will the Honourable Member say, and this was my question, whether he is satisfied that the recommendation made in Morgan in respect of doctors and the conditions offered to them are going to give Gibraltar good doctors and good service for money?

HON AP MONTEGRIFFO:

Mr Speaker, all I can say is that as far as I am aware the consultants are not unhappy with the recommendations. As far as the housemen are concerned the question never arose because the salaries here are practically the same as the ones in the United Kingdom.

MR SPEAKER:

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

HON J BOSSANO:

Mr Speaker, I am sorry the Government is not prepared to accept the motion which calls for very little. It calls on them merely to fulfil their obligations to the House of Assembly as far as I am concerned in stating what their views are and to state in taking into account their views whether it is proposing to implement what has been recommended by Morgan or not. Whatever the Honourable Member may say by referring back to Hansard there is no doubt whatsoever that he gave the clear impression here that the Government had, in fact, studied the Morgan Report and was waiting for developments with other unions to decide whether to implement anything or not because I think the Honourable Member said at the time that if Scamp went by the wayside then the whole picture changed and Morgan would not be applicable. But they have had more than ample time to study it and I am glad that at least one member of the Government, the Honourable Minister for Labour, has studied it in detail and now one learns that at this stage the Government has started considering Morgan and the Honourable and Learned Chief Minister tried to qualify that

by saying; "as to the terms of its applicability". Well, I can tell the Honourable Member that the minor references that I have made to the report and to the inconsistencies and flaws in its logic are in my view sufficient to warrant wholesale rejection of the report. The Government has made no attempt here to say whether they were aware of any of the things that are obviously inaccurate and what they propose to do about these inaccuracies and I would hope that the Government will make use of the next meeting of the House of Assembly to tell the House what it proposes to do because that will be the last opportunity that Members here will have of having a say on the matter. The Honourable and Learned the Chief Minister made a very wide ranging statement, referring to copious not to say voluminous notes, and I regret that of that lengthy statements so little was devoted to Morgan, Mr Speaker, which is the subject of my motion and so much was devoted to other matters. I am glad that the Honourable and Learned the Chief Minister is now more optimistic about the prospects for industrial peace. I can tell him from my intimate knowledge of the trade union movement, that the willingness of the part of the unions to end confrontation has always been there. The unions have no wish for confrontation but they are willing to enter into confrontation if confrontation is the method that produces results. That is their function, their function is not to shy away from confrontation or to seek it but if it comes, it comes. And that situation has always been the case to my knowledge and it continues to be so nothing has changed, Mr Speaker. But I am glad that if the reference by the Honourable Member to willingness on the part of the unions to end confrontation means that the Honourable and Learned Chief Minister previously thought that the Unions were unwilling to end confrontation and now he has become convinced that they are willing, then I am glad that at least in the Government quarters there has been a change because on the Union side the situation is exactly the same as it always was. I can tell the Honourable and Learned the Chief Minister that, in fact, had it been the desire of the Trade Union leadership to deliberately go out of their way to seek confrontation there is more than sufficient ammunition in the sort of inaccuracies that I have stated exist in this report and in the unwillingness of the Government to give any clear indication of whether they stood on this report, for the Union leadership to have gone to the membership and to have said: "The Government is waiting for us and we are going to wait for them because if they decide to give 75% to somebody we want 75% for everybody". So if there had been a desire to exploit this with a view to seeking confrontation the opportunity was wide open. The fact that it has not been taken is an indication that what the Unions have wanted is a fair settlement. And, obviously, it is very difficult Mr Speaker, when one gets to a precise and detailed definition of what is fair it is very difficult to reach agreement. The closer one comes together on the negotiating table the more difficult the problem becomes. When one is quite apart the problem is a relatively easy one all you have to do is say 'no'. But the situation at the moment is, as the Honourable and Learned the Chief Minister has quite rightly said, that the most important factor is the accuracy of the analogues. Now, I can tell the Honourable Minister for Medical Services that the analogues in the case of the industrial workers have been applied rigidly and strictly to the letter. The labourer on Band 2 is going to go on Band 0 and is going to be given £25. Which is more than 72%

Band 0 he is not going anywhere else. And the driver is going to be on Band 4 if he drives a staff car and previously he was on Band 10 and he is going to go on Band 6 if he drives a lorry and previously he was on Band 8. So the differential between the lorry driver and the staff car driver has been altered because it was the converse in Gibraltar of what it is in UK. And let me say, Mr Speaker, that many of the drivers of course who used to drive lorries felt very resentful about a staff car driver getting more money than they did. We have had a complete inversion of differentials in this area which has been a hard thing to swallow for some people but they had to follow it because they have taken the advice of the Trade Union leaders that the short term disruption is worth the long term advantages. This is a pill that is difficult to swallow but it gets completely stuck in one's throat if one doesn't see the same criteria being applied to other people and this is, Mr Speaker, where my concern about the Morgan Report comes in. You see, we cannot have the Government trying to please everybody and saying to me that they are socialists, because they want to narrow differentials, and saying to the civil servants that they are concerned for their responsibilities and status and position and they want to give them more. The Government must decide itself where it stands and then it will either be criticised or it will be praised. If it is my praise they want they know what they need to say to get it because they know where I stand and what I am.

HON AP MONTEGRIFFO:

Fortunately or unfortunately we stand by Scamp. We have got no other alternative.

HON J BOSSANO:

Well, Mr Speaker, I can tell the Honourable Member just to clear up matters because there has been in fact a reference I think on a previous occasion when this was the subject matter of some debate in the House there was a reference by the Honourable and Learned the Chief Minister that he had changed his attitude after what he called the Erwin - he may have called it the Hassan/Erwin proposal, I would call it the Erwin/Hassan proposal - what you called a Hyphenated proposal. Either Hassan/Erwin or Erwin/Hassan. Mr Speaker, he made a reference then to the Unions having given up their position on 100% and that that had been reciprocated by the Government giving up the question of wages not being linked up with UK. Well, Mr Speaker, he has got, in fact, a copy of one of the motions that was passed in the meeting on Sunday and he will get through JIC after JIC meets this afternoon another motion where the membership of the public sector, the industrial workers, passed unanimously a motion binding the committee not to accept anything less than 100% in October of this year. So, obviously, his information about the position of the Unions was slightly inaccurate.

HON CHIEF MINISTER:

Will the Honourable Member give way on two very small matters of clarification? First of all I was saying that before the motion was passed on Sunday and I hope it wasn't passed because of what I said, and, secondly, I was saying that in the context of those talks in London the rigid attitude of the Gibraltar Trades Council and I am sure the Honourable Member will be fair enough to the remark I made that whereas ~~the~~ position then - and I do not want to say this in order to exacerbate the situation - but whereas the rigid position which led to the unfortunate incidents at the end of 1974 was no negotiation before acceptance in principle to 100%, after the Erwin/Hattersley/Grandy/Hassan proposals, at least that was achieved and there has been a settlement for at least 2 years.

HON J BOSSANO:

Well, Mr Speaker, I think we could spend a long time going over old territory. No doubt the record will stand there for posterity and people will be able to judge. But, Mr Speaker, I think the most important thing is for the Government to come out with a clear statement of its position in this matter and certainly I can assure the Honourable and Learned the Chief Minister that unless the Government can put up extremely convincing reasons for going ahead on the basis of what Morgan recommends, certainly the situation from the rest of the Trade Union movement is likely to be one where whatever happens with Morgan will be reflected in the next round for everybody else. I can tell the Honourable and Learned Chief Minister that that is my judgment from my close proximity to those quarters and I tell him that precisely because as he very well knows himself, Mr Speaker, it is the analogue that is vitally important and I think the Honourable Minister for Labour is absolutely right when he says that the analogues for the teaching profession are impeccable, and that if a Headmaster of a comprehensive school of our size gets a certain salary in Gibraltar and if 72% of that salary turns out to be £5,500 whether people like it or not it has to be accepted and people know that it has to be accepted. But what people cannot accept is that one should talk about comparisons which just do not stand up to scrutiny, this is what people cannot accept. If one brings a clear-cut analogue in UK and says: "Well, look, this is the person that I am carrying out the comparison with" then there is no problem but if it was as clear cut as that in every case of course, Mr Speaker, there would be very little negotiation necessary. But the criteria that has been put forward in the Report are not the sort of criteria that have been allowed in other places. In almost every other negotiation there has been insistence that an analogue has got to be found in UK, and if we do not find it in MOD we look for it in local authorities or we look for it in the National Health Service but we look for an analogue somewhere that has been the standard practice with every single union. And Morgan is different from Scamp in the sense that Morgan starts off by saying that he cannot find analogues. Mr Speaker, in, for example, the case of the Postmaster - and it is not that I have got it in particularly for the Postmaster, I

wouldn't like him to think that I am after him because I am not. I am concerned about the post and not about the person who is occupying the post at the moment. In Chapter 4 of the Morgan Report it says that the post of the Postmaster is a postmanteau post. And the commission comes up with the answer that "the officer has by contrast with one Postmaster in a small Borough in the United Kingdom, a relatively small staff to manage and a small volume of mail to move". So in fact there is somebody that they can compare him to but even by the standards of the one that they managed to find the job here is small but it goes on to say and I know that the comparison that is being made here will produce less than is being offered. I know that because I have checked my figures, Mr Speaker, like I usually do, and the Commission goes on to say that "unlike the Borough Postmaster, he needs a wide range of knowledge of postal and telecommunication matters in the International field, and the ability to apply knowledge both in routine and exceptional situations". Now I do not know, Mr Speaker, what work is done in the Post Office in Gibraltar which requires this extensive knowledge of telecommunication and postal matters. I would have thought that the Post Office had virtually nothing to do with telecommunications in Gibraltar. But that is the argument used. Now that argument if it stands up to the cold light of day in the same way as the Headmaster of the Boys Comprehensive, then that argument is one that anybody can use to answer any challenge of unfair favourable treatment. But if it does not then the Government cannot just sweep it under the carpet and forget about it because if they do I can assure them, Mr Speaker, that they are storing up trouble for the future and I am not saying this and I do not want this to be interpreted in any way as an attempt to make any threats or intimidate anybody or anything like that but I think that the most valuable role that I can pursue by my membership of the House of Assembly is, in fact, to bring to the notice of the House what in my judgment is something that may follow consequentially from the actions of Government based on my experience in my functions outside the House. I think this is the most valuable function that any Member of the House can do, to bring his experience and his knowledge of the outside world inside the House so that when we talk about things here we are not living in an ivory tower without knowing what is going on outside. Now, when I do bring to the notice of Members things that concern me because of possible repercussions, it isn't in order to frighten people into doing anything, it is in order to prevent if my judgment is right things occurring which I do not like. That is the only reason why I bring these things to the notice of the House and therefore, Mr Speaker, I would like the Government in view of the fact that they are unwilling to accept my motion and I am very sorry that they are unwilling to accept my motion, and I am even sorrier that they haven't made an attempt to answer in detail the points that I have raised. I hope that at some future date the answers will be forthcoming.

HON CHIEF MINISTER:

Perhaps before the Honourable Member finishes I might clear up something of very great substance in the motion at least even if we go to a division it should be made clear. And that is that what in my judgment we are opposing is stating the position now, stating what our attitude to the

Morgan Report was now. And even though we may vote against the motion it does not necessarily mean that we deny the fact that we will come to the House with what we are going to do about it.

HON J BOSSANO:

Well, I am glad to hear that, Mr Speaker. If in fact the word "now" appeared in the motion I would have been willing to have an amendment deleting it but it does not so I cannot.

HON CHIEF MINISTER:

This is how I took it.

HON J BOSSANO:

The motion calls upon the Government to state clearly its views on the Morgan Report. I would have liked to have had those views stated clearly now, but I did not ask for it in the motion to be stated now and if the Government is willing to support the motion on the understanding that they accept an obligation to state their views clearly which is what the Morgan Report says and to further state whether they propose to implement the recommended increase. The motion doesn't call upon the Government to do so now, it calls on the Government to accept an obligation to do so which presumably the Honourable and Learned the Chief Minister is willing to accept.

MR SPEAKER:

I am afraid we are not going to debate the implications of the motion. Each side is entitled to their views as to what motivated the motion and obviously each side will vote according to their reading of the motion.

HON J BOSSANO:

Mr Speaker, I couldn't resist the opportunity of trying to convince the Chief Minister to support my motion because after all that is why I am speaking in its favour and I prefer to have motions passed than to have them defeated, obviously. I was saying, Mr Speaker, that I raised a number of points which have not been answered and I would say in particular e.g. now that the Honourable the Financial and Development Secretary is back in the House, that I certainly would like to know what is going to happen about the emoluments of officers who are recruited from outside Gibraltar who presumably came to Gibraltar on a salary that was considered attractive in the context of alternative employment elsewhere in the world, and who are now being compared with I don't know who in UK. But I would certainly like to know how that is being arrived at and I say so with the Honourable Member here because I think it is quite right and proper to raise the matter and indeed I think the Honourable and Learned the Chief Minister referred to them as temporary UK imports.

HON CHIEF MINISTER:

No, I was referring to another member on that matter.

HON MAJOR R J PELIZA:

I could not be an import because I was born here. Those who are not born in Gibraltar and come to Gibraltar are imports, in case the Chief Minister doesn't know.

MR SPEAKER:

Order.

HON J BOSSANO:

Well, Mr Speaker, apparently the Honourable and Learned Chief Minister with his great love of Gibraltarianisation considers my Honourable and Gallant Friend Major Peliza an import but he considers the two expatriate members of the House natural part of the fauna.

HON CHIEF MINISTER:

I did not.

HON J BOSSANO:

No? I stand corrected, Mr Speaker, Well, I would certainly like to know what is going to be the treatment of officers whom we import to Gibraltar and whether in fact this which appears nowhere in Morgan is something that will be taken into consideration, the fact that the field of recruitment there is a different one. And I would also consider it important that the Government should make clear whenever they decide to make clear their views on the Morgan Report - and I may say that the reputation of the Government for clarity or anything is not in fact earthshaking let us hope that on this one they are more clear than on most others - I would hope they would also say how they see the need to remunerate posts at this level in terms of filling the posts with natives because, in fact, notwithstanding the desire of the Government, for Gibraltarianisation we have had a pretty awful record over the last two or three years of importing public servants instead of promoting those who were already here, the natives.

MR SPEAKER:

Would it not be better to call them patriates and ex-patriates and follow the intergrationist policy of the Opposition?

HON J BOSSANO:

Well, Mr Speaker, as you know I am an independent Member of the House now. So, Mr Speaker, I think the only thing that I can do is to urge the Government to proceed now with as much speed as they can in their consideration of the report and to give the House an opportunity to give considered judgment on what their views may be on the report and to express my regret that they intend to defeat my motion.

Mr Speaker then put the question in the terms of the motion moved by the Honourable J Bossano and on a division being taken the following Honourable Members voted in favour:

The Honourable J Bossano
The Honourable L Devincenzi
The Honourable Major R J Peliza
The Honourable M Xiberras

The following Honourable Members voted against:

The Honourable AJ Canepa
The Honourable MK Featherstone
The Honourable Sir Joshua Hassan
The Honourable Lt Col JL Hoare
The Honourable AP Montegriffo
The Honourable AW Serfaty

The following Honourable Members abstained:

The Honourable Miss C Anes
The Honourable PJ Isola
The Honourable JK Havers
The Honourable A Collings

The following Honourable Members were absent:

The Honourable I Abecasis
The Honourable WM Isola
The Honourable HJ Zammitt

The motion was therefore defeated.

The House then adjourned to Monday the 7th June 1976 at 10.30 a.m.

MONDAY THE 7TH JUNE, 1976

The House resumed at 10.30 am.

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 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 Zammit, Minister for Sports and Housing
 The Hon J K Havers, OBE, QC, Attorney-General

OPPOSITION:

The Hon M Xiberras, Leader of the Opposition
 The Hon P J Isola, OBE
 The Hon W M Isola
 The Hon J Bossano
 The Hon L Devincenzi
 The Hon Miss C Anes

ABSENT:

| | |
|--|-----------------------------------|
| The Hon A W Serfaty, OBE, JP, Minister for Tourism, | } who were away from Gibraltar |
| Trade and Economic Development | |
| The Hon A Collings, Financial and Development Secretary | |
| The Hon Major R J Peliza | |

IN ATTENDANCE:

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

COMMITTEE STAGE:

HON ATTORNEY-GENERAL:

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

The Public Health (Amendment) Bill, 1976
 The Miscellaneous (Amendment) Bill, 1976
 The Immigration Control (Amendment) (No 2) Bill, 1976
 The City Fire Brigade and Fire Services Bill, 1976 and
 The House of Assembly (Public Offices) Bill, 1976.

THE PUBLIC HEALTH (AMENDMENT) BILL, 1976

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

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that the proposed new section 290A set out in clause 2 of the Bill be amended by the insertion therein immediately after subsection (3) thereof of two new subsections as follows - and by the re-numbering of the existing subsections (4), (5), (6), (7) and (8), as (6), (7), (8), (9) and (10).

MR SPEAKER:

May I suggest that we leave the second part of the amendment until such time as we know that the first part is going to be carried.

HON ATTORNEY-GENERAL:

"(4) No rates shall be payable under subsection (1) in respect of a hereditament in respect of which an application has been made to the Development and Planning Commission under section 17 or 17A of the Town Planning Ordinance, 1973, and the Commission has not granted or refused such application: Provided -

- (a) the provisions of this subsection shall cease to apply if the Chairman of the Development and Planning Commission has issued a certificate stating that the Commission does not consider that the application is made with the genuine desire of obtaining a building permit or outline planning permission as the case may be;

- (b) the provisions in this subsection shall cease to apply six months after the submission of the application unless the Chairman has issued a certificate stating that the reason that the application has not been granted or refused is in no way due to delay on the part of the applicant and such certificate has not been revoked;

(5) Any person aggrieved by the issue of a certificate under subsection (4)(a) or by the non-issue or revocation of a certification under subsection (4)(b) may appeal to the Magistrates' Court. Notwithstanding that the Court shall have allowed an appeal against the non-issue or revocation of a certificate under subsection (4)(b) the provisions of subsection (4) shall cease to apply three months after the allowing of the appeal unless the Chairman has issued a certificate under subsection (4)(b) and such certificate has not been revoked. An appeal shall lie to the Magistrates' Court against the non-issue or revocation of a certificate after an appeal has been allowed."

Mr Chairman, occasions may arise where an application is made to the Development and Planning Commission either for permission to build or for outline permission and of course when this is done the matter is considered by the Commission. Subsection (4) will provide that in these cases the property will not be treated as unoccupied and rates will not become due upon them. There are, however, two provisos to this. The first is that the application must be a genuine one. It must not be made purely for the purpose of getting out of having to pay rates and it is for the Commission to decide whether or not the application is genuine. If the Commission decides that it is not genuine then a certificate is issued and the property becomes rateable. Now, turning if I may to the new subsection (5) because it is also relevant, an appeal lies to the Magistrates' Court against the issue of such a certificate. So an aggrieved person goes to the Court and says: "My application is genuine. The certificate should not have been issued." And the Court shall thereupon have the power to decide that matter and if the Court decides that the application is genuine then of course no rates are payable for the property. The second provision - that is subsection (4)(b) - the exemption from the need to pay rates expires 6 months after the application has been made - and assuming of course that it hasn't been granted or refused - expires 6 months after it has been made unless the Chairman certifies that the reason that the Commission has not come to a decision is due to no fault on the part of the applicant. I am sure members will appreciate it would be easy enough that what may be a genuine application to be made and then the applicant to dilly-dally not provide information within a reasonable time, so that the Commission cannot come to a decision. In those cases the exemption from liability to pay rates expires after six months but in those cases if the Chairman grants a certificate that the failure of the Committee not to reach a decision is not due to the applicant, then of course exemption from rates continues. Again in that case if he does not issue a certificate then an appeal lies again to the Magistrates' Court who will decide whether the delay is or is not due to the delay of the applicant. If an appeal has been allowed against the refusal to issue a certificate, then that appeal is not open-ended in so far as time goes, it expires 3 months after the appeal has been allowed. But in that time the Chairman of the Commission

can of course issue a new certificate stating that there is no delay or the delay is not due to the applicant. If he doesn't do so then once again a further appeal lies to the Magistrates' Court. So in those cases the applicant has a continuous right to challenge any suggestion that he has been liable for the delay.

Mr Chairman, I commend the amendment to this House.

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

HON M XIBERRAS:

This seems a sensible amendment which we can support. There is only one matter which I would like clarification on and that is whether the Commission which now under the terms of the amendment becomes subject to an appeal to the Magistrates' Court has been consulted by the Honourable Mover prior to bringing this amendment to the House.

HON ATTORNEY-GENERAL:

It was discussed with the Minister who is the Chairman of the Commission.

HON M XIBERRAS:

I just wondered whether the present members of the Commission have in fact been consulted by the Minister or anybody else.

HON ATTORNEY-GENERAL:

I cannot of course answer for the Minister because the Minister is not here but I have no doubt at all that he has discussed this with the Commission.

HON M XIBERRAS:

We must of course take the Honourable Member's word for it that it has been.

HON ATTORNEY-GENERAL:

I did not say it had been.

HON M XIBERRAS:

In that case we might take it that it might not have been. Does the Honourable and Learned Member not consider that in a matter of this importance there might be a number of cases arising in which the Commission does have a responsibility which can be questioned in the

Magistrates' Court, the members of the Commission should have been consulted by himself in the absence of the Minister or the Minister before he left. Could he give the House an assurance that this is being done.

HON CHIEF MINISTER:

Mr Speaker, Sir, the original amendment provided that the certificate should be given by the Chairman and it was at my suggestion on his discretion that I thought that it was better that a decision of this nature should not be taken or begin to be taken by the Chairman alone and it was I who suggested to the Minister to get the Development and Planning Commission to be the decisive factor. I have no doubt that having regard to that insinuation which he accepted fully, he has consulted them.

HON M XIBERRAS:

Mr Speaker, I think by the very same argument I would have hoped that we would have had some categorical statement that they had been consulted. Since the powers have gone from the Chairman of the Commission to the Commission as a whole, I think it is only proper that all members should have been consulted.

HON CHIEF MINISTER:

I am not saying that they have not been consulted. I am assuming that they have and if not they will be. It is a statutory body and this House has got powers to lay at that statutory body statutory duties and I have no doubt. In fact it was done in order to prevent any criticism that it was the decision of the Chairman alone and not the decision of the Commission in matters of such importance.

HON M XIBERRAS:

Mr Speaker, that is precisely my point, that there should have been a statement from the Government that the Commission in view of the nature of the amendment had been consulted. I am sorry to see that such a categorical statement has not been given.

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

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that subsections (4), (5), (6), (7) and (8) as appearing in the Bill at the moment be renumbered as (6), (7), (8), (9) and (10).

Mr Speaker put the question which was resolved in the affirmative and the amendment was passed and clause 2, as amended, was agreed to and stood part of the Bill.

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

Clause 4:

HON PJ ISOLA:

I have an amendment to move to this clause. Mr Chairman, you will recollect that at the second reading of this Bill we did point out the dangers of accepting that particular clause in the form as submitted to the House as that clause is in a sense a punitive clause. So that it will be possible for the House to resolve the sum that should be fixed per square metre for the purposes of annual value for any particular area in Gibraltar I think we should be careful that what could possibly be a punitive resolution of the House in respect of areas that are unoccupied it could result in occupied hereditaments having to pay rates on a higher basis because of its close proximity to an unoccupied hereditament. So that therefore in order that there should be no doubt as to what hereditaments this particular section is meant to cover, I would move that clause 4 be amended by the amendment of subparagraph (4) of the new section as follows -

- (i) in line 3 of subparagraph (4) insert the word 'unoccupied' between the word 'every' and the word 'hereditament' and
- (ii) in line 3 of subparagraph (4) insert the words "as defined under the provisions of this Ordinance" immediately after the word 'hereditament' in that line. So that it would read: "Where a resolution has been passed in exercise of the powers conferred by subsection (1) the net annual value of every unoccupied hereditament, as defined under the provisions of this Ordinance, shall be either the rent assessed in accordance with the provisions of section 3(1) or the sum assessed by multiplying the number of square metres in a superficial area by the sum fixed by resolution."

Mr Chairman, I think Honourable Members will agree, and if they don't certainly traders and persons in business premises agree that the rates that they have to pay which I think is something like 60p in the pound, and premises are now being valued on the full twelve months rent for the purposes of net annual value under section 310 Public Health Ordinance, that is in effect happening today in the valuation list submitted by the Valuation Officer, that it would be wrong that because the House of Assembly were to resolve that there should be a levy of so much per square metre of superficial area of any particular area in Gibraltar with the idea of hitting an owner who did not have his premises occupied, it would be totally wrong if people who have been assessed by the Valuation Officer according to market values who have an opportunity to appeal to the Court of First Instance if they do not agree, it would be wrong that these people should find themselves as a result of a Resolution of the House having to pay penal rates with no right of appeal. I commend the amendment to the House.

Mr Speaker~~5~~ proposed the question in the terms of the above amendment.

HON CHIEF MINISTER:

Mr Speaker, before the Attorney-General deals with the details of the possible consequences of the amendment, I would like to refer to one point made by the last speaker about the question of business premises now being rated on 12 months of the rents. I do not question that that may have been the case - I don't know. But certainly the provisions of the Public Health Ordinance provides that in rating the Valuation Officer must take into account an amount for repairs and maintenance and so on and this is the way it has always been done. I am sure that if there has been any departure from that principle that that can be questioned in Court. I have no doubt about that at all. The normal thing has been on a 12 month basis because two months are allowed for repairs and depreciation and things like that.

HON PJ ISOLA:

Mr Speaker, all I can say is that the Chief Minister is certainly not au courant with the valuations that are taking place. I do not think he will find a single business premises in Main Street, Gibraltar, today assessed on 10 months rent. Not one.

HON ATTORNEY-GENERAL:

Mr Chairman, with the greatest possible respect to the Honourable and Learned Member opposite, I think he has completely misunderstood the provisions of this particular Bill. He starts off by saying: "let us put in the words 'unoccupied property'." As he will be aware unoccupied property can now be treated as occupied property in certain circumstances. If you have a building on a particular plot it is always going to be treated as occupied even if it is not unless it comes within one of the exemptions. We are not concerned in this particular clause with whether property is occupied or unoccupied, we are concerned with what is the value to be ascribed to that particular property. You might have a very handsome plot of land on which there is a very small building. It is assessed - or would be assessed at present - under the benefit which goes to the owner. If he has got a small building than the net annual value at present would be low because although he could have put a much more pretentious useful to the community building, he has not done so. So we have said in those circumstances the House of Assembly can, by Resolution, determine an alternative method of valuation. We cannot say only undeveloped property because the question then arises as to what is developed and what is undeveloped. This was considered about 7 years ago by the Attorney-General's Chambers. I think, however, I can give an undertaking that this is purely concerned with ensuring that the best use is made of all property. A resolution of the House can apply not to the whole of Gibraltar or a particular area, it can apply to a single plot if necessary. And it is not going to be used to place penal rates on property which is already developed and in any event the aim of the Valuation Officer in deciding when in advising the

House what is a fair rent per square metre, would be to provide the same rateable value as would be on the property if it were properly developed. But the Honourable Mr Isola's amendment achieves nothing at all. Let us say you had an unoccupied hereditament, it might be a building let us say a block of flats goes up which the builder doesn't want to let, in that case that is unoccupied but it is treated as occupied for the purposes of the Ordinance. If you have a plot of land which is not built on at all but nevertheless the owner just has a small hut, as I said before, that wouldn't be caught by this, he could get round the whole purpose of the Ordinance. He could refuse to develop, he would not have to pay existing rates purely because it is occupied if the word "unoccupied" were to be put in. And that is what we want to guard against. I think I can give an undertaking but again do not forget this is for Resolution of the House, and if any rates were fixed by Resolution or the Government purported to fix any rate and asked the matter to be approved by the House, which would unfairly affect other property, people would be up in arms and rightly so. Granted the Government has a majority, but this is not a thing which is going to be done behind closed doors, this has got to be given a proper airing and I think I can fairly say this is the only method in Government's opinion which can root out the problem with which we are faced.

HON PJ ISOLA:

Mr Chairman, I would disagree entirely with what the Honourable and Learned the Attorney-General has said.

MR SPEAKER:

Mr Isola, perhaps we might ask if there are any other contributors because I know you have got the right to reply, most certainly, but perhaps it would be better if we also have other members' views.

HON M XIBERRAS:

Mr Chairman, it seems to me that whilst my Honourable and Learned Friend is trying to limit what is after all a fairly underanging principle which has become evident in this short debate on this particular amendment, the Honourable and Learned Attorney-General is offering as a possible limitation of abuse of this provision, the fact that the matter would come before the House and that the House would act in a particular way. Equally, it would seem to me that this is not the most satisfactory way of delimiting a principle which I surmise by what the Honourable and Learned Member has said, he himself is not entirely easy with.

HON ATTORNEY-GENERAL:

If the Honourable Member will give way. I have no doubt whatsoever about this. I am fully and wholeheartedly in favour of it. I have no reservations, no doubts, no problems.

HON M XIBERRAS:

Well let me express my own doubts. My own doubts are that this could be applied by the House, by any House in the future, to any kind of situation whether there is a building or there is no building, if in the opinion of the Government of the day that building is not contributing as much to the community as the Government of the day feels it is. So that if one had, let us say, a particular building with two flats in the building theoretically the Government could say: "No, we would like to see five flats in that building as a contribution to the community and therefore we will increase the rates until you build five flats."

We know that Governments are not going to take leave of their senses of that degree but I think it is bad policy and bad legislation if such wide powers are given to any future House and therefore whilst we agree generally, with the idea of dealing with abuses where land is left unoccupied - might I remind the House that legislation of another kind was prepared by the previous administration in this respect and in respect of taking over property - yet on the basis of producing good legislation I cannot see how the Honourable the Attorney-General can agree to give so much discretion to Honourable Members of this House in particular cases where there might be people involved in particular properties, there might be connections with particular property, and where the principle has the widest application. If the Honourable and Learned Attorney-General agrees that there should be a limitation of this as I surmise once again from what he has said by way of an assurance from the Government that this would not be used in a particular way, I would be of the strong opinion that such a thought should be incorporated in the law.

HON CHIEF MINISTER:

Mr Speaker, we have thrashed out this because we knew the sentiments expressed by the Opposition at the last meeting. We had a session with the Attorney-General and the Surveyor and Planning Secretary, who has been for many years Valuation Officer, on the matter. The way it is envisaged to implement this part of the Ordinance is in no way going to be capricious. In fact, there would be, particularly under the planning scheme, zoning and average values for land and occupation in general terms. It certainly could be possible in an isolated case to have a Resolution but that is not the intention. The intention would be that values would be given by zoning and that any particular property that came under that which was not to that extent developed then it would come under the general scheme and not any question of individual cases being dealt with and then they are outstanding or very important for the benefit of the community and we feel, apart from the undertaking given for whatever time remains of this House that having considered all the advice that we have received that we ought to maintain the position as it is now.

HON M XIBERRAS:

Mr Speaker, the intervention of the Chief Minister confirms me all the more in my views. In the first place whether one deals with the problems of the nature envisaged by the original Bill or not, there are bound to be individual cases coming before the House. There is one notorious case almost in the centre of town which might very well be subject to this kind of legislation and there might not be another one in the area. So as far as this being something of general application one with any experience of affairs here could not agree that we are not going to have any individual cases. Secondly, the very fact that the Government has a short spell to run makes the question of assurances open to criticism and my points were directed not at the intentions of this Government, they were directed at a question of good legislation if Honourable Members feel that this principle is of such wide application that it should not be allowed to go in the Statute Books without any checks being included. Theoretically, the Bill could be applied to any building or any area in existence today and that is not a good thing to give the House these powers and these discretions in cases that might very well be individual.

HON AD MONTEGRIFFO:

Mr Speaker, I think the relevant clause to which the Honourable Member is making an amendment was described by him as the punitive clause in this legislation. I accept that the whole tenor of the Bill is punitive but no less punitive than those who want to hold the community to ransom by buying land or buildings and leaving it unoccupied so that they can speculate and I feel, Sir, that the amendment has been proposed by the Honourable Member no doubt in an effort to which he might feel is to improve on the legislation and to provide as the Honourable Leader of the Opposition says certain checks would in a way undermine the very principles for which this Bill stands and which is to prevent speculation and people holding the community to ransom. Therefore the Government is not going to be sanguine about it, I don't think any Government in its right senses will, but I do feel that if we were to go along with the amendment we could leave the very loophole that we are trying now to stop and allow speculators to go through without anybody having been able to check on them.

HON PJ ISOLA:

It is very easy to whip up the feeling against speculators, and people through that vision of lots of unoccupied premises. Fortunately for Gibraltar there is a very limited amount of this going on very, very limited indeed, and although we would agree with the sentiments expressed by the Minister for Medical and Health Services on this, we cannot agree that legislation which gives blanket powers sweeping powers, should be passed unless it is absolutely necessary. We had an instance of this in the Supplies emergency legislation which gave the Government power to do everything they liked but we got undertakings that they wouldn't do it

and everything else. But that is not good legislation especially at the end of the life of a Government. I am surprised that the Honourable and Learned the Attorney-General should say he has no doubts about this piece of legislation, I would like him to consider one very important point. Under the principles of rating, widely accepted in Gibraltar and the United Kingdom and everything else, there is a right of appeal to the courts in respect of valuations made. Under this section that right disappears because the House of Assembly will resolve so much per square metre. The only appeal to the court will be whether the metres have been measured properly or not and that would disappear completely if any particular House of Assembly should so decide. So the right of appeal of a citizen which he has today in the law is just taken away. You can do that obviously when it is justified in the case of an unoccupied hereditament but it is totally wrong to put in a provision that can apply right through Gibraltar on anybody purely because John Smith is speculating. Well, stop John Smith speculating but don't let Jones pay the penalty. The other principle, Mr Speaker, that has come in in the course of discussion and which is different to the one that the Honourable Mr Montegriffo has spoken about, is underutilised land. You could have the Mount hopefully one day handed over to the Gibraltar Government and because of the situation or whatever you like to call it, let as business premises. Look at all that land there. The House of Assembly will say "We will hit them. Look at all the area they have got" and pass a square metre Resolution. Now, if that is what the Honourable and Learned the Attorney-General's thinking of as well I would suggest to the House that those are not the reasons that were given to use when the Bill was introduced. This Bill was meant to deal with unoccupied and undeveloped land, land you were going to speculate with, but if somebody has the misfortune of having had a house built for him 100 years ago with lots of land I hope it is not the intention of the Government to start collecting rates on land which possibly even the Planning Commission will not give permission to be developed. So, Mr Chairman, my amendment referred to the rating of an unoccupied hereditament as defined under the provisions of the Ordinance. Once the Ordinance says: "unoccupied land shall be deemed to be occupied" well, then the usual provision applies, obviously. That is why I have put "as defined under the provisions of this Ordinance". In other words to any land that can be held under the Ordinance to be unoccupied land, that land can be rated at so much per square metre. And this is what the House intends so why not put that into effect? Why give the House of Assembly the right with one sweep of the pen to interfere with ratings at market value all over Gibraltar to interfere with the right of appeal in a legislation today which ordinary rate payers have. Purely and simply to have a go at 1, 2, 3, possibly 4 speculators the whole of the town has to be submitted to blanket legislation. It is bad legislation and I am surprised that the Attorney-General says he is very happy with it. I know he has drafted it and that must give him a certain amount of satisfaction but he certainly shouldn't be happy with the implications that it brings for the vast majority of rate payers in Gibraltar. A lot of them are very long suffering Mr Chairman, a lot of them have had quite a few increases in recent years, especially in the last four.

HON ATTORNEY-GENERAL:

Mr Chairman, it is totally untrue to say that the right of appeal has been taken away. No right of appeal exists at the moment against the rates fixed by this House. A right of appeal lies against what the Valuation Officer may decide to be the value of a particular property but if the House

should fix a rate of £5 in the pound. And what we are doing here is fixing the valuation. No appeal lies against that.

HON PJ ISOLA:

If the Honourable Member will give way. That is precisely the point. What we are doing here is fixing a valuation against which there is no right of appeal whereas the Valuation Officer fixes a valuation against which there is a right of appeal. That is the difference.

HON ATTORNEY-GENERAL:

Again this is no different. There can be an appeal against the measurement which is the same as an appeal against the net annual value attributed by the Valuation Officer. This is the crux which I am afraid the Honourable Member has not got. It would be so easy for a person to get round the provisions of the Ordinance as amended by this Bill by putting on a good plot a small hut in which he lives, it then ceases to be unoccupied and therefore he merely pays the net annual value as assessed at present which is minimal because the benefit which could accrue from a small hut is virtually nothing and this will ensure that in those cases reasonable rates are paid. I have given consideration as to whether one could define what was developed or undeveloped or under developed and I came to the conclusion that this was not possible. So here we have to have every hereditament, to avoid a complete circumvention of the purposes.

HON M XIBERRAS:

Mr Chairman, it is a poor admission that the wiles of would be speculators cannot be counteracted effectively by the resourcefulness of our Honourable and Learned the Attorney-General and instead we have to have something with which he could not be satisfied. The allusion made by my Honourable friend Mr Isola to the possibility of applying this legislation to the Mount or some other similar property, I would have thought that the Honourable and Learned the Attorney-General to at least give serious consideration to the point. It may very well be so that my Honourable and Learned Friend's amendment does not deal with the real speculator who does erect a hut on a vast piece of land but I am afraid the Honourable Learned Member's proposal does not meet my Honourable and Learned Friend's argument in any case. This could be applied to any plot of land, it is bad legislation if no one can devise a better solution for it. We did not want to in any way minimise the effectiveness of the Bill but Honourable Members on that side of the House with all their resources and so forth cannot be satisfied with the solution they have given to this problem.

HON P J ISOLA:

I agree with what my Honourable Friend has said and I will of course press the amendment. If the other side were to produce an amendment that would

meet the point we have raised on this side of the House we would obviously consider them favourably but it seems that the Government is prepared to take the easy way out and to give itself blanket powers and then bolster those up by giving undertakings they won't use them. That is a bad way of legislating and it can end up I think in trouble for a lot of people.

HON M XIBERRAS:

Mr Chairman on the question of there being or not being an appeal on any subject brought for resolution to the House it is quite obvious that the individual rates if one accepts that there are going to be individual cases then it is not comparable to say that

the House does levy rates, generally, on which appeal can lie because of the size of the hereditament with this particular case whether it is an individual case and where there is particular need for a right of appeal to the Court because there might be injustice done in one particular case, and it might be the Mount.

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

The Hon Miss C Anes
The Hon L Devincenzi
The Hon P J Isola
The Hon W M Isola
The Hon M Xiberras

The following Honourable Members voted against:-

The Hon I Abecasis
The Hon A J Canepa
The Hon MK Featherstone
The Hon Sir Joshua Hassan
The Hon Lt Col JL Hoare
The Hon A P Montegriffo
The Hon H J Zammit
The Hon J K Havers

The following Honourable Members abstained:

The Hon J Bossano

The amendment was accordingly defeated and clause 4 stood part of the Bill.

Clause 5 was agreed to and stood part of the Bill.

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that there be inserted in the Bill a new clause to be numbered clause 6 as follows -

"Amendment of section 295. Section 295 of the principal Ordinance is amended by the deletion of the proviso thereto and by the substitution therefor of the new proviso as follows: "Provided that the Financial and Development Secretary may collect the same by equal quarterly instalments payable in advance, namely on the 1st day of April, the 1st day of July, the 1st day of October and the 1st day of January.""

Mr Chairman, this is merely a tidying-up exercise. Until not very long ago the rating year ran from the 31st of January to the 31st of December and there was a provision that rates became payable quarterly, 1st January, 1st April, 1st July and 1st of October. When the rating year, if I may put it that way, was changed from the 1st of April until the succeeding 31st of March, there was no consequential amendment to the proviso allowing for quarterly payment. So it could be argued that where a rate is fixed the one from 1st of April to the 31st of March, the first instalment becomes payable on the preceding 1st January which is of course absolute nonsense. And this is merely putting the matter straight.

Mr Chairman, I commend the amendment to the House.

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

HON MISS C ANES:

Mr Speaker, the 1st day of January is a public holiday. Do they pay on the 31st of December or on the 2nd of January?

HON ATTORNEY-GENERAL:

It is the first business day after.

Mr Speaker then put the question which was resolved in the affirmative and new clause 6 was agreed to and stood part of the Bill.

New clause 7

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that there be inserted in the Bill a new clause to be known as clause 7 as follows -

"Amendment of Section 298C of the principal Ordinance is amended as follows -

(i) by the deletion of the full-stop at the end of the proviso to subsection (1)(b) thereof and by the substitution therefor of a semi-colon;

(ii) by the addition to subsection (1)(b) of a new proviso as follows -

"Provided further that where part only of premises are used for any of the purposes of this paragraph an order under this subsection may be made in respect of such part; and

(iii) by the deletion of subsection (2) thereof."

If I could perhaps first deal with the first two parts. The first of course is consequential to the second one. Under section 298C the Governor is given discretion to authorise total or part exemption from the payment of rates of two sorts of property and the second is premises occupied and used for the purposes of one or more institutions or other organisations which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social work, science, literature or the fine arts. It would appear that unless the whole of a particular premises are used for one of these purposes there can be no exemption. This seems to Government to have been perhaps unjust and the object of the amendment in the additional proviso is to ensure that in such cases where part of the property is used for one of the philanthropic religious purposes there could be an exemption of rates of that part of the property. It is power to exempt - this is not mandatory but the matter will of course be considered - at the moment it cannot even be considered.

The second amendment is the deletion of subsection (2) of section 298C. I will read the subsection which we are taking out. "An order made under subsection (1) of this section may be made so as to have effect from any date not earlier than the beginning of the rating year in which it is made." This would seem to be a little cockeyed. You have your rating year from 1st April to the 31st of March and rates are of course payable quarterly on demand. At the moment the procedure is to grant this exemption right at the end of the year and so it relates back to the preceding 1st April although theoretically the rates should have been paid. All we are doing now is to say that your exemption order can be made at any time, it hasn't got to be made actually in the year. So if a rate is fixed, perhaps the general rate for the succeeding year is fixed by Resolution of this House in March at the moment unless the exemption is granted before the 1st April, then it cannot apply to that particular year. It can only be made to the year in which it is made. And this gives more freedom to consider the appropriate cases for exemption.

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

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

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

THE MISCELLANEOUS AMENDMENTS BILL, 1976.

HON CHIEF MINISTER:

Mr Speaker, Sir, the Honourable Mr Bossano approached me on Friday regarding certain proposed amendments that he wanted to propose today one of which he had already had in some kind of draft

and others which he was thinking of preparing in time for it to be read this morning. One of them would appear to be reasonably acceptable provided the Attorney-General has an opportunity of looking at the others maybe it is perhaps a little less uncontroversial. But in any case it seems to me that it would be unfair because they came late and because some of them might be controversial just to have a negative attitude. I should like to state that the bulk of the amendments which he suggests and which were acceptable in principle subject to vetting were those in relation to the appointment of members to committees and the powers of the Governor to withdraw to which considerable exception was taken last time. It does not alter the matter very much but it does tidy up the situation. The others are of a different nature and would require much consideration. In view of that I would suggest that we leave the Committee Stage and Third Reading for the next meeting so that we have an opportunity to look at the suggestions which will be made and be in a better position to take an attitude, be it yea or nay, but some on which consideration will have been given.

MR SPEAKER:

Do the Opposition agree that this Bill should be left over till the next meeting? We are not going to have a debate to whether we should or we should not.

HON M XIBERRAS:

We are delighted about this because though the Honourable Members opposite might not recall it no doubt the Chair does, that the points concerning this Bill were raised about the absolute negativeness of the Government on these points has been translated into one of cooperation after the meeting with Mr Bossano.

HON AJ CANEPA:

I would just like to make clear to the Honourable Leader of the Opposition that Members on this side of the House have certainly a better memory than he has. I pride myself on having a better memory than he does. It is a pity that that marvellous champion of democracy on the other side of the House did not make the amendments themselves.

MR SPEAKER:

This Bill will be left over for the next meeting of the House.

THE IMMIGRATION CONTROL (AMENDMENT) (NO 2) BILL, 1976

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

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

THE CITY FIRE BRIGADE AND FIRES SERVICES BILL, 1976

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

Clause 2

HON ATTORNEY-GENERAL:

I beg to move that clause 2 of the Bill be amended by the insertion in the appropriate alphabetical position of a new definition as follows -

"calamity" means an occurrence by which life or property is endangered."

The purposes of this particular amendment and indeed the majority of the others which are consequential thereto, is to give the City Fire Brigade the power to help in occurrences other than fire fighting, that is, other than where danger may be caused to life by fire. A typical example would be this tremendous storm which occurred in March of last year. The City Fire Brigade if necessary would have power to go and help if required to do so to save life and property in those circumstances. There could be other quite obvious cases of course where it might be necessary for them to help, a house might fall down, and it might be necessary to get in and get the people out. In those circumstances it is only right that the City Fire Brigade should have statutory powers to take remedial action. Mr Speaker, I commend the amendment to the House.

Mr Speaker put the question in the terms of the above amendment which was resolved in the affirmative and Clause 2, as amended, was agreed to and stood part of the Bill.

Clause 3

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to give notice that clause 3(1) of the Bill be amended as follows -

- i. by the insertion after the words "in case of fire" appearing in line 3 of the words "or other calamity"; and
- ii. the deletion of "(m) Lathbury Barracks; and (N) Royal Naval Hospital" appearing therein and by the substitution therefor of "(m) Lathbury Barracks; (n) South Barracks; and (o) Royal Naval Hospital."

Mr Speaker put the question in the terms of the above amendment which was resolved in the affirmative and clause 3, as amended, was agreed to and stood part of the Bill.

Clauses 4 to 6 were agreed to and stood part of the Bill.

Clause 7

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 7(b) be amended by the insertion after the word "fire" appearing therein by the words "or other calamity". This is a consequential amendment.

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

Clause 8

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 8(1) of the Bill be amended by the insertion of the word "fire" appearing in line 5 thereof of the words "or other calamity".

Mr Speaker put the question which was resolved in the affirmative and agreed to.

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 8(2) of the Bill be amended by the insertion after the word "fire" appearing in line 1 of the words "or other calamity".

Mr Speaker put the question which was resolved in the affirmative and the amendment was agreed to.

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 8(3) of the Bill be amended by the insertion after the word "fire" appearing in line 3 of the words "or other calamity".

Mr Speaker put the question which was resolved in the affirmative and the amendment was agreed to.

Clause 8 as amended was agreed to and stood part of the Bill.

Clause 9

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 9 be amended by the insertion after the word "fire" appearing in line 1 of the words "or other calamity".

Mr Speaker put the question which was resolved in the affirmative and Clause 9 as amended was agreed to and stood part of the Bill.

Clause 10 was agreed to and stood part of the Bill.

Clause 11

The Hon the Attorney-General moved that clause 11(1)(e) of the Bill be amended as follows -

"that the words "fire hazard exists" should be added to the word "such" where it appears in the fifth line of Clause 11 sub-Clause (1)(e) and that all words appearing after the said word "such" should form part of a separate paragraph to the said Clause.

Mr Speaker put the question in the terms of the above amendment which was resolved in the affirmative and Clause 11 as amended was agreed to and stood part of the Bill.

Clauses 12 to 18 were agreed to and stood part of the Bill.

Clause 19

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 19(1) be amended by the insertion after the word "fire" appearing in line 1 of the words "or other calamity".

Mr Speaker put the question which was resolved in the affirmative and the amendment was agreed to.

HON ATTORNEY-GENERAL:

Mr Chairman, I have three amendments to clause 19(2), if I could take them one by one. By the insertion immediately after the word "fire" appearing in line 5 of the words "or dealing with a calamity".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 19(2) be further amended by the insertion after the word "fire" appearing in line 8 of the words "or dealing with the calamity".

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

HON ATTORNEY-GENERAL:

Mr Chairman, I beg to move that clause 19(2) be further amended by the insertion after the word "fire" appearing in line 9, of the words "or other calamity".

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

Clause 19 as amended, stood part of the Bill.

Clauses 20 to 32 were agreed to and stood part of the Bill.

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

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

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

THE HOUSE OF ASSEMBLY (PUBLIC OFFICES) BILL, 1976

Clauses 1 to 8 were agreed to and stood part of the Bill.

The First Schedule

HON J BOSSANO:

Mr Chairman, I would like to move that the First Schedule be amended by the deletion of the words "a department of the Government of the United Kingdom" in section 1 thereof and the insertion of the words "the Crown" between the word "under" and the word "which" in the said section.

The effect of the amendment, Mr Chairman, would be to make the First Schedule applicable to an office of emolument which is industrial employment both in the United Kingdom Departments and in the Gibraltar Government. It would in fact allow industrial workers of the Government of Gibraltar to stand for election.

There is a further amendment that I propose to move to the Second Schedule which is in fact to a certain extent consequential to the first one in that for example industrial employment would then have to be taken out of the Second Schedule. At the moment, as the Bill now stands, what the Government proposes is that a manual worker in the employment of the Government should be allowed to stand for election only if he gives an undertaking that he will give up his employment if he should be elected. I strongly believe, Mr Speaker, that it is important for the Government to go that little bit further than they have already gone with their own proposals and open up the opportunity to stand for election to its own employees.

There are something I would say in the region of 900 Gibraltarian industrial workers in the employment of the Government of Gibraltar and this is a very substantial number of industrials that would be debarred from standing for elections and retaining their employment. It is totally impractical to say that the theoretical impartiality of a civil servant needs to be seen to be preserved even when we are talking about charwomen, road sweepers etc etc. The bulk of the industrial workers of the Gibraltar Government are involved in this sort of job, they are either craftsmen or labouring grades, there is absolutely nothing really that can be said to influence Government Policy in their holding political views or in acting as a channel of communications and I think any House in the future would gain from having a wider cross section of the population. I see no essential conflict and if in fact the Government is not prepared to support my amendment then I would like them to state quite clearly, in view of what was said the last time about the delay from the United Kingdom, if it is a case that they will not support it I would like them to state quite clearly whether they will not support it because they don't think the British Government would like it or whether they could not support it because they themselves don't like it.

I think the onus of responsibility should be clearly stated and I may say that I find it inconceivable that the British Government should lay down the law for the Gibraltar Government as to its treatment of their own employees whilst allowing preferential treatment to their employees in the ~~DOE~~ and the Dockyard.

I commend the amendment to the House.

Mr Speaker then proposed the question.

HON MD XIBERRAS:

/not to

Mr Chairman, as the House is aware when the general principles of the Bill were being discussed, I informed the House about the consultations that had taken place between the Chief Minister and myself on this matter in the course of which I undertook / vote against the general principles of the Bill because even though its provisions fell short of what was considered desirable by Honourable Members on this side of the House, and even though it fell short of my understanding of what the Chief Minister was willing to do in respect of this Bill, nonetheless certain people would benefit from its provisions and we were not willing to oppose, to vote against the general principles of the Bill in these circumstances bearing in mind the election that is coming up. However, the House will also recall that I in no way bound myself not to speak and make clear my objections to the Bill and the same considerations apply in respect of this amendment.

I say it quite clearly and quite consistently that Honourable Members on this side are totally in favour of the suggestion made by this amendment and we feel that the terribly inconsistent position that would arise is one which the Government should give attention to. We have been pre-empted or precluded from moving such an amendment ourselves and similar amendments by virtue of the undertaking that I gave the Chief Minister and consistently we will abstain on this amendment as well. But members of the Government should bear in mind that this discrimination that would arise from the provisions of the original Bill would be somewhat attenuated by Mr Bossano's amendment.

The argument of the Government has been that where you have employees of the Government then you should not allow these employees to retain their jobs and at the same time be Members of this House. The argument of Honourable Members on this side of the House has been that in the special circumstances of Gibraltar and particularly following the merger of City Council and Legislative Council in 1969, it was essential to allow a good number of people to be able to stand for election and not leave their jobs. So from both points of view, both from the discriminatory effect which the Bill as it stands would have on the whole range of industrial workers in official employment as such, and from the effect which any diminution of that number would have on the democratic process in Gibraltar we support this amendment with our argument if not with our vote.

Honourable Members opposite will be aware that there are exceptions and very important exceptions made in United Kingdom legislation whereby political activity in the broadest sense is allowed to different degree in the different echelons of the civil service in Britain. It is a fact that for instance writing to newspapers, forming part of a political party and so forth are allowed and have been allowed for a very considerable time in the United Kingdom, I think it is following the MacManus Report of a very long time ago, and that therefore the breach of the principle which the Government fears I think is not there. I think that in view of the fact that Honourable Members do not get the sort of allowance which MPs in the United Kingdom get, the sort of salaries that MPs in the United Kingdom get, in view of the fact that Honourable Members here are part-time politicians, one should not prejudice the chances of any industrial in the Government from standing for election and retaining his job.

The case of, Mr Bossano, when he was trying to obtain employment as a Telephonist in St Bernard's Hospital, a job that was classified as of industrial status and which would have required his possible ejection from this House had he been given it, must give Honourable Members a great deal of concern.

MR SPEAKER:

I think I have to correct you. It would not ^{have} caused the possible ejection of Mr Bossano from this House, it would have disqualified Mr Bossano from sitting in this House, which is not quite the same thing.

HON MD XIBERRAS:

Mr Chairman, I would qualify my remarks to the extent that it was Mr Bossano's intention that he would have to be forcibly ejected from the House.

MR SPEAKER:

We haven't got notice of that!

HON MD XIBERRAS:

I think, Mr Chairman, that there were certain consultations at the time which made this clear and there was a problem as to who was going to do the ejecting.

MR SPEAKER:

Well, that would not have presented any problem at all, I can guarantee you.

HON MD XIBERRAS:

Mr Chairman, that again is a question of judgment a question of opinion.

MR SPEAKER:

No, no, the importance of rules are never questions of opinion, it is a question of law.

HON MD XIBERRAS:

Mr Chairman, the possibility of enforcement is always a question of opinion of judgment.

Mr Chairman, the Government would therefore not be breaching any absolute principle to my mind in doing this, and in the peculiar circumstances of Gibraltar, it does seem the fair thing to do to allow industrials in the Government to be able to retain their jobs whilst being members of this House,

Mr Speaker, the case of Mr Albert Risso has come up and I was recalled by some Honourable Members that Mr Risso was a member of the City Council and yet was a member of the Legislature. Of course he belonged to different bodies at that time and therefore some Honourable Members on the opposite side saw no conflict in this. However, in fact and in practice it should also be parallely recalled that the Honourable and Learned the Chief Minister Sir Joshua Hassan was at the time both Chairman of the City Council or Mayor, and also Chief Minister and there appeared to be no conflict of opinion, no conflict of interest at that time even though Mr Risso's boss technically was Sir Joshua Hassan in respect of the Legislature and also of the City Council as Mayor of Gibraltar.

Mr Chairman, there are a great number of anomalies in our system and where there is need for anomalies and where there is need for allowance the House should see to it that allowance is made equally for all sectors of the community, for the benefit of all sectors of the community, and if we have certain anomalies in respect of our elected members here in this House such as the absence of a legal need to renounce all financial interests when they become Minister then equally there should be allowances made in respect of these industrials being allowed to stand for election to this Chamber.

I find the argument hypocritical that whereas

MR SPEAKER:

Let us go back to - we went through that on the second reading

HON MD XIBERRAS:

. . . . we consider the indispensability of certain elected members of this House were not willing to consider the possible indispensability of the right to stand for election to certain members of our employed labour force in Government.

Mr Chairman, the last point which I wish to make is that which has been alluded to by the Honourable Mr Bossano. We are still very much in the dark as to who is dictating the terms of this Bill. We have had exchanges

MR SPEAKER:

We are going back to the general principle, and I think in fairness we have gone through all this at the second reading. If you want to refer

HON MD XIBERRAS:

We have gone through all this, Mr Chairman, but this is a very substantial amendment and I think these considerations bear upon it.

We would like to know categorically whether it is the Foreign and Commonwealth Office or any other office of Her Majesty's Government that has said that the terms of the Bill as presented are those it is willing to consider now and in particular whether the Foreign and Commonwealth Office has made any specific request, or given any specific instructions in respect of this particular amendment, why it should not be acceptable to Honourable Members opposite at this particular point in time.

I think the Chief Minister, after two years of consideration of this and much beyond that, is under an obligation to inform the House as to what are the views of the Foreign and Commonwealth Office and to that extent he is willing along with them. In any case to my mind, given the situation of Gibraltar, whoever holds the views that this particular amendment is not acceptable, whether it be the Chief Minister or whether it be the Foreign and Commonwealth Office, is not acting fairly to all sectors of the community in Gibraltar and is pursuing some.

HON CHIEF MINISTER:

Mr Speaker, I am really sorry that what the Leader of the Opposition has quite rightly called a substantial amendment has been made at this late stage without any prior notice. There may be no requirement under the Standing Orders - I am not saying that it is out of order - but of course if the Government is to act responsibly and properly respond to the ideas of the other side it must have time to consider these matters.

to go

Now I would like to say that without a thorough search into the joint representations that were made to the United Kingdom, which I have not carried out because I had no notice of any amendment, I could not say how far the suggestions made by my party go in respect of this and I would like at the same time to consider it. But what I am concerned with, and one point which has been made on the other side which I think requires a clear explanation, is that this is as far as I have been able to get prior approval to its being approved subsequently and no power of disallowance been exercised. It has not been said, let me put it quite clearly, that if we go further any power of disallowance will be used. I will not say that but it has been quite proper, and I am sure that Honourable Members who have been in office on the other side will realise, that when one is trying to get something one tries after a lot of trouble to see how far the British Government will go in approving this.

I do not want to wreck the rest of the Bill by adding this at this stage without reference back to the matter. So that at this point I am not able to accept the amendment for that reason. Now that does not mean that having regard to the feelings expressed by the mover, by the Members opposite, and as a result of an examination that I will make of the proposals that we put up to London as far as we were concerned, and having regard to fresh representations that can be made between now and the next meeting, if it is possible to extend it by a small amendment I will see whether we can do it. This is as far as I can go. It is not a question that I am against it or in favour of it: I haven't got very strong objections to it, I would like to look at the theory, but what I am afraid of is putting something beyond the extent to which I have been able to obtain approval and wrecking the whole Bill.

My immediate response to this is that we cannot go with it now: if as a result of further inquiry between now and the next meeting of the House we can go that far we will bring a small amendment to cover it. That is as far as I can go on this stage in view of the lateness of the amendment and the fact that I haven't really got all the papers to consult the matter now:

HON MD XIBERRAS:

Mr Speaker, I entirely agree that that is as far as the Chief Minister can go in the certain circumstances but I think it is ridiculous that the content of this Bill should be changed, is possible to change it now, after the Honourable Member opposite has been aware for over two years and has represented to the Foreign and Commonwealth Office that these were the views of the Opposition for such a period. I think, Mr Chairman, that the Chief Minister can certainly have this time to consult the Foreign and Commonwealth Office anew, but when he does consult the Foreign and Commonwealth Office perhaps he would make it known to them as well that if they are willing to give consideration to this proposal in this short period of time available now before the next meeting takes place, it is a shameful disregard of the feelings of the Opposition that they have not done so before.

HON CHIEF MINISTER:

And of the members on this side of the House.

HON MD XIBERRAS:

No, Mr Chairman, because Honourable Members have not manifested themselves really on this point. The Honourable Mr Bossano asked the Honourable and Learned the Chief Minister to state his views on this, is it a fact that this is something that they support or is it something they do not support, and they should state so clearly now.

HON CHIEF MINISTER:

I cannot say that now without reference to the very detailed proposals that were made in which there were all sorts of variations and to which we gave a considerable amount of margin. I really cannot do it now, I am sorry.

HON MD XIBERRAS:

But surely the Honourable Member knows how he stands on this particular issue. It is one that has been before him for two years.

MR SPEAKER:

Mr Bossano do you want to say something before I put the question.

HON J BOSSANO:

I regret that the Government cannot do more than to undertake to take another look at this basically, although that is better than nothing, I welcome that much anyway. I cannot accept in all fairness, Mr Chairman, that the fact that I have just moved the amendment has not enabled the Honourable and Learned the Chief Minister to give any thought to this matter. I think I expressed my feelings abundantly and at length: In fact I recall the struggle to control myself, Mr Chairman, when we were discussing the general principles. I think there was absolutely no doubt that I had very strong feelings on the matter and that I would be moving amendments, I think I mentioned this, I would be moving amendments at the committee stage.

Now, in fact all the amendments that I have moved, although they may appear to have very wide implications, but all that they do is that they make it possible for industrial workers in the Gibraltar Government to stand for election. That is all that it involves.

HON CHIEF MINISTER:

And remain in employment.

HON J BOSSANO:

And remain in employment, yes.

It would be absurd, Mr Chairman, if they weren't allowed even after leaving employment. That would really be the limit!

HON CHIEF MINISTER:

If the Honourable Member will give way, it went a little further this time in that you did not have to leave as you are required now to leave employment before standing.

HON J BOSSANO:

Well, I accept that, but that is Mr Chairman, small consolation to know that you do not have to leave employment, particularly for industrial workers were being re-employed should be a relatively easy thing in view of the fact that we employ 3,000 alien workers.

MR SPEAKER:

No, no. What I think the Chief Minister is saying exclusively is that an industrial can now stand for election and he is only required to resign if he is elected.

HON CHIEF MINISTER:

There were proposals contained in our own proposals of the right to maintain the seniority and posts subsequent to being in the House. That is why it is rather complicated.

HON J BOSSANO:

I accept that that sort of protection was discussed, but in fact the difference that there is here is the difference between giving up one's job to stand for election and then standing for election and perhaps not getting elected, and then presumably not being sure that one is going to get one's job back. Now I would say that in the case of the industrials the risk of not being able to be re-employed in the Gibraltar Government is minimal because we have got 3,000 alien workers, so in fact all that one does here is that one is saying to an individual "If you stand for election you can keep your job if you don't get elected but you lose it if you do get elected," Which is in fact very little difference from the

present situation where a person would lose his job but then be able to get it back if he does not get elected because there is a tremendous shortage of industrial workers. So in fact the improvement has to be seen in cold reality for what it is. Any improvement is welcomed but let us not blind ourselves to how small an improvement it is Mr. Chairman.

I regret that the Government cannot accept the amendment and in fact I would rather withdraw the amendment than have them voting against it, because I would not like them to be voting against it, now and then moving it themselves at the next meeting.

MR SPEAKER:

Well having proposed the question I have to ask whether the House grants Mr Bossano leave to withdraw the amendment.

This was agreed to.

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

Second Schedule

HON J BOSSANO:

Mr Speaker, the amendment I have here will need to be slightly altered, I think, in order to allow for the fact that the purpose of removing the words industrial employment in the Second Schedule was that there would not be a conflict between the Second and the Third Schedules, but in fact it is not in the First Schedule it will have to stay in the Second Schedule, so I propose that the amendment should now read "that the Second Schedule be amended by the addition of the words "or of the grade of clerical officer or a grade prescribed by

MR SPEAKER:

So in other words this would leave out 'industrial employment', is that right?

HON J BOSSANO:

In fact that the amendment will now be an addition to the Second Schedule instead of a substitution.

MR SPEAKER:

Yes, so that this would read: "I beg to give notice that the Second Schedule be amended by the addition of the word 'or'.

HON J BOSSANO:

Of the word 'or', in order to make it gramatically correct: 'or of the grade of clerical officer or of a grade prescribed by order of the Governor to being a grade equivalent to or below the grade of clerical officer.'

/up

The effect of this amendment, Mr Speaker, would be to put clerical officers in the Gibraltar Government on the same footing as industrial workers on the Government's proposals, that is that they would be allowed to stand for election provided they gave an undertaking to give their jobs once they were elected. Now I cannot see, Mr Chairman, why they should not be allowed to have that very small measure of protection, and just like I said, Mr Chairman, that I considered that the Government's own move a very minor one, I have made it quite clear that I consider my own amendment also a very minor one. It isn't that that is what I wish to see it is just that I wish to see the improvement that the Government has been prepared to extend to industrial workers also extended to clerical officers because I think it is most unfair that a clerical officer should have to give up his job once they were elected. Now I cannot see, Mr Chairman, why they should not be allowed to have that very small measure of protection, and just like I said, Mr Chairman, that I considered that the Government's own move a very minor one, I have made it quite clear that I consider my own amendment also a very minor one. It isn't that that is what I wish to see it is just that I wish to see the improvement that the Government has been prepared to extend to industrial workers also extended to clerical officers because I think it is most unfair that a clerical officer should have to give up his job, because if anything the protection is more important for the clerical officer than for the industrial workers, for the reasons that I was mentioning just now: that in the case of the industrial worker, if an industrial worker has to give up his employment to stand for election and doesn't get elected generally speaking we would have no difficulty in being re-employed in the Gibraltar Government because there is a shortage of industrial workers and we have a vast number of alien industrial workers employed by the Gibraltar Government. In the case of clerical officers in the Gibraltar Government I think the situation is in fact less secure. A clerk in the Gibraltar Government who gives up his post to stand for election and doesn't get elected has absolutely no protection at all; the protection that I wish to give him with my amendment is merely the same protection as is given to the industrial worker; that he will have to give an undertaking to give up the job if he does get elected but if he doesn't get elected he can carry on in his post. I can see absolutely no reason why the Foreign and Commonwealth Office should object to this one.

Mr Speaker then proposed the question.

HON MD XIBERRAS:

/as

Mr Speaker, equally on this amendment, we support it. It is a minor amendment as, Mr Bossano, has said, it is not as comprehensive one would have liked it and certainly not as comprehensive as the proposals made by

the Integration with Britain Party in the course of the negotiations that have taken place between it and the AACR on this. Mr Chairman, it is my recollection that it was in the AACR proposals that something of this nature should be applied and I was very surprised when the Bill came before the House and it did not include the provision which the Honourable Mr Bossano is now seeking to introduce. And that is one of the reasons why I have said that the Bill not only fell short of what was considered desirable but of what the Chief Minister had intimated that he was prepared to do.

Now, we certainly support this. One must imagine the situation, the people involved are more likely to be young people, people I would say around the age of 20 to 30 or so, and it is a stage when a decision has to be taken as to whether they stand for election or not. I think it would be a factor which would influence them towards standing for election, if they feel so inclined, to know that they could have reinstatement if they were not elected. It is the least one can do in the Gibraltar Government, and it is the least that one would expect from a good employer, a good and public spirited employer in the private sector. And if the Government is conscious of its obligations as the Gibraltar Labour Party always had an interest in furthering the democratic process and if it demands public spirit from the private sector employees, as we have done in respect of the Gibraltar Regiment and numerous other ventures, then surely the Government, the Chief Minister as Leader of his party, cannot refuse this minor amendment.

HON CHIEF MINISTER:

Sir, I think there is a misunderstanding, certainly on the part of the Leader of the Opposition about this. This is not a Bill in which we have obtained clearance from the Foreign and Commonwealth Office to our proposals and a negative of the other proposals. To that, as I have said, there has been inordinate delay and there has been no reply. And that despite what anybody can say about, this despite the fact that at every opportunity at every visit to London on every possible opportunity a reply has been requested. Short of going with a machine gun somewhere there - yes, I am sure the Honourable Mr Bossano might help me to carry it, he has been described in another forum as a possible hijacker - and therefore this is not the case, and surprising as Mr Bossano may find it, we find this one much less hopeful even between now and the next meeting than the first one. And I will say clearly why: one because built up with the proposals that were made there were two aspects of matters on which there have been consultations and proposals; one was the question of standing for election and the other one was the political activities of civil servants.

Now that is one of the items on which representations were also made for guidelines and on which there has been no reply. I am afraid I have to give the same response to the Honourable Member with regard to this amendment, but one which in the time available I would think is less hopeful than the first one. If I remember rightly our proposals were that whereas he would have to resign in order to stand for election, if you were not elected your job would be given back to you: that I think is in our proposals, and, therefore I do not think there is much difference in that aspect of the question of re-employment as there would appear to be the thought in these proposals that have been made.

HON MD XIBERRAS:

The Honourable Member I think is misleading the House when he says that he has had no reply from the Foreign and Commonwealth Office. I think this Bill is the reply of the Foreign and Commonwealth Office.

HON CHIEF MINISTER:

Oh no.

HON MD XIBERRAS:

Because I do not think he would have dared to bring a Bill on this subject to the House had he not got the prior approval of the Foreign and Commonwealth Office, judging by what he has said. Now, is the Honourable Member saying that he is willing to go along with what he says is the AACR proposal of the person resigning on nomination and then giving an assurance - after all he is the Chief Minister of Gibraltar and this is a matter which affects us as elected members of this House, that he will press to the utmost the other proposal which he has just mentioned.

HON CHIEF MINISTER:

First of all I would like to say that I do not, and I repeat, I do not consider this to be the result of our representations. This is only an interim measure which I urge in view of the failure to reply that at least we should restore the position as it then was and we were able to take advantage of a little more than really the Ordinance which the Attorney-General referred had lapsed. That is all. Now, if I remember rightly and if those proposals are contained in our suggestion about ensuring the employment of civil servants who resign to stand for election, if there are in our proposals I can give, from the point of view of the Government in so far as it is an elected Government, an assurance that that would be the case. I cannot go any further.

HON J BOSSANO:

Mr Chairman, I cannot accept in fact that this is a more difficult thing for the Honourable and Learned Chief Minister to give me an answer on, because in fact as I understand what he has said, whereas on the first point he said he hadn't sort of definitely made up his mind one way or the other, that perhaps he had sort of no set views on whether the Gibraltar Government industrial workers should be allowed to stand or not be allowed to stand, that is what I understood him to say.

HON CHIEF MINISTER:

I am sorry, I must have been particularly inept in expressing my view when this is what the Honourable Member has understood, or perhaps the Honourable Member has misunderstood it and I was perfectly clear. But anyhow what I said was that I wanted to look at our own proposals and if they fitted in then I would support, it, this is what I said.

HON J BOSSANO:

So, Mr Chairman, on the first one the Honourable and Learned the Chief Minister is not sure whether it fits in with what he wants or not, and he cannot make up his mind

HON CHIEF MINISTER:

Not what I want, what I have made proposals on, I want to be consistent on that.

HON J BOSSANO:

But he does know, Mr Chairman, that the second one does fit in, because he said that their own proposals were "reinstatements", right? of somebody who does not get elected and that really there is little difference between reinstatement for someone who does not get elected and preserving the job during the period of the campaign. That is what he has said.

Wo he knows. Whereas in the first one he does not know whether it fits with his proposals and therefore he would not want to support it if he doesn't in order to preserve his record of consistency, on the second one he can in fact support it knowing that he is being consistent.

HON CHIEF MINISTER:

No, I have made it quite clear, I cannot support its corporation into the Bill because it does not require resignation. What I said with regard to the people under that grade in the Government service that they would be reinstated: If they resigned were not elected they would be reinstated, which is different to the proposal which is that they should carry on with their jobs whilst the election campaign is on.

HON J BOSSANO:

Then, Mr Chairman, if we look very carefully at Hansards we will see that the Chief Minister opened up his contribution on my amendment by saying that there was little difference: he used those words "little difference" between what he proposed, which was reinstatement and what my amendment proposed. Now in fact if it isn't that there is little difference, if it is in fact that the Government has got very strong views on somebody not being able to keep his job as a clerical officer while running an election campaign, if that is the case then that is the reason why they are opposing it. Not because they have not cleared it with the Foreign and Commonwealth Office or because it is not very different from what they wanted, it is because they are opposed to it.

Now, if they are opposed to it, that is fair enough, Mr Chairman, they are opposed to it, that is their view and they are entitled to hold their views and to defend them, but if in fact the Government sympathises with this and what is stopping it is that they are not sure whether the power or disallowance is going to be used or not then I shall certainly make it my business after this meeting of the House to clear up the matter in the proper quarters.

HON CHIEF MINISTER:

The Honourable Member can do whatever he likes about that but I am afraid he has not understood what my attitude on this is, and that is that it was much easier to deal with the first proposal than with this second one.

MR SPEAKER:

What the Chief Minister did say was that whilst he saw a ray of hope on the first proposal, the second proposal would be more difficult to sell.

HON J BOSSANO:

What I am trying to establish, Mr Chairman, is the source of the ray. Whether the ray is from the Chief Minister or from the

MR SPEAKER:

No, no, I think there is no doubt where the ray comes from, I think it is from the Foreign and Commonwealth Office.

HON CHIEF MINISTER:

No, but I would like to state quite clearly

HON MD KIBERRAS:

I think it is up to the Chief Minister to say that, if I may say so with respect

HON CHIEF MINISTER:

No, please I have the floor. It is not so. It is not so and I will make it clear whenever it is required, that it has been our view and I said it in the second reading of this Bill. It has been our view that civil servants in the employment of the Government of Gibraltar should not participate in politics without resigning.

HON MD XIBERRAS:

That includes industrials?

HON CHIEF MINISTER:

No.

HON MD XIBERRAS:

/will Would the Honourable and Learned the Chief Minister say whether he thinks we should clear with the Foreign and Commonwealth Office whether the Government of Gibraltar should give a guarantee to anybody standing for elections, an ex employee of the Government, in the range talked about, that the Government of Gibraltar/re-instate him. Is that a fit matter for the Foreign and Commonwealth Office to arbitrate on.

HON CHIEF MINISTER:

That must be done through the Establishment. Otherwise what I have said is that in so far as the elected Government was concerned we would certainly pursue that and support it.

HON MD XIBERRAS:

The Establishment is one thing, the Foreign and Commonwealth Office is another, because if it is the Establishment then surely it is a matter for local decision. I would have said that this is the case. And if it is the case why wasn't it incorporated in the Bill originally. Having told me that these were his views then why did he make the Bill fall short of what he had told me would be in the Bill?

HON CHIEF MINISTER:

Oh no, not at all. I have a record of that and I can

MR SPEAKER:

Will Mr Bossano what is your attitude, are you persisting with your amendment?

HON J BOSSANO:

Mr Chairman, I am afraid I must insist on this because this time it is quite clear that it has nothing to do with the Foreign and Commonwealth Office, But even if the Foreign and Commonwealth Office agreed with this the Chief Minister still doesn't. Am I right?

What we cannot have is this shifting of responsibility. If the position of the Government is that they cannot support the amendment because it is unacceptable to them, then the view of the Foreign and Commonwealth Office is immaterial. I would like them to express their view by voting against the amendment.

Now in fact if the position of the Government is that they might be prepared to accept this, but in fact they have to clear it with the Foreign and Commonwealth Office, then it is different. As I understand it that is their position as regards the first amendment and that is why I withdrew it, but in this case, regardless of how the Foreign and Commonwealth Office feel about it, the Gibraltar Government itself find unacceptable the giving to its own employees who are clerical officers the right that they are prepared to give to employees of the DOE and the MOD who are clerical officers. That it is perfectly all right for a clerical officer in MOD and DOE to be going to his place of employment and running an election campaign, but it is not so in the case of the Gibraltar Government. That is the view of the Government and, therefore, the question of the Foreign and Commonwealth Office is totally irrelevant it doesn't enter into it, because that hurdle would have to be faced when we were all in agreement, not before.

HON CHIEF MINISTER:

It does not mean that if the Government's view were otherwise that it would be allowed by the Foreign and Commonwealth Office, that is another matter, but I make no apologies that is the view of the Government about the clerical officers in the employment of the Gibraltar Government being involved in elections whilst continuing in the employment of the Government. That is the view and I make no apologies because that goes to the root of the principle on which we approached this matter.

HON MD XIBERRAS:

Mr Chairman, the original constraint on the attitude of the Integration with Britain Party which I referred to earlier, was on the basis that no more joy could be got out of the Foreign and Commonwealth Office. On this occasion it has transpired that this, in the Chief Minister's opinion, is a matter for local decision.

HON CHIEF MINISTER:

Oh no.

MR SPEAKER:

No, let us not complicate the issue.

It was made clear by the Chief Minister, and I think by the Hon Mr Bossano who has summarised what the Chief Minister has said, it has been made very clear that whatever the views of the Foreign and Commonwealth Office on this particular issue of clerical grades, electioneering whilst still holding their position, whatever the views of the Foreign and Commonwealth Office, the Government's view is that they shouldn't be allowed. It still doesn't mean that if they say, yes, the Foreign and Commonwealth Office will also agree.

HON M XIBERRAS:

In that case, Mr Chairman, then it is a matter of a difference of views, it has nothing to do with the Foreign and Commonwealth Office on this matter. So since that is the case, Mr Chairman, I feel absolved from my obligation not to support this amendment because my original undertaking was that if the Foreign and Commonwealth Office had not been prepared to give any more way on this matter then I was unhappy about it but I would not press the Chief Minister any further and would not vote against the proposal. It now transpires that this proposal which essentially is what the AACR wanted to my mind itself is something which the Chief Minister could have decided himself on.

HON CHIEF MINISTER:

No, no, no.

MR SPEAKER:

No, no, as Chairman I must make it very very clear. The position is not at all clouded in any manner or form. We are having a debate as to whether this House feels it is right to take a decision as to whether civil servants should be allowed to take part in an election campaign without resigning from their post, irrespective and out of context of what the attitude of the Foreign and Commonwealth Office on the matter is it does not mean that because this House should decide that constitutionally it would be alright for civil servants to take part in an election that the Foreign and Commonwealth Office is going to agree.

HON CHIEF MINISTER:

That is the point.

MR SPEAKER:

So it is not as you state.

HON CHIEF MINISTER:

The only point that I have made, and I repeat now, is that insofar as administratively it is concerned, to the extent that it is possible, the elected members will make sure that if anybody resigns who is a clerical officer in order to stand for election and is not elected he should be able to keep the post he left in order to stand for election.

HON P J ISOLA:

Would not the fact that he stood for election three weeks later and lost, not got in and went back into Government service, would that person in any event not be tainted by political considerations?

HON CHIEF MINISTER:

But he would not be actively concerned.

MR SPEAKER:

I will then put the question which is

HON CHIEF MINISTER:

I would like to say if I may say so with regard to one point not, that it matters very much in the context of the debate about the being absolved from any compromise, the Honourable Leader of the Opposition can do what he likes, but what I think would only entitle him to do that would be if we were doing something which he did not know was in our proposals when we discussed the matter with him and each one had his own proposal.

HON MD XIBERRAS:

Mr Chairman, I stated earlier that in my view the Bill fell short of what the Chief Minister has given me to understand he was prepared to do. If it had transpired that the objection was in fact from the Foreign and Commonwealth Office, a point which I take it does not arise, then I would have been prepared to stand by that agreement, but I am now told that the issue was clouded, although not here but in my consultations with the Chief Minister, and in fact the Chief Minister does not favour this. And if he does, if it is a matter which he can decide on in any case why is his particular theory, his particular argument not included in his

MR SPEAKER:

Let us be clear, it is not a matter which he can decide but it is a matter on which he can express the Government's view.

HON MD XIBERRAS:

Mr Chairman, you will agree that it is a half-truth to say that these are matters for the Foreign and Commonwealth Office if one is not willing to put the matter to the Foreign and Commonwealth Office any way.

MR SPEAKER:

Yes, but what the Chief Minister is saying is that even if he agreed with the contention he would have to go to the Foreign and Commonwealth Office and the Foreign and Commonwealth Office would perhaps veto it and they have a right to do so. So then we would be in the position where what he says about the Foreign and Commonwealth Office does matter, irrespective of his views.

HON MD XIBERRAS:

Mr Chairman, may I ask the Honourable and Learned the Chief Minister did he in fact put to the Foreign and Commonwealth Office that people should be taken back, candidates who stand for election should be taken back - I am not talking about Mr Bossano's amendment, I am talking about the AACR views - and did he include that in his suggestions to the Foreign and Commonwealth Office.

HON CHIEF MINISTER:

I have not departed from the joint representations, a copy of which the Honourable Member has. I did not depart from that, I only referred to the delay and to the needs to enfranchise as many people as possible for the next elections and this has been the result, the temporary answer that has come out of that.

HON MD XIBERRAS:

Mr Chairman, then am I to take it that the Bill was drafted in the United Kingdom; or under direct United Kingdom instruction, and that the Chief Minister did not in any way negotiate with the Foreign and Commonwealth Office? Did he not say that at least we could have this, that he just left it to the Foreign and Commonwealth Office to decide what we should have.

HON CHIEF MINISTER:

I have asked the Foreign and Commonwealth Office to express their views on the joint, not only on mine, of both representations, and as an interim measure this is the extent to which authority has been given to proceed and no more.

HON MD XIBERRAS:

Mr Chairman, that does not answer my question, which is, did any suggestion of what a minimum would be emanate from the Chief Minister.

HON CHIEF MINISTER:

To me the minimum was the maximum that I had asked for.

HON MD XIBERRAS:

And that is what we have got, actually?

HON CHIEF MINISTER:

No we haven't.

HON MD XIBERRAS:

No, far from it. Well, Mr Chairman, on that basis, my understanding was that the Chief Minister said to the Foreign and Commonwealth Office "We need to do something about this before the elections, the least we can do is (a), (b) and (c)", the Foreign and Commonwealth Office has knocked out certain points and the Chief Minister has said "this is something that I as Chief Minister of Gibraltar can take to the House". It appears, however, that the opposite has been the case, that the Chief Minister has said "Please, can we have a reply on this matter, please at least let us have the minimum, "The Foreign and Commonwealth Office had sent instructions for a particular Bill and the Chief Minister has swallowed this, hook, line and sinker. That appears to be the case.

HON CHIEF MINISTER:

I have made all the reservations required but I have accepted the minimum that we could get before the elections and that does not mean that I will not carry on fighting for what I think is proper.

HON J BOSSANO:

I would just like to make two points because there is so much talk of the Foreign and Commonwealth Office. The first point that I would like to make is that I think it is the responsibility of the elected representatives of the people of Gibraltar to take decisions on this matter and that the Foreign and Commonwealth Office should be informed out of courtesy. I cannot accept for a moment that the Honourable and Learned the Chief Minister is here to act as the messenger boy of the Foreign and Commonwealth Office. Secondly, that I think that it also looks very bad that politicians should be deciding how far they are prepared to allow the competition at the elections that are going to take place in a few months time and I think it looks bad that there are people in the House of Assembly who might be prepared to allow some more industrial workers to stand against them but are not prepared to allow perhaps people who are better equipped to stand to do so without putting impediments in their way which do not apply to all members of the House. They apply to some but they do not apply to all.

HON CHIEF MINISTER:

It seems a pity, Mr Chairman, that after all the debate there should still be the idea that it is entirely up to us to decide. This has been mentioned by the Leader of the Opposition as having been an off-the-record statement from the then Minister, Lord Sheppard. He knows, and I hope he does realise it now, otherwise there would not have been the difficulties that they themselves experienced whilst in office, that this has been a matter which the Foreign and Commonwealth Office consider that if it affects the whole of the Service they have a say in the matter and it is not a defined domestic matter. And because it is not a defined domestic matter, it would be useless to try and pass a Bill here which might not subsequently be allowed to be approved and to waste our time in this way.

I think the best way of achieving what we want is to keep on fighting for it, not just making empty Bills, and

MR SPEAKER:

If the Chief Minister would give way, I would give Mr Bossano an opportunity to give vent to his frustration, but I think he does realise that the Foreign and Commonwealth Office has a great say in the matter because it is not a defined domestic matter.

HON J BOSSANO:

Mr Chairman, I realise that the Government accepts that the Foreign and Commonwealth Office has a great say in the matter. That I do realise. What I want the Government to realise is that I don't accept it, and I am sure the majority of the people of Gibraltar would not accept it, and if he took his courage in his hands and went ahead with it and had a confrontation if necessary on this matter, he would get the backing of the whole of Gibraltar.

MR SPEAKER:

I think it is time that we should put the question.

HON MD XIBERRAS:

One more point, Mr Chairman. Nor do I accept that this is purely a case of what the Foreign and Commonwealth Office might say in the end. I think it behoves the Chief Minister, as Chief Minister and Leader of this House, to express an opinion as to what he thinks is desirable. And in one particular respect in respect of the proposals not contained in Mr Bossano's amendment, but the proposals that form part of the basis of the AACR proposals, he has obviously not seen it fit to even push.

MR SPEAKER:

Yes but we are not going to start more controversy.

HON CHIEF MINISTER:

We stand by all the proposals that we made and this is only

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

The Hon Miss C Anes
 The Hon J Bossano
 The Hon L Devincenzi
 The Hon PJ Isola
 The Hon WM Isola
 The Hon M Xiberras

The following Honourable Members voted against -

The Hon I Abecasis
 The Hon AJ Canepa
 The Hon MK Featherstone
 The Hon Sir Joshua Hassan
 The Hon Lt Col JL Hoare
 The Hon AP Montegriffo
 The Hon HJ Zammitt
 The Hon JK Havers

The amendment was accordingly defeated.

The Second Schedule stood part of the Bill.

The Third Schedule

HON J BOSSANO:

Mr Speaker, I want to move an amendment to the Third Schedule.

Mr Chairman, the amendment that I propose to move to the Third Schedule will be an addition to the undertaking given here by virtue of which the undertaking will go on to say that in the event of not being elected the person signing the undertaking will be reinstated in his employment, and that will give the Government the opportunity of putting their undertaking as part of the undertaking that the person has to sign.

MR SPEAKER:

Well, would you give me the text of your amendment.

HON CHIEF MINISTER:

Mr Chairman, that is a matter for the Public Service Commission to consider and it is not really for us to

MR SPEAKER:

Well, I will read the amendment and then I will find out whether it is within the powers

HON J BOSSANO:

Who's running the Government, Mr Chairman, the Public Service Commission, the Foreign and Commonwealth Office, or who?

HON CHIEF MINISTER:

Under the Constitution

MR SPEAKER:

It is 1 o'clock and I think you will want to think your amendment out. You know what you want to do but you will want to write it out. In the circumstances it might be a good time to recess and resume at 3.30 this afternoon when we will come back and finish this Bill and deal with the private member's motion.

The House recessed at 1.00 pm

The House resumed at 3.30 pm

HON J BOSSANO:

Mr Speaker, I will not be moving the amendment I intended to the Schedule. I hope nevertheless that the Government will take note of the feelings and be in a position in fact to do something practical about the problem that exists in this particular area.

HON CHIEF MINISTER:

I am very grateful to the Honourable Member but I would like to explain that I did myself less than justice this morning speaking from memory. In the first place I would like to say what our view was: it is relevant because it has a reference back on the question of industrial employees of the Gibraltar Government in our proposals. "Eligibility for Election. An industrial employee should be eligible to stand for election without previously resigning. On nomination as a candidate he should be given unpaid leave from date of nomination; if he is not elected he will be reinstated in his previous capacity." Now, in the intermediate which are the non-industrials, the intermedial group which will certainly be people of a clerical officer type to which the Honourable Member was referring this morning, we recommend that in the intermediate group, "Officers in this group will be in the same position as those in the political free group, that is the industrial employees." So that in fact in our recommendations in this respect civil servants of that group would not have to resign but would be on unpaid leave for the purpose of election and this is what we will urge.

In addition, to the extent that it is right and permissible, I can certainly give an undertaking that any person who under that group of clerical officers, defined for other purposes in the UK, who had to resign in order to stand for election the Government would certainly urge most strongly the Public Service Commission to reinstate him in his employment were he to be unsuccessful in the elections.

The Third Schedule was 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, I have the honour to report that the Public Health (Amendment) Bill, 1976; the Immigration Control (Amendment)(No 2) Bill, 1976; the City Fire Brigade and Fire Services Bill, 1976; and the House of Assembly (Public Offices) Bill, 1976; have been considered in committee and agreed to, in the case of the Public Health (Amendment) Bill; and the City Fire Brigade and Fire Services Bill; with amendments, and I now move that they be now read a third time and do pass.

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

The Bills were read a third time and passed.

Private Members Motion.

HON MD XIBERRAS:

Mr Speaker, I wish to move that this House is concerned with recent developments in the Royal Naval Hospital as they affect the medical services to the civilian population and calls on the Government to initiate discussions to remedy the situation.

Mr Speaker, the subject of this motion was also the subject of various questions put to the Government and answered by the Minister for Medical and Health Services concerning the quite alarming increase in the fees at the Royal Naval Hospital introduced some time before this meeting of the House began. Roughly, for we have no comprehensive public statement of the increases or the conditions under which the civilian population will have access to the Royal Naval Hospital, I gather that the cost of a patient remaining in hospital for one day is in the region of £75, and the cost of a consultation in the region of £15.

Mr Speaker, we are aware that the Minister for Medical and Health Services and the Government as a whole has no direct responsibility for the charges at the Royal Naval Hospital but in his capacity as Minister the Minister does have a general responsibility to ensure that the people of Gibraltar have adequate medical treatment. It is a fact, and it is endorsed by what the Minister had to say in reply to questions, that the civilian population did make use of the facilities of the RN Hospital and it should be a matter for concern to the House, until the whole thing is cleared up by the Minister if he is able to do so, that this access and this treatment will be impeded, there will be obstacles in its way by the fact that they now have to pay something like £75 for a day in hospital and £15 for a consultation.

The degree of dependence has not been to my mind clearly established yet despite the attempts of the Minister to answer the questions. We are aware from his replies that we get a number of 25 or 26 cases or so a year, and that eye cases predominated. It was an impression which the Minister gave the House but I feel he should be in a better position now some weeks after to give a clearer picture of what our dependence on these facilities are.

Mr Speaker, the motion talks about consultation and I think the long association which has existed - the motion does not talk about consultations but the issue came up in question. The long association which has existed between the Royal Naval Hospital and the Government service would have indicated that there should have been some form of definite and formal consultation between the Royal Naval Hospital Authorities and our Government Medical Authorities and I am sorry that the Minister had to tell us that there had been no consultation prior to the announcement of the implementation of the new fees.

I know that around this time there was somebody important coming to Gibraltar on a visit and that the Minister was keen not to in any way exacerbate the matter, but now that he has come and has gone I think the very least that the Minister can do is to acquaint the House with the results of any conversations that he might have had with this person. I know that prior to the beginning of the first day of this meeting there was some consultation as posteriori as it were between the Minister and the Royal Naval Hospital Authorities, and I believe it is as a result of this consultation that the Minister was able to tell this House that the long standing arrangement, I believe he called it, whereby a patient referred to the Royal Naval Hospital by St Bernard's would continue not to pay. Now this is obviously welcome but there are a number of cases in the particular context in which the Medical services find themselves, there are a number of cases in which people might very well be loath to go to St Bernard's Hospital, and definitely the access of these persons to the Royal Naval Hospital direct has been impeded, has been discouraged by the £75 and £15 fee.

One copious correspondent on this subject in the Gibraltar Chronicle has made a point which I believe is a valid one and which I am sure the Minister will take in earnest and that is that it is not so much a question of numbers, it is a question of medical treatment of individuals in individual cases and a proportion of those cases which are normally

referred or find their way to the Royal Naval Hospital must be cases in which people feel that they cannot get the expert attention which their cases demand and the cases are in any event likely to be rather serious cases, for the persons involved.

Therefore, it is not simply a question of saying, "Yes, everybody who is going to go to St Bernard's and needs to be referred to the Royal Naval Hospital we will continue to do so irrespective of what the fees are," there are also the other cases outside the Government scheme to consider and these people did have access to the Royal Naval Hospital and that access has been discouraged.

I do not want in any way to exacerbate any situation which might or might not exist, I would simply like a clear statement from the Minister, but I am sure the Minister will concur that medical facilities in Gibraltar, and those people who regularly contribute to the health of the community, such as the Royal Naval Hospital, such as the Practitioners, such as St Bernard's, all have a general responsibility and the exercise of this responsibility must be a matter of at least interest to the Minister for Medical and Health Services. And if this motion achieves nothing more than a clear statement of what the position is from the Minister, in so far as he knows it, then I will be satisfied.

Mr Speaker, there is a possibility of course that when these fees, which are rather high are accepted in one area of the medical services available in Gibraltar, there might in the long run be some sort of equation made with the fees charged by consultants in our own local hospitals; or the genuine level of fees which they would expect to obtain and they might work towards. I hope that the Minister can give us a clear categorical statement not only that there is no such pressure from locally engaged consultants or from the consultants who come to help us here from time to time, but that if there were to be such pressure that he would be the first to resist them.

Mr Speaker, in a motion to do with the medical services I have introduced both my motion, in a low key expecting a sensible answer, one which is dispassionate and which serves the purpose of clarification. I hope that the Minister will take this motion in that spirit and will enlighten people generally as to what the position is.

Mr Speaker then proposed the question.

HON AP MONTEGRIFFO:

Mr Speaker, I am glad at the rather low key approach which the Honourable Leader of the Opposition has taken on this particular matter. It is more delicate than it seems at first sight and I hope that he will appreciate this from what I have to say. I will of course endeavour to the best of my ability to enlighten him and as far as I am aware answer all the points he has raised.

I am sorry, as in fact he has done himself, to have to repeat most of what was stated at question time, Sir, the difficulty here is one that is encountered in every community where one has got private practice, and here I am taking the last point which he mentioned about consultants in Gibraltar being encouraged perhaps to charge the same fees or to equate themselves to the fees that are being charged at the Royal Naval Hospital and also I think he mentioned the consultants coming from abroad. Once you have got private practice it is very difficult to establish the fees that any private practitioner should charge, any more than one can do with any other profession, and that is why I would like to say that much as I am concerned that people should pay for whatever service they may happen to get, either medical or otherwise, the right and proper price and not be abused or held to ransom by any profession, my main concern as Minister for Medical and Health Services has got to be that people should have available to them the medical services that they require irrespective whether or not they have money or whether they cannot afford to pay for such services. That is my first and main consideration and must necessarily be the same for any Minister of Medical and Health Services.

Now, the Consultants who came from abroad are brought over by ourselves at an inclusive fee, and hence for what I think is £200 they must perform all necessary operations and must look after all the patients that we refer to them free. What we cannot control is the fee that they charge to those patients that they see privately. I know for example that one of the Consultants who come to Gibraltar is already charging, and have been charging for a long time, £10 for a consultation and there is nothing that I can do about it. As far as I am concerned, however, all patients that we in the medical department felt ought to be seen by that consultant under the National Health Scheme^{at our} expense are seen and that is why we pay them that inclusive fee. This happens in the Naval Hospital too. Of course if you want anybody to go straight through without being a referred case and they want to go privately they must pay the fee that the hospital fixes, and I think that the House would agree that if we are doing anything wrong in St Bernard's Hospital we are not thinking at this stage, or at any stage in the foreseeable future, of increasing fees, but we should not in any way subsidise people who want to go privately. I am not suggesting that this ought to be done but this is how it works in Britain or elsewhere. And in this connection I would like to read from an article which appeared in the Daily Telegraph dated June 3rd. "The cost of private beds in the 26 Service hospitals at home and abroad, have been increased by up to 85% in an attempt by the Government to discourage private patients". Now of course we know that is the policy of the labour party in the United Kingdom.

I am not saying it is right or wrong, I am not saying that perhaps it is not a good thing, because if we did not have private practice, it is true that we would not have the escape value that we have got with private practice. People, because they collect money or because they have got the money of their own have this escape valve of being able to go for another opinion as a private patients if necessary. Even if they get the same opinion as they had got before at a price, and at least if there were no private practice there would not be this escape valve but at least we would all be treated the same whether they have got money or not. I

would like to stress again but I am not advocating anything here except to pose the problem. Now Sir, at the moment we have developed and this is where this element of diplomacies, if one wants to use that word, in talking about the relationship between the two hospitals. At the moment most of the co-operation that exists and has developed throughout the years has been developed on a local basis, or local level. This is well understood on the medical side of the Naval Hospital Authorities as distinct from the Treasury boys or MOD. And not only do they know it locally but they know it at the other end in the UK.

I had the pleasure, as you mentioned before, of meeting Sir James Watt, who is a Vice-Admiral and Medical Director General, and he has written to me thanking me for the hospitality extended to him and also expressing the hope that the co-operation that exists at the local level will carry on and be strengthened. But the fact remains, Sir, that if I carry on reading from the article in the Daily Telegraph, they quote examples of the fees that you are now required to pay in the UK in any Service Hospital if you want to go privately. "Examples provided by the Ministry of Defence show that all 14 Service Hospitals in the country are now charging £364 to £385 a week for a private bed. These rates are higher than those in general hospitals in Britain which on average charge £243 a week. They are also higher than in the London Teaching Hospitals which charge private patients £339 a week. The reason why even within Britain there is certain disparity between one hospital and the other applies equally to Gibraltar: it depends on the bed occupancy on the particular hospital. In Gibraltar, because you have got a very low bed occupancy and you still have to have a Gynaecologist for 200 persons whereas a Gynaecologist's time would be better utilised with 400 persons the cost is higher. The price per bed jumps up to £75 per day about £490 a week. That, I think is what they are charging here. Different rates apply to different hospitals outside the United Kingdom, but it goes on to say, "National Health Service patients with no service connection", this is applicable only to Britain, "can be sent to a Service hospital in the UK only if the doctor of the National Health feels there are no other opinions on facilities available in the area in which the patient lives." The doctor is the deciding factor, and only of course if there are beds available in the hospital, which is no different to what happens here.

Anybody going through the National Health Service channel is referred to the Naval Hospital - and the number of patients are few and as I said before at the moment they are mainly eye cases. They are few by necessity because the sort of population they are looking after, and the age of the population they are looking after, does not allow them to have the wider facilities which by necessity we have to have in our Medical Department. We are looking after a wider range of diseases that are not peculiar to the sort of population they are looking after.

So the numbers that we send up are very few, but it is very necessary I think to have this escape valve that I was talking about before.

Of course there is absolutely no entrenched position taken by the Consultants in Gibraltar not to refer cases anywhere. We refer from about 200 to 250 patients to the visiting consultants who come out from the UK and I am sure the House will agree that they are top ranking people in their profession in the UK. And they themselves will be the

first to tell you that they are more acceptable to National Health patients in Gibraltar than they are to those in Britain. The queues there are longer and there are other considerations, they have to undertake private practice in the United Kingdom and are only working on a sessional basis.

Apart from that we refer about 35 to 40 patients to the UK, apart from patients who are referred by other doctors to our consultants in the hospitals. There is no deliberate policy not to send patients who need a second opinion though I accept that I myself as a layman feel that if I have been given an opinion about a serious disease I would want a second and perhaps a third, but there must be limitations. This is a fact of life.

Now, the other thing that I would like to say - playing this at a low key, in trying to pursue what the Honourable Member wants - I think that we ought to do in a way that does not have the opposite effect. After reading the Daily Telegraph I will be quite honest and frank with the House I doubt whether we are going to achieve anything because this is not only applicable to us in Gibraltar it is applicable to people in the United Kingdom too as far as private patients are concerned. But I hope that what is said in the House may be taken note of and because of the particular circumstances of Gibraltar they may do something about it. I hope that nothing that is said here will give the impression - I am sure this is not the intention of Honourable Members opposite - but that all we are trying to achieve is for a few to be able to go and have treatment through paying that they cannot get elsewhere, because that I cannot accept. I think they can get as good a service in the Naval Hospital as they can get in St Bernard's Hospital, I am not going to put it higher. I just want to be as fair as possible in order not to be too controversial.

I also believe that the House will share my views that the Royal Naval Hospital should not be a subsidy for the responsibility the Government has of providing the people of Gibraltar with a reasonable health service. And that of course must necessarily fall on that. And if there are any criticisms of unfairness I must take it: I must defend it if they are wrong, and I must accept it if they are right. But basically that must be the responsibility of the Gibraltar Government. In order to defend the medical side again of the MOD I would say that they were the first to be shocked at the increase in the fees, knew not a word about it and we were not consulted at all. Not even Vice-Admiral Watts knew about this. The Navy does not deal with these things, it is the Treasury boys who decide how much they should pay and how much the thing should cost. In fact he said "Don't you think they are ridiculously high", and I said, "I couldn't agree with you more". He promised that he would take the matter up with the Treasury and therefore I hope that since they have given this undertaking that they are going to look into it and they are going to make representations themselves - and I believe there are other top ranking authorities in Gibraltar who are making representations, so I have been told - that in the first place this should not be taken, and I am sure that that is not the intention but just to make it clear for the record, this will not be taken as criticism

of the Royal Naval Authorities with whom we want to carry on this cooperation, and with whom we also want to preserve the link that we have which enables us to send patients to them without charge when they need treatment or a second opinion, in the same way for example as we provide orthopaedic facilities to them and I think this must carry on particularly in a place like Gibraltar where we should do our best to see that we live as one community seeing how we live so close to each other, and we should therefore help each other as much as possible. Therefore, let us make it quite clear that this is not a criticism of the Naval Medical Authorities, as such but if anything against the MOD.

And the last point, Sir, that I would like to mention is that I hope I have answered all the points that the Honourable Member has raised and in view of the undertaking that has been given that the matter is going to be raised - it may be in the process of being raised or it may have been raised already but so far no reply has been given - I would urge the Honourable Member to withdraw the motion.

HON J BOSSANO:

Mr Speaker, I think the Honourable Minister for Medical Services has talked less about the specific problem and more about other perhaps related, perhaps unrelated philosophical issues about the distinction between private and public medicine. I think the situation as regards the Naval Hospital is one that gives rise for concern on a number of counts. Certainly as far as the increasing of fees is concerned if the Honourable Member says his information is that the medical side knew nothing about it and were caught completely by surprise, then it may well be that that is the case. It is certainly not the story I have heard, Mr Speaker. The story that I heard is completely different. The story that I have heard, Mr Speaker, is that one of the major considerations was protecting the clientele of consultants in St Bernard's Hospital. One hears different stories from different sources, I am not to know which of them is true, Mr Speaker, but I can tell the Honourable Member that certainly if the Treasury boys are concerned, then the Treasury boys will be told in a different quarter that the employees of the Naval Hospital who are civilians, who are getting 70% of the UK rates are not going to have their customers being charged 130% of UK rates, because after all they are providing a service part of which goes towards making feasible the stay of patients in the hospital and they are not getting paid UK wages and to me this is clearly a case where the MOD is exploiting its local labour by paying them less than they are paying them in the UK and charging the customer more, and, therefore, that matter will be put to the Treasury Boys in the proper forum.

So that side of it I think is one that is no different for example, Mr Speaker, to the motion that I brought to the House about berthing fees or landing charges. We are talking about MOD services used by civilians and the charges that are made, and quite apart from the issue of private medicine, where for example stand on the side social medicine, I don't believe in private practice and I don't think it is in anybody's interest to either encourage it or keep it alive, but as long as we have got it then it is to my mind the Government of Gibraltar who should have the

overriding voice in Gibraltar as to what is charged to whom for what particular service, and I think it is totally scandalous that the Treasury should decide in UK that they are going ^{to} up fees without first clearing it with the Government of Gibraltar regardless of whether the Government of Gibraltar may have a direct constitutional say in the matter or not, simply out of courtesy out of recognition for the position of the Government of Gibraltar, they ought to have been given plenty of prior warning and their views should have been taken into consideration, and I think it is very bad that this did not happen. So I think that is an important

HON AP MONTEGRIFFO:

Just for clarification, Mr Speaker, I am not

All I want to say is that I hope he appreciates that the decisions to up fees did not only apply to Gibraltar, it applied even to the Service hospital within the UK and Hong Kong and all the rest of it.

HON J BOSSANO:

Well, I am not concerned about Hong Kong, Mr Speaker, but as far as the UK is concerned I understand the philosophy behind the British Government's wish to discourage private patients and I am totally in consonance with the sentiment and I would welcome any moves that the Gibraltar Government makes in the same direction as the more socialist British Government. But this is not what happened here. I do not know to what extent the increase has been the same or whether it has been more or less in the UK, but the same considerations do not apply because in UK the increase in the fees of Service hospitals, has been accompanied by an increase in the fees for National Health Hospital because the policy of the British Government is to phase out private patients from the Health Service, so obviously if the British Government is responsible both for the medical services and for the MOD hospitals they could not very well increase the fees in the National Health Hospitals and leave a big loophole so that people could flock from one to the other, they have to close that door, but that has not been the consideration here. If in fact it had happened in the same way here, if the Gibraltar Government had decided to increase fees to private patients and they have said to the MOD, you must do the same in order to be in tune with us, then I would have thought that was properly done and in consonance with what is happening in the UK. What is being done in UK is being done for specific reasons and what is being done in Gibraltar may well happen to be a side effect of the policy decision that has been taken in UK as so very often happens, that decisions are taken there which have repercussions here and nobody has thought of the repercussions; it may be as innocent as that. But nevertheless the point must be constantly brought home to the British Government that as long as they want such a thing as the House of Assembly to exist in Gibraltar, and such things as elections take place, and people to be elected, they cannot expect us to be here just to rubberstamp things.

If they want us to go through the whole rigmarole of having elections every four years and being elected and being supposedly the representative of the people of Gibraltar, then they must come and consult us whenever they are going to do anything that is going to have an effect in Gibraltar and, therefore, I think the British Government, the MOD and the Treasury have an obligation to tell the Gibraltar Government, 'Look we are going to increase service fees in UK, and consequently on that the repercussions in Gibraltar will be this: How does this affect you or what are your views on this before it happens.' Not that it should happen and then they have to examine it, they should have examined it before it was introduced, because I think the motivations are distinct: the reasons why it has been done in UK are perfectly understandable.

I also think, Mr Speaker, that there is an important factor that the Honourable Member should be aware of and that is that however satisfied he may be with the quality of the service that is provided by our own Health Scheme there are an awful lot of people in Gibraltar who are not as confident and as satisfied with the services as it is, and I think that a recognition of this is not in fact a criticism of the Services as they are, it is only that if people are dissatisfied then I think if we want the Health Service to be a success we must all the time be conscious of the dissatisfaction that there is and try to pin down this dissatisfaction and put it right if there is justification for it, and condemn it if it is unjustified, in order to maintain Health Service as something that is strong, progressive and getting better all the time, which is I think what we all want. But that we cannot do by sticking our heads in the sand and pretending that we are offering in the eyes of the patient or in the eyes of the community as good a service in our own Health System as the Naval Hospital is.

The Naval Hospital has got a better reputation in Gibraltar. In fact there are people who are employees of the Health Service who use the Naval Hospital which certainly does not give our own Health Service, Mr Speaker, a very good reputation because when this happens obviously people say, "Well, if the people who are in the know, if people who work in the hospital, go for their own medical treatment to the Naval Hospital they are in a position to know whether the service is as good or not." And when they are prepared to go and pay for it and there have been a number of instances of this happening, then people begin to doubt. Now, I think that people make use of the Health Service in the vast majority of cases, but nevertheless, we are in a situation in Gibraltar because of our smallness where apart from the problems that the Honourable Member has mentioned of not being able to use the services of a particular specialist to the maximum because we do not have a turnover, which is, something we suffer in a great number of things, we also have the situation where we have one person very often being the deciding factor. It is not just a question of a second opinion it is the question of the ability to get referred. The opportunity of getting referred from the Health Service to the Naval Hospital very often depends on the judgment of one person. Now, I know of a number of cases of ordinary working people who are in no position to afford the old fees, never mind the new ones, who have gone to our own services, who have been told that they have got nothing to worry about, and they continue to be worried about a particular ailment, and, therefore, have gone to a private doctor who has been prepared to refer them to the Naval Hospital because the patient wants to go.

Now it may be that our own doctor can find no clinical physiological reason for referring that patient, but if somebody has got a nagging worry about being ill, about the seriousness of the illness, that also may be an important factor to take into account and it may be that our own doctors in our own service are not perhaps as willing to refer patient as a private doctor who after all says, "Well, the patient is paying me and if he wants to be referred I will refer him." I know that this happens, Mr Speaker, and I know that this is an important source of the people who want to go to the Naval Hospital and have gone in the past. If in fact we were simply concerned with the burden on wealthy hypochondriacs then I can assure the Honourable Minister that my representations to the Naval Hospital would be in the opposite direction, that is, to increase the fees more, but I regret to say that we are not dealing simply with wealthy hypochondriacs, we are also dealing with a lot of other people who really need perhaps just to be reassured, and that reassurance can cost very little. I think they are being charged an exorbitant fee and I think we need to be aware of all these other nuances of the type of service that the Naval Hospital is providing and the fact that the Naval Hospital in the eyes of many people has got a standing that regrettably our own services have not got. Perhaps it is a question of somebody never being a prophet in his own land, that may well be it, but nevertheless that is a fact and it is a fact that is important. And to somebody who is sick sometimes the re-assurance that it isn't anything serious is enough to bring an improvement.

I know that the Honourable Minister for Medical Services has got the medical services very close to his heart and because of this I think that he should not be afraid to take a fresh look at the whole situation and to get the message across to the people in his own department that open constructive criticism is not a bad thing and is not intended in fact to endanger our own medical services but in fact to strengthen, them, and I hope one day to arrive at a situation in Gibraltar where we have a fully comprehensive nationalised service without the need for fees and without the need for private patients and without the need for the anomalies that basically do result, I think, from the sort of conflict that he mentioned, but at this stage we are not dealing with that sort of problem, at this stage we are dealing with that essential division of private and public medicines, although that is perhaps at the heart of the matter, but with something that is far less dramatic, far less sophisticated and more at a human level of people feeling that all the doors are being barred to them, that they cannot make headway in one particular quarter where they feel that the doctor does not listen to them and they are debarred economically from making use of something that they looked upon as a safety net, as something that they could perhaps make a little bit of sacrifice and go there and be told either the same thing or perhaps something difficult but nevertheless that was something that people valued in Gibraltar and that door has been virtually closed except for the very few. And I must say, Mr Speaker, that to say that one of the criteria that has been applied in this instance has been the question of the workload in the Naval Hospital, I must say that the message should certainly be put across to the Treasury that by increasing fees prohibitively they are not going to make the place more economic, they are just going to make it totally uneconomic because nobody would be able to use it and the workload will drop even further.

MR SPEAKER:

I will then call on the mover to reply.

HON MD XIBERRAS:

Mr Speaker, I would have liked the Minister for Health Services to have stood up, as he stood up with relation to another point made by the Honourable Mr Bossano, to refute the story as Mr Bossano had it that there had been some sort of influence on the side of those in St Bernard's Hospital in this matter in order to protect their clientele, and I hope that before I finish speaking the Minister can categorically deny that this was the case.

HON AP MONTEGRIFFO:

I categorically deny that as far as I am concerned, and the proof of the matter is here, that I only heard of this on the 3rd of June. It did not come from Gibraltar, certainly not as a result of any pressures from Gibraltar, certainly not from any pressures that I would support myself. I totally and completely reject the suggestion that any pressure was applied. If people want private practice then private practice must be competitive, and, therefore, I could not support anything that would put fees so prohibitively high in the circumstances of Gibraltar and in the circumstances of those that work in private practice in order to have a closed shop for a few. That I will not agree to: in fact I condemn it completely.

HON MD XIBERRAS:

/under no I welcome that statement by the Minister. The Minister often beats this drum of private practice and Government service, and I think he has not been lacking in support from this side of the House on his taking meaningful steps to establish the kind of Government service which we can all be proud of. I do not often agree with this particular approach to his domain, his responsibilities, which I find somewhat paternalistic at times, but he should be / illusion on the other than that we want to put the clock back in any way. We encouraged him to go forward with his Medical Scheme and invite him to take two steps in one as it were when he introduced it in this House. However, the point remains that whether the labour Government does it in the United Kingdom or whether Honourable Members opposite consider themselves to be inspired by labour philosophy or not, the Government medical service in Gibraltar do not have a good reputation and I am concerned about this matter because if the Minister appears to, as it were, say that there is not much he can do concerning the Royal Naval Hospital, then the whole onus of providing proper medical attention will of course fall back on the Government Medical Service, and that escape valve that ability or flexibility in dealing with particular cases and particular symptoms of a psychological nature or of any other nature, is being enclosed and the Minister will have to provide or whoever succeeds him will have to provide that kind of medical treatment which will satisfy people.

Now it has been, and the Minister knows this, a matter of controversy in this House whether people have effectively the right to a second opinion. It has been a matter of controversy and we are certainly not satisfied about this. In particular areas I continue to get cases as well, where people do not want to get the rubber stamp of the Medical Services before they go and see somebody else. Somewhere else either in the United Kingdom or in the Royal Naval Hospital. I have had people coming to me and volunteering information about their particular cases, and I know of people who will not attend again a particular area of the hospital, and these people do often have to resort to the private practitioner and then try to get themselves referred to them to the Royal Naval Hospital.

Now I do not think that the Minister is in a position to be able to find an adequate substitute for this avenue of a second opinion. Particularly in one area of medicine this is a fact, it is a case, and no amount of diplomatic talk by the Minister will convince me to the contrary because I had evidence myself of it. Therefore, I would urge the Minister not to ask me to withdraw the motion but to take the motion to heart and be aware that this problem in this particular area especially does exist and he knows it exists, he knows about the cases.

Mr Speaker, if the Minister had said that in view of the fact that the procedure for St Bernard's Doctors being able to refer their Government patients to the Royal Naval Hospital is not going to be changed in view of this, he had said that he had now revised the process whereby these second opinions I will give way to the Minister, yes.

HON AP MONTEGRIFFO:

Mr Speaker, I am sorry and I apologise. This is one of the main things I was going to say.

The position has been revised to the extent that if a doctor in the hospital tells a patient that he does not think he is entitled to a second opinion, the patient is then entitled to appeal to a Consultant Board chaired by the Director of Medical and Health Services and there the matter will be considered as to whether or not the patient ought to proceed with a second opinion.

I should have said this and I intended to say this right from the very beginning but in the heat of debate I forgot to mention it.

HON MD XIBERRAS:

Mr Speaker, I am glad I offered to give way to the Minister. This is obviously the main point of the considerable pressure that has been brought to bear on the Minister about this, that we were not satisfied, and I am very glad to see that the Minister has brought about changes in that procedure. I would be further grateful to him if he would let me have in writing a statement of the procedure and how it is supposed to work.

Mr Speaker, the general consideration the Minister brought forward, or the parallel that he insinuated with the position in the United Kingdom vis a vis the private practitioners is totally inaccurate as I think, Mr Bossano has explained it quite adequately, it is not that sort of situation at all in Gibraltar. I find it something concerning, however, that when we talk of partnership and we talk of cooperation the cooperation sometimes breaks down at the critical point at the crunch when things really matter. It is rather like having a referee at a football match blowing in favour of a particular team all the time except when the ball is in the opposing penalty area. When it comes to a particular kind of crunch, when it is a question of money, when a big decision is taken, then apparently there is no need for consultation, or if there is need it is a question of people not remembering or somebody else doing it but the procedure of consultation which should exist is broken.

I believe that there are only three Naval Hospitals outside the United Kingdom I know there is one at Hong Kong and one in Gibraltar and there might be one in Malta, I dare say that of these three the one which has the closest link with Britain for obvious reasons is that here in Gibraltar and I would say that the representations that have taken place in the past, and I myself am aware of an attempt at one time to get the two hospitals to work even more closely, would have prompted a desire not to offend the Gibraltar Government and to make sure that all the ends were knotted before a decision of this kind was taken.

As regards this general consideration of private medicine and so forth in this debate for those on one side or another, there is one conclusive way in which the matter can be settled to the advantage of the Government service, and that is, if the Government service provides an adequate service which everybody has in high regard. The proof of the pudding will then be in the eating, then people will go to the Government hospital and there will be no controversy surrounding private practitioners, no controversy surrounding the Royal Naval Hospital, second opinions, and what not.

There are limitations within which we must work but I would like, along with Mr Bossano, to see the Minister aware of our shortcomings and aware of the fact that he must try to improve the Services and take criticism when it is offered, and try to remedy this: for instance what he has done now in changing the procedure I think is a good thing. It is positive reaction to criticism, but I do not think we could have expected this change of view when the first motions the first question on this subject were introduced by Honourable Members on this side of the House, and the Honourable Member opposite almost accused us of trying to disrupt the service or demigrate it and so forth, and so did other Honourable Members opposite. There has been something of a long wait but that much has been achieved.

Now, Mr Speaker, following on my point that when the crunch comes there is no consultation, there is a break in the consultation process, I do not know whether the Honourable Member is wise just to allow things to drift from now onwards. I would like to see the Government having a definite view on these matters and to be more conscious of what part the Royal Naval Hospital does play and will continue to play in the medical facilities available to the people of Gibraltar. And a definition of this at this particular time might in a friendly manner be a good thing, because / argument considered if the

valid by the Treasury in England are simply going to be applied as just one unfortunate side effect to Gibraltar without consideration for the local population for the Government of Gibraltar, what is the sense of trying to keep on the good book of particular people in England when you get the rough end of the stick at particular times.

Now grateful as we are of course for the facilities provided but if those considerations the Minister has mentioned were to hold sway in the future he might very well find has gained an inordinate amount for any facilities and the next step may be one which the House can swallow less easily.

As regards the level of fees, I am trying to follow the Minister's mathematics, in fact it is something like £55 a day in a Naval Hospital in the United Kingdom and here it is something like £75. I believe that is what he said. In any case I think it works out to about £20 more here than in the United Kingdom. Perhaps I have got the figures wrong. So it appears that it is £100 a week more here than in the United Kingdom.

Well, Mr Speaker, Mr Bossano mentioned the 80% of parity, I don't know whether the Government is going to give its agreement to 100% of parity by the next review but certainly it is a matter which the Minister cannot be too diplomatic about and I urge him to take this matter on.

Mr Speaker, the final point is that the choice of doctors of consultants that a patient can see in Gibraltar is much more limited than the choice he has available to him in the United Kingdom. In the United Kingdom if he is not satisfied in one particular hospital he can move to another. Here in Gibraltar it used to be a question of either going to the Royal Naval Hospital, going to the United Kingdom, or you are going elsewhere, to Spain for instance. We would not like to see that limited freedom of choice curtailed further, and these quite inordinate increases do curtail the freedom of the individual to attend these practices whilst at the same time offering no substantial improvement of the local services in particular areas.

I note that the Minister occasionally speaks as if he were claiming all doctors and perhaps the doctors themselves are beginning to feel a bit this way about us. Well, this is not the case, we have the greatest respect for doctors, we are in no position to question their professional ability, except when one gets complaints from members of the public in a particular area consistently, and these complaints are upheld by other experts in the United Kingdom with regularity.

HON AP MONTEGRIFFO:

Mr Speaker, if the Honourable Member does not wish to say these things in the House today, I would ask him to write to me and give me chapter and verse where this has happened.

HON MD XIBERRAS:

Mr Speaker, I can give him three cases to start off with but nonetheless I can certainly make them available in some way to the Honourable Member opposite in a particular area.

So, Mr Speaker, far from withdrawing the motion I would thank the Minister for the announcement that he has made about the change in procedure, I would not, with respect to him, withdraw the motion, and I would ask the Minister to support it himself.

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

The Hon I Abecasis
 The Hon Miss C Anes
 The Hon J Bossano
 The Hon AJ Canepa
 The Hon L Devincenzi
 The Hon M K Featherstone
 The Hon Sir Joshua Hassan
 The Hon Lt Col JL Hoare
 The Hon P J Isola
 The Hon W M Isola
 The Hon M Xiberras
 The Hon H J Zammit

The following Honourable Members abstained -

The Hon A P Montegriffo
 The Hon J K Havers

The motion was accordingly carried.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

The adjournment of the House sine die was taken at 4.40 pm on Monday the 7th June, 1976.