

HOUSE OF ASSEMBLY

HANSARD
OF MEETING

HELD ON 29 JUNE 1976

VOL I



Government Secretariat
Gibraltar

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Clerk to the House of
Assembly

Your reference:

Our reference:

Date: 1st March 1977

HOUSE OF ASSEMBLY - VERBATIM REPORT

Proceedings of the House of Assembly held on 29th June 1976.

I shall be grateful if the following corrections can be made to the above quoted Verbatim Report.

Page 193

1. In line 3 the word "facts" should read "tax".
2. In paragraph 2 line 1 the second non-word "varial" should read "variant".
3. Third paragraph last line the word "does" should read "do".

Page 195

1. In the passage reporting the Financial & Development Secretary, line 6 insert a comma immediately the word "conditions" and delete the comma which now appears after the word "although".
2. In line 8 delete the words " all over".
3. In line 11 the word "emolument" should read "emoluments".

Page 202

In the third paragraph of the statement reporting the Financial & Development Secretary in line 6 the non-word "inventice" should read "incentive".

Page 205

1. In the first paragraph of the report of the FDS's statement in line 5 the word "inevitably" should read "inevitable".
2. In the third paragraph of the same statement in line 12 insert immediately after the word "operating" the word "it".

(A Collings)
Financial & Development Secretary

The Clerk,
House of Assembly,
GIBRALTAR.

Dear Mr Clerk,

VERBATIM REPORT ON MEETING HELD ON 29th JUNE 1976.

I have the following amendments to make:-

- (i) Page 166: first paragraph: lines 4/5: delete "when is it fit" and substitute "fit".
 : lines 17/18/19/20/21: delete the whole of the sentence commencing "We have provided" and substitute "We are providing, by regulations which will be published on the same day, for a certificate of fitness to be issued for the vehicle if it is fit: if it is not fit the Transport Commission can in appropriate cases give authority for the vehicle to be used."
 : Line 23: delete the words "has lost it, they" and substitute "is not fit, it".
 : third paragraph: 2nd line: delete "likely" and substitute "allowed".
- (ii) Page 169: first paragraph: line 5: delete "nevertheless".
 : line 6: delete the word "a" before the word legislation.
 : line 7: delete "nevertheless".
 : line 11: insert the words "allowed" after the words "was not".
 : Delete the last paragraph and substitute:
 'A tenant shall be deemed to be in personal occupation of premises not withstanding he does not sleep on such premises on such day on any day that the reason for his not so sleeping is that he is on Government duty, whether inside or outside Gibraltar, he is on a course approved by Government, or he is prevented from personal occupation through circumstances beyond his control." Let us suppose he goes on holiday, he is taken sick and he is away from a period of time. Through circumstances beyond his control he would not be liable to have the tenancy terminated. These cases are all as of right but in his discretion the Housing Manager can at any time authorise a tenant to be absent. If the Housing Manager refuses to grant such authorisation then there is a right to appeal to the Housing Committee.'
- (iii) Page 170: paragraph 2: line 1: delete "Those absent" and substitute "absence";
 : line 1: insert the word "not" after the word "will".
 : paragraph 3; delete "that would seem to be somewhat illogical" to the end of the paragraph and substitute "that would seem to be somewhat illogical and so by clause six we are giving the court by which a man is convicted of remaining on property the power to order him to get out."
 : paragraph 4: line 2: delete "context" and substitute "principle".
 : paragraph 6: line 3: insert the word "City" before the words "Fire Brigade".
- (iv) Page 171: paragraph 3: line 2: delete "specific one " and substitute "absence on".

delete

- (v) page 187: paragraph 2: on ^{my} second reading speech: line six: "testamentally" and substitute "testamentary"; in the same line delete word "could" and substitute "can".
- : paragraph 4: line 2: insert the word "if" before the words "it has not been".
 - : line 3: delete "dealt with at all" and substitute "operated".
 - : line 5: delete "loose" and substitute "lose".
- (vi) page 209: second paragraph: lines 5/6 : delete "is there in which a contrary intention appears" and substitute "does a contrary intention appear".
- (vii) page 247: My second paragraph: delete "to the constitution" and substitute "the Constitution".

James Faulkner
~~*J. K. Havers*~~

J K HAVERS
 ATTORNEY GENERAL

OFFICE COPY

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Twentyfifth Meeting of the First Session of the Second House of Assembly held at the Assembly Chamber on Tuesday the 29th June 1976, at the hour of 10.30 o'clock in the afternoon.

PRESENT:

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

GOVERNMENT:

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

OPPOSITION

The Hon M Xiberras, Leader of the Opposition
The Hon Major R J Peliza
The Hon P J Isola OBE
The Hon W M Isola
The Hon J Bossano
The Hon L Devicenzi
The Hon Miss C Anes

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 18th May 1976, having been previously circulated, were taken as read and confirmed.

DOCUMENTS LAID

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

Report by Mr J C Morgan on Allowances payable to Hon Members of the House of Assembly.

Ordered to lie.

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

The Employment Survey Report - October 1975.

Ordered to lie.

The Minister for Sports and Housing laid on the table the following documents:

- (1) The Traffic (One-Way) Streets (Amendment) Regulations, 1976.
- (2) The Traffic (Registration and Licensing) of Civilian Vehicles)(Amendment) Regulations, 1976.

Ordered to lie.

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

- (1) The Long Service and Good Conduct Medal (Gibraltar)(Amendment) Regulations, 1976.
- (2) The Weapons for Underwater Fishing (Prohibition) Order, 1976.
- (3) The Gibraltar Regiment (Amendment) Regulations 1976.

Ordered to lie.

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

- (1) The Financial Report for the year 1974/75.
- (2) The Report of the Principal Auditor on the accounts of Gibraltar for the year ended 31st March 1975.
- (3) Supplementary Estimates No.1 of 1976/77.
- (4) Supplementary Estimates No.2 of 1976/77.
- (5) Supplementary Estimates Improvement and Development Fund No.1 of 1976/77.
- (6) Statements of Virement Warrants approved by the Financial and Development Secretary 1976/77.

Ordered to lie.

ORDER OF THE DAY

MR SPEAKER

The Honourable the Chief Minister has given notice that he wishes to make two statements: I therefore call on the Honourable the Chief Minister.

HON CHIEF MINISTER

If you will bear with me I just want to make sure that I have the right one.

MR SPEAKER

I do not know in which order you intend to make them.

HON CHIEF MINISTER

In the order set out in my letter.

MR SPEAKER

May I perhaps suggest that you invert the order because if you give the less controversial statement now we will be able to go off to tea at a reasonable hour, but if you do

not perhaps we shall be kept here longer.

HON CHIEF MINISTER

I am delighted to hear you say that the second statement is going to be uncontroversial.

MR SPEAKER

The less controversial of the two!

HON CHIEF MINISTER

I will accede to your request but I do not want in changing the order for members to think that I am giving this a higher priority myself.

MR SPEAKER

It will go down on the record that you are doing it at my request: may I declare an interest too!!

HON CHIEF MINISTER

Yes, we all have to declare an interest.

The first statement I intended to make was on Morgan, and the second statement was on Morgan's allowances for Members, but at the request of Mr Speaker I am making the statements in the reverse order in order to fit into the time-table.

At an earlier stage in these proceedings I laid on the table a document which contains the advice of Mr James Morgan on the increases which, in his view, ought to be paid to the Speaker, Ministers and other Members of the House of Assembly.

This document has its origin in an agreement reached between the Leader of the Opposition and myself, at the time when we agreed on the equivalent for Members of this House of the Interim Award payable from 1st October 1974, that the question of remuneration should be looked at in the context of the review of the salaries of the senior grades in the Civil Service. Accordingly, when Mr James Morgan was appointed sole Independent Commissioner to advise on the latter, he was also asked to undertake, in

a similarly independent manner, the task of advising on the remuneration of members of this House. In our view it was as essential in this area - as in that of the senior grades of the Civil Service - that we should have independent advice.

Mr Morgan agreed to advise on this delicate issue and the report which I tabled earlier today has been in the possession of members of this House for some time. At a meeting held between the Leader of the Opposition and myself some time ago it was agreed between us that the advice given by Mr Morgan was appropriate and acceptable but that, as in the case of the other Morgan Report, its presentation to this House should be deferred until such time as at least the bulk of Government employees had been dealt with in the pay review.

That situation has now been reached and I now accordingly inform the House that supplementary provision is being sought later in this meeting to enable the new rates of payment to become effective.

There are two points to which I should like to draw particular attention. The first of these is that, because this is what I might call the last substantive meeting of this House, it was, in the view of the Leader of the Opposition, with whom I discussed this point, and in my own view, essential that we make known the allowances that will be payable after the next general election.

This is clearly a matter which could influence some people, who might be concerned about the effects on their domestic finances which standing for election could entail, in deciding whether or not they could in fact afford to stand for election.

The second point is very closely related to this but applies particularly to persons in official employment who obviously will have to weigh up the financial consequences of standing for election and, if elected, being required to resign.

In reply to a supplementary question earlier in these proceedings I said that I would be making a statement on a matter which was relevant to the attitude we had taken on the eligibility for election of persons in official employment. This question of increased allowances is what I had in mind. We have, of course, no wish to make a profession of politics in the sense that people might look on it as the source of a livelihood, but, if it helps to enable people in official employment to stand for election, even if they have to resign their jobs, then I think that

we are helping them to do so while at the same time preserving the principle - to which we attach great importance - of the distinction between master and servant, between legislator and public employee.

I should like to say also that the supplementary appropriation which we are proposing will cover the period up to the end of the current financial year. This will mean that the members of this House after the next general election will not have to start their term by deciding what they should be paid - although they will, of course, be free, should they so wish, to increase the allowances further.

Sir, as Mr Morgan states in his report, this is a delicate position for Members to find themselves in. It is, however, a reality of life, perhaps particularly so in the peculiar circumstances of Gibraltar, and one which we must face up to in the general interest.

I think we all understand that many opinions will be voiced on this issue. Some will say the allowances are too high; others will say that they do not go far enough. I hope that most people will agree with the Leader of the Opposition and with me that the advice given is sound and that because of this and, perhaps even more important, because it is completely independent, we should accept it and make the necessary provision accordingly.

HON M D XIBERRAS

Mr Speaker, I cannot but welcome this increase in allowances, and I do so quite unashamedly, because Honourable Members in this House know that certain Honourable Members in this House have had to go through great financial stress in order to be here and have had to resign their positions in the Government of Gibraltar. I refer to the Honourable Mr Canepa, I refer to the Honourable Mr Bossano whose life might have taken a very different course, I do not know, and I refer to myself. Therefore, I do so quite unashamedly because it has been one of the marks of democracy as much as the vote that everybody should have a chance of serving the people in this Chamber and Honourable Members on this side of the House particularly have been at pains not only in respect of remuneration but in other respects to try to make this Chamber accessible to as many people, working class, middle class or anyone else.

Mr Speaker, the Chief Minister is right in saying that this is acceptable to Honourable Members on this side, but when he says in fact that I consider it appropriate may I say quite clearly I consider it appropriate only in the present circumstances. And he should have added that in ^{the} Constitution Committee we also agreed that the matter should be reviewed further in order that there should be no hardship whatsoever in a member of the public standing for election and being elected to this House.

May I finally add, Mr Speaker, in welcoming this, that when I became a Minister in 1969 I was living on £58 a month, having resigned my job in the Government and therefore anything to my mind, any increase on that sum, is really to be welcomed. So I do not think the Honourable and Learned the Chief Minister need have any qualms about associating me with this reform which I think will be of benefit to the less privileged classes in Gibraltar, even though even as it is we do not come in financial terms up to the standard of perhaps the industrial worker, the qualified industrial worker.

Mr Speaker, the Honourable and Learned the Chief Minister said that this was done in the context of Morgan, and I notice that he is making two statements on Morgan: one in relation to the higher civil servants and one in relation to Honourable Members of the House. May I assure members of the general public that it is in the context of Morgan purely because the gentleman concerned happened to carry out both exercises and purely because the Chief Minister has chosen to put both matters together, but the recommendations in respect of Honourable Members on both sides of the House is in no way in the financial context of that first Morgan report about the higher civil servants.

MR SPEAKER

Right, we will recess now

HON CHIEF MINISTER

Mr Speaker, I think the Honourable Mr Bossano wishes to . . .

HON J BOSSANO

Yes, Mr Speaker

8.
MR SPEAKER

In fairness to Mr Bossano the practice in this House has been that when a Minister makes a statement, particularly if it is the Chief Minister, I have always given a chance to the Leader of the Opposition to make a short statement in reply, but since Mr Bossano is now an independent member, provided you do not go beyond the orbit of statement, I think it is only fair that you should be given similar facilities, so do go ahead.

HON J BOSSANO

I am grateful, Mr Speaker.

Mr Speaker, I would like to say that I regret very much that it should be Mr Morgan who should have decided what Members of the House should get. I think Mr Morgan has proved with that other report to be singularly unqualified to decide or to recommend anything, and, therefore, it is for me a matter of great regret that my remuneration as a member of the House should be conditioned on what Mr Morgan recommends.

I believe that members of the House themselves who are well aware of what it requires to keep a home in Gibraltar could have, without any help from Mr Morgan, arrived

MR SPEAKER

No, no. I will allow you to make remarks on the contents of the report, but I am not going to allow you to censure the person who has made the report on the excuse of replying to the Chief Minister on the statement.

HON J BOSSANO

Mr Speaker, I am not censuring any person in particular, what I am censuring is that a report should have been required.

MR SPEAKER

We understand each other, you are quite free to say what you like on the contents of the report.

HON J BOSSANO

Yes, not only on the contents: I think it would have been preferable if the members themselves had arrived at the figure because I do not think that through bringing in an outsider we are going to escape any criticism that we may be in for or gain any credit, the situation will not be changed.

I think also, Mr Speaker, to be quite honest with ourselves, that if all we are really concerned about is the prospective candidate then all we really need to be concerned about is the next review really, the October 1976 one, if that is all we are really concerned with, but since I have been in another sphere a long tradition of asking for retrospection in everything, I cannot really disassociate myself from the retrospective element here. And I may say that perhaps on another occasion if I am still around members of the House, in view of my expertise in this matter, might well consider engaging my services instead of Mr Morgan's to negotiate their salaries!

MR SPEAKER

Right, we shall now recess for a short tea break.

HON A W SERFATY

Mr Speaker, the Trade Licensing (Amendment) Bill 1976 is included with all the other Bills that we will be taking later in this meeting, but for very important reasons I beg your leave under Standing Order 7 (3) - and I will say what these reasons are - to take this Bill in all its stages today.

The reason is that the present Ordinance was extended some time ago until tomorrow, the 30th June 1976, and if we do not take this Bill today the Ordinance will expire and that will be the end of Trade Licensing. So with your leave I would like to move that a Bill for an Ordinance to extend the licence

MR SPEAKER

You would like to move under Standing Order 7 (3) that the Bill be taken out of the normal order of business.

MR A W SERFATY

Yes, Sir, for the Bill to go through all its stages. Mr Speaker then put the question which was resolved in the affirmative.

THE TRADE LICENSING (AMENDMENT) ORDINANCE 1976.

The Honourable the Minister for Tourism, Trade and Economic Development moved that a Bill for an Ordinance to extend the life of the Trade Licensing Ordinance 1972 (No.22 of 1972) be read a first time.

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

The Bill was read a first time.

HON A W SERFATY

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

Now the Bill as presented before the House simply extends the life of the Trade Licensing Ordinance for a further period of twelve months, that is until the end of June 1977, but following the strong recommendations of the Select Committee on Trade Licensing, the report of which I laid on the table this morning, I proposed at the Committee Stage to move an amendment to the Bill so as to include Road Transport Contracting in the First Schedule.

MR SPEAKER

You are moving two amendments really: because if you intend to add two clauses they will have to be done separately.

HON A W SERFATY

Very good, Sir. Yes, I am moving two amendments but of

course the second one is as a result of the first amendment.

I hope the Select Committee having been composed of members from both sides of the House, that this Bill will have an easy passage.

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

HON L DEVICENZI

Mr Speaker, if I remember correctly, last time the Trade Licensing Ordinance was extended for a further period it was suggested that since this had been done on numerous occasions whether it would not be advisable to extend it indefinitely until it was finalised, instead of having to come to the House for extensions every now and again. I do not think that any valid reason has been forwarded as to why this should not be done.

Anyhow, now I see that there is a further amendment in respect of the Transport Contractors and this will now become part of the Schedule. Now one would hope, and I am sure it is the intention of the Government to do so, to come to an early conclusion to this part of the Bill as it affects the Transport Contractors and I wonder whether one would have to wait until the whole Trade Licensing Report is ready before action can be taken on this separate Schedule. It can be done separately of course.

MR SPEAKER

If there are no other contributors I will ask the mover to reply on the Second Reading, if he so wishes. If not I will put the question.

What has been suggested by the Honourable Member has been that the amendments proposed to the Bill now should be left over for further consideration: is that correct?

HON L DEVICENZI

No, Mr Speaker, what I am asking is whether it will be necessary for the Trade Licensing Report to be finalised before any concrete action can be taken with regards to the amendment.

MR SPEAKER

The Report has been laid on the Table, it has been finalised.

HON L DEVICENZI

Yes, but now there is an extension of the Bill

HON A W SERFATY

May I explain that of course if as I am sure I hope we shall include Road Transport Contracting in the First Schedule, it means that as from now, and in the Committee Stage it is explained, anybody who is carrying on a business of Transport Contracting on the 30th June - that is to say as from now - anybody who wants to start a business of Road Transport Contracting will have to go to the Trade Licensing Committee for a licence.

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

HON A W SERFATY

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill should be taken forthwith.

This was agreed to.

HON ATTORNEY GENERAL

Mr Speaker, I beg to move that this Honourable House do resolve itself into Committee to consider the Trade Licensing (Amendment) Bill, 1976, clause by clause.

THE HOUSE IN COMMITTEE

THE TRADE LICENSING (AMENDMENT) BILL, 1976.

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

New Clause 3

HON A W SERFATY

Sir, may I move the addition of a new clause, which will be No.3:

Amendment of First Schedule. 3. The First Schedule to the Trade Licensing Ordinance, 1972, is amended by the addition thereto, immediately after the business of catering, of a new specified business as follows - "Road Transport Contracting".

Sir, originally the definition was going to be "Transport Contracting", but after very careful discussion in the Select Committee we decided - and it is so stated in the letter sent Mr Speaker - because transport contracting could include shipping, aviation etc., we thought it better to call it "Road Transport Contracting". I hope the Attorney General will not disagree with that.

HON ATTORNEY GENERAL

With great respect, on this question of terminology, I do not think that "Transport Contracting" would in fact include contracting by shipping firms or by air, I think it is an accepted term.

HON A W SERFATY

Sir, it was, and I am sure I can be corrected by the gentlemen who formed part of the Select Committee, the intention was to include in the First Schedule Road Transport Contracting only.

HON ATTORNEY GENERAL

I think that is all that would be included if we used the words "Transport Contracting".

MR CHAIRMAN

Mr Serfaty, are we clear now: you are moving the addition

of new Clause 3 as you gave notice, or are you deleting the word "road".

HON A W SERFATY

Well, I for one am prepared to accept the advice of the Honourable the Attorney General.

MR CHAIRMAN

No, I am not interested in other than knowing how the new clause is to read. You must move something and then we can discuss it but let us be clear as to what. There is no question before the House yet.

HON A W SERFATY

What I have moved is already before the House. Now I am prepared to move that the inclusion of a new specified business as follows: "Transport Contracting".

MR CHAIRMAN

It is not now. With due respect to the mover: you have got the floor, you tell me what you are moving, and then if anyone wants an amendment to that motion that is another matter, but let us start on the right foot.

What is your motion: that a new clause be added to the Bill as Clause 3 reading: "The First Schedule to the Trade Licensing Ordinance 1972 is amended by the addition thereto immediately after the business of Catering, of a new specified business as follows" - you have got in your notice - "Road Transport Contracting" is that right?

HON A W SERFATY

Yes, Sir.

MR CHAIRMAN

Therefore we know where we stand. Do you want to say anything in support of your motion.

HON A W SERFATY

No, Sir, I have already said that the Select Committee after very careful consideration strongly recommended - in fact so much so that it was decided that this particular recommendation should come to the House at this moment of time and that is why we have included it and we all agree unanimously that it should be included.

Mr Chairman then proposed the question.

HON M D XIBERRAS

Mr Chairman, since we are in Committee Stage I would like to put some questions if I may. Could the Minister amplify what he intends to cover by this amendment. We have one obvious case which is the transportation of persons, does he envisage the amendment covering this?

HON A W SERFATY

I would assume that it does include the transportation of persons also: Transportation of persons and goods.

HON M D XIBERRAS

Would this apply to the Bus Service and to other matters: taxis?

HON A W SERFATY

They are licensed separately, I am told by the Transport Commission and therefore do not come within the scope of this. We are mainly concerned with the transport of goods, so in fact the transport of persons does not come under this Ordinance.

HON M D XIBERRAS

I appreciate that there are other Ordinances dealing with matters such as taxis or buses and so forth, but I realise also

MR CHAIRMAN

No, no I think the insinuation is that under the Trade Licensing Ordinance any business or trade which requires a licence under any other legislation does not require a licence under the Trade Licence Ordinance, and, therefore, it will not affect those businesses. Is that correct?

HON ATTORNEY GENERAL

Mr Chairman, no, I do not think so with great respect. Under the Traffic Ordinance a licence is required for a public service vehicle, whether it be a taxi, whether it be a bus, and is also required for a goods vehicle. The fact that a licence is required for a vehicle does not mean that a licence is required for carrying on a particular trade, and, therefore

MR CHAIRMAN

No, no, that is accepted, I did not say that. I was saying that to operate a bus service you require a licence from the Transport Commission. Is that correct?

HON ATTORNEY GENERAL

Certainly for a bus you require a licence, and the conditions are implied as to how it is done and the routes, but the pure expression "Road Transport Contracting" would not in my submission cover the carrying of passengers, it would only cover the carrying of goods: not passengers.

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

New Clause 3 stood part of the Bill.

New Clause 4

HON A W SERFATY

May I move, Sir, an additional clause, as follows:-

Transitional. 4. (1) For the purposes of a licence to carry on the business of road transport contracting the expression

"operative date" in the Trade Licensing Ordinance, 1972, shall mean the 30 June 1976.

(2) A person carrying on the business of road transport contracting on the 30 June 1976, who wishes to carry on such business shall, within three months of the coming into force of this Ordinance, apply to the Licensing authority for a licence and shall during that period and until a licence is granted or refused under the Trade Licensing Ordinance 1972, be deemed to be lawfully carrying on such business notwithstanding that no licence has been issued."

Sir, this is consequential on the previous clause which has been approved.

Mr Chairman then proposed the question.

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

New Clause 4 stood part of the Bill.

MR CHAIRMAN

I have received an amendment from the Honourable Mr Bossano reading as follows:- "That a new clause, to be known as Clause 5, be added to the Bill as follows:

5. Section 23(1) of the Trade Licensing Ordinance, 1972, is amended by the deletion of the word "two" wheresoever it appears therein and the word "three" be substituted therefor."

Now perhaps I will read - I cannot do more than that - Section 23(1). It might assist the members of the House.

23(1) reads as follows:

"There is hereby established a Trades Licensing Committee (hereafter referred to as the Committee) which shall consist of the Financial and Development Secretary who shall be the Chairman, and six other members appointed by the Governor, two of whom shall be appointed after consultation with the Gibraltar

Chamber of Commerce and two after consultation with the Gibraltar Trades Council."

Mr Bossano's amendment proposes to substitute the word three for the word two where it appears in that sub-clause of clause 23.

I have read the motion so you do not have to read it, you just have to speak in favour of it.

HON J BOSSANO

May I say, Mr Chairman, that I am afraid my grammar was not very accurate in my motion and that in fact it should read: "the substitution of the word three and not that the word should be substituted.

Mr Chairman, the purpose of the amendment is to produce a Trade Licensing Committee in which both the representatives of the Chamber of Commerce and the Gibraltar Trades Council will be equal. The House will recall that way back in 1972 when the original Ordinance established the original committee, the composition of the Committee was something that was debated and subsequently as a result of the nominations to that Committee the Gibraltar Trades Council felt aggrieved at what it was considered to be an imbalance in the committee because it so happened that one of the independents was in fact the Treasurer of the Chamber of Commerce at the time, and the President and the Secretary were the two nominees. It was hardly conceivable that in that situation - I would have thought it would have been preferable, if it was important to obtain the expertise of the person in question, to have him officially recognised as a nominee of the Chamber and to allow the Trades Council to have an additional nominee. For this reason the Trade's Council did not in fact send a representative to the committee for a considerable length of time.

Subsequently, because there was a certain amount of public controversy about the working of the committee, the Trades Council reconsidered its decision and felt that it had a certain duty to send its representatives and it issued a public statement saying that it was sending its representatives

under protest whilst still maintaining its position on the question of the composition.

Since in fact the law is now being extended for a year, although it may well be replaced if there is a new

Government in three months time, the Trades Council feels that it cannot very well commit itself to send its representatives for another year while keeping the composition as it is, and I feel that it should be understood in the House that in fact the establishment, in the loose sense of the word, tends to gain the upper hand in situations like this simply by allowing reforms to go by default. I must say I have myself experience of this, if the Honourable Minister for Economic Development and Tourism will allow me to say so, in that I myself objected most strongly to the meetings of the Select Committee being held in the Boardroom of the Red House and now I have become so used to going there that I do not think twice about it.

You see, Mr Speaker, this is the way that the status quo is maintained by wearing down the resistance of people who object to something happening or other, and, therefore, the Trades Council feels that it must in fact insist that its position cannot be taken for granted as regards representation on this Committee, and because we feel so strongly about it we have put our point of view across to the Chamber of Commerce, with whom relations are much better now than they were in 1972, and the Chamber of Commerce also considers that it would be an improvement to have three representatives there as well as three representatives of the Trades Council.

I think this information may help members of the House in deciding whether to support my amendment or not.

HON CHIEF MINISTER

Mr Chairman, since the Select Committee has been meeting for a long time and there is no reference in the report to it, I think everybody welcomes the return of the members of the Gibraltar Trades Council to the Licensing Committee and they have been doing very good work there together with the others. Now one of the objections raised at the time no longer holds water because the independent member referred to is no longer the Treasurer or even a member of the Chamber of Commerce. Those two also have I think rendered good work and I would not like it to be thought that we are under threat that if no amendment is made the GTC are going to withdraw, I hope that that is not the case and I hope that they will not do it. I hope that at least until the Select Committee's Report is considered they will allow the matter to remain status quo, and if there is an amendment when the whole substantive question of licensing is considered, that that will be the time to reconsider what time the

committee should be allowed to remain. This is too fundamentally a change at this stage when all we are doing is prolonging the life of the Ordinance to give the next Government, whichever it will be, an opportunity of carrying out the recommendations produced by the very hard work of the Select Committee, which I am sure has been the subject of many meetings.

I would not like to feel, certainly without notice and in this short way, to deprive the committee of two members who have been serving well in the Committee. The fact that it would be left to three members of the Chamber and three members of the Trades Council in my view will put the Chairman, who is an official, in a very awkward situation if there was a conflict though perhaps in the present state of relationship there is not likely to be a conflict but there could be a conflict, there has been a conflict before, and I think it would be very undesirable that an official who presides the Licensing Committee should be burdened with a casting vote between two defined sectors of the community, and for that matter the two independent members I consider to continue not in the way of permanency. I would call upon the mover to take that into account in the spirit that it is made, that if there is to be any change it should be done when the fundamental changes to the Ordinance are carried.

HON J BOSSANO

Mr Chairman, am I allowed to make some comments?

MR CHAIRMAN

Yes, we are in committee.

HON J BOSSANO

Thank you, Mr Chairman, I would like to say, Mr Chairman, that in fact I have raised the matter inside the Select Committee on a number of occasions. It does not appear in the Report but I have done so on behalf of the Trades Council. I brought the views of the Trades Council to the Select Committee and the Select Committee has in fact recommended a particular composition for a future Committee which if a future Government accepts would make the present composition irrelevant. Now, I am saying that the continued attendance of the Trades Council representative cannot be taken for granted. If in fact

it happened that they do not attend, and if in fact it happens that the representatives of the Chamber of Commerce as a sign of solidarity were to join with the Trades Council; the Trade Licensing Committee would be unable to meet because it would not have a quorum unless the Government changed the composition of course, which they could always do by consulting the Trades Council and the Chamber of Commerce, who under the law are the only ones who can send alternatives.

MR CHAIRMAN

Are you withdrawing your amendment.

HON J BOSSANO

No, Mr Chairman.

HON M D XIBERRAS

Mr Chairman, at the time when the composition of the Trade Licensing Committee was debated first in the House, members on this side expressed pretty strong views about the composition of the committee and to the particular person referred. The matter has not been brought up before; the Select Committee has been considering this and even though this is just an extension of the present Ordinance it will be an extension which could last for a year and we feel therefore that we should support Mr Bossano's amendment.

HON P J ISOLA

Mr Chairman, I would like to say that the speech of the Honourable Mr Bossano has raised my suspicions when he says that the Gibraltar Trades Council and the Gibraltar Chamber of Commerce are getting on very well. I am very glad to hear it but I hope the individual traders or the consumers are not going to be the sufferers as a result.

In the Select Committee we have made a recommendation of course as to the composition of the Committee on which the Honourable Mr Bossano has put a few reservations, and our recommendation merely amounts to the elimination of all representatives from the Chamber of Commerce and the Gibraltar Trades Council and indeed independents, and we have recommended that the policy-making body on the Trade Licensing Ordinance, that the body that should decide in this important sphere of economic activity of the community should in fact be this House, the House of Assembly, and that the Chamber of Commerce, the Unions, individual traders and so forth should all have a right to object before a Committee in which, if you look at the Appendix of our report, we are suggesting should be composed of the Crown Counsel as chairman, the Finance Officer as a member, and the Consumer Protection Officer as a member. The idea being that the House should set the needs of the community by way of resolution in this House - and the House of course is subject to

pressures and lobbying and so forth and then a totally impartial Committee would administer the

MR CHAIRMAN

Mr Isola, I hate to interrupt but I did warn members this morning that insofar as the report of the Select Committee we could not discuss it until it had lain on the Table for 24 hours. We are precisely doing that and if I allow you to go on then we are going to have a ding dong on this.

HON P J ISOLA

Well, the reason I said this, Mr Chairman, is that the Honourable Mover should not think that the support of the opposition for his amendment should imply that we think this is a situation that should continue after the 30th June 1977.

MR CHAIRMAN

Any other contributors to the debate?

HON J BOSSANO

Mr Chairman, could I ask the Honourable and Learned Chief Minister whether there is a different alternative to the composition of the Committee that the Government would be willing to accept or whether they just want the committee kept as it is.

HON CHIEF MINISTER

Mr Chairman, I have not been in the Select Committee and I have only seen the report this morning. These matters may well have been discussed there but generally, in principle, if we are continuing the life of an Ordinance, it is really difficult to agree to amendments of this nature just like that which go to the fundamentals of it. We are satisfying the Trades Council, we hope, in another Ordinance this evening or tomorrow, in respect of the question of nominees and so on and we meet them as much as we can. But to be quite frank, unless there was a very strong objection either to performance or to integrity or something like that of two persons who whilst others have chosen to be away have been bearing the brunt of the work in the Committee, just in order to keep almost like a corporative state the union and the chamber and not an independent people, seems to me the wrong time in which to consider it. The Government cannot but expect to keep the status quo and hope the GTC will keep the matter open. If in fact after a while they see that the future Government does not amend it in accordance with the report then they could take that option. But I know, and I am glad to see that all the members of the Committee I understand are

working quite happily and that the representatives of the Trades Council are making a strong contribution, and I hope they will continue to do so.

The fact that we do not accept the amendment is no aspersion on the GTC but very much the opposite. Similarly we do not want there to be any aspersions, after a long time in the last stages of this law, to two members who have given of their time in the public service.

HON J BOSSANO

Mr Chairman, I would like to state for the record that there is absolutely no question of any aspersions being cast on the two independent members, it is a question of the principle of representation on this committee because in Gibraltar it is very difficult in fact to find somebody that is independent in the sense of not being identified with anybody or any group at all. We are too small and too closely knit a community for that to be possible and the point of view, Mr Speaker, that I am putting now is not a new one; it is one that has been consistently put in the House for almost four years. In fact I feel confident that if the same individuals who are now, as the Honourable and Learned Chief Minister says working very well and very closely together in this committee were to be in the committee as nominees of the two bodies concerned there would be no objection. It is not a question of the individuals who are there, it is a question of who they represent. The Trade Council feels, and the Chamber shares our opinion, that the question of an individual having a very powerful voice there and representing only himself is something that is in principle unacceptable. There is a clear line of responsibility between the delegates of the Chamber who have to go back to the Chamber and answer for their attitude in the committee, they are not there on their own behalf, they are not free agents, and the delegates of the Trades Council who are in fact responsible to a special sub-committee of the GTC who have a particular interest in the question of Trades licenses and the question of employment permits.

In the case of the Trades Council I can give the Honourable and Learned Chief Minister an assurance from my personal knowledge of its work, that the delegates of the Trades Council on this committee, as indeed on all others, do not take decisions on their own behalf, they take policy

decisions which represent the corporate view of the whole of the Trades Council, of its Executive Committee.

HON A W SERFATY

Sir, if I may, the amendment moved by the Honourable Mr Bossano reminds me of the now defunct Price Control Committee when the poor representative, if I may call him that, of the Ministry of Defence was always in between the representatives of the Chamber of Commerce, or the traders, and the representative of the Consumers until Dame Elizabeth Ackroyd came to Gibraltar and said that we had better do away with that committee because it was doing nothing at all. If the representatives of the Trades Council get on so well with those of the Gibraltar Chamber of Commerce why have they got to worry, they have got a majority of four against two.

HON J BOSSANO

All six, Mr Chairman, get on very well, I am not saying that they do not.

HON CHIEF MINISTER

I would like to think that consideration could be given in future for these representations the GTC have made: on the other hand it is fair to say that independent members have a good part to play in every place, even in the House of Assembly and that, therefore, they serve a useful purpose. Also, with the greatest of respect to all Union membership, not all workers are represented in the GTC and not all traders are represented in the Chamber of Commerce.

I think that if we were introducing something new perhaps matters would be taken much more seriously, but having regard to some thing which is there and which served its purpose at a time when others boycotted the committee, they did hard work, there was severe criticism against them, and I think it is only fair that they should not be removed.

MR CHAIRMAN

I will give the mover a right to reply and then I will put the question.

HON J BOSSANO

Well, Mr Chairman, I am sorry I cannot share the views of the Honourable and Learned the Chief Minister, and as I say I have stressed the importance that is attached to this. It is a matter of principle, it is nothing against the two individuals who are there or any attempt to suggest that the work that they are doing is anything other than valuable.

I would like in fact a division to be taken on the amendmentñ Mr Speaker, because I want it to be recorded and because I attach great importance to it.

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

The Hon Miss C Anes
 The Hon J Bossano
 The Hon L Devicenzi
 The Hon P J Isola
 The Hon W M Isola
 The Hon Major R J Peliza
 The Hon M D Xiberras

The following Honourable Members voted against:

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

The motion was accordingly defeated.

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

The House Resumed:

HON ATTORNEY GENERAL

Mr Speaker, I beg to report that the Trade Licensing

(Amendment) Bill, 1976, has been considered in Committee and agreed to with amendments and I now move that it be read a third time and do pass.

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

MR SPEAKER

I now call on the Chief Minister for the purposes of making the second statement of which he gave notice.

HON CHIEF MINISTER

Mr Speaker, it was my intention to have made this statement first and to have dealt with the statement we had before after the recess, so that I would not like any misunderstanding about taking refuge in Morgan for one thing to give it support in another. Let us look at the statement on its merits.

In the course of the debate on the motion by the Honourable J Bossano on the subject of the Morgan Report, I said that, although we might vote against the motion, this did not necessarily mean that we would not state our views on the Morgan Report, in this House, at a later stage.

We have now given full consideration to the Report and I am now in a position to announce the view we have taken.

Also during the debate to which I have referred, I said that, in order to get the Morgan Report into perspective, it was necessary to look back to the last two reviews of the pay of senior Civil Sergeants. Inevitably, in formally stating the Government's views on the Morgan Report, I must to some extent repeat some of the things I said at the time and I hope the House will bear with me while I do so.

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 has gradually deteriorated.

The main reasons for this are to be found in the 1972 Review and in the Interim Award payable from October 1974.

The 1972 Review, it will be recalled, was the first review in which settlements were arrived at on the basis of direct negotiations. Prior to that review, it had been the practice to appoint Salaries Commissioners or advisers - such as Mr 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 for 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 was to erode differentials. This was because they were deliberately kept low 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 election 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 per annum 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 schemes, 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 the 1972 principle of direct negotiation; and, thirdly, because it was considered desirable to take the matter out of the orbit of politics.

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.

This was done because, while other grades were free to negotiate their own levels of pay, these 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 responsibilities 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 reasons 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 said, the Government has now considered the advice given and I should say at the outset that, in principle, and generally, it accepts that advice.

It does so because it considers that the salaries in question have been considerably eroded in previous reviews and because the general level recommended by Mr Morgan within the various grades concerned appears to be about right. This level can be looked at from three points of view. The first, and, in the context of our general pay policy, the only truly relevant one, is the comparison with the responsibilities of posts in the United Kingdom. We accept, for the time being, the method adopted by Mr Morgan. The fact that he was able to find a number of benchmarks enabled him to establish UK/Gibraltar corresponding levels at a number of points within the grades concerned. The point was made during the last debate on this question that analogues had not been found for every post in the grades and that this should have been done.

On this point I would say that Mr Morgan is unquestionably highly experienced both within the civil service itself, in which of course he served with distinction for many years, and in the conduct of salary reviews, in which he has been engaged since his retirement. In addition, Mr Morgan has had previous direct contact with Gibraltar, both in the 1972 Review and during his time in the old Colonial Office. He therefore knows Gibraltar very well

and was in a very good position to assess the degrees of responsibility of senior posts here in relation to grades in the United Kingdom with which he is intimately familiar.

We cannot, therefore, I suggest, lightly set aside his general conclusion that, with 4 exceptions, none of the posts in question have true corresponding grades in the United Kingdom. Nevertheless, the point made in the debate has been taken and the Government has therefore decided that, following the implementation of the Morgan recommendations in the manner I shall describe, there shall be, as in the case of all other grades in the Civil Service, a Staff Inspection to confirm the findings or otherwise.

The other two points of view to which I referred just now, while not strictly relevant, are useful corroboration of the levels recommended by Morgan. The first and most obvious of these is the high levels already established in other areas of the Service as a result of the policy based on the Scamp recommendations. The second is the point made by Mr Morgan in paragraph 12 of his final chapter in which he writes:

" collateral and reliable information of a confidential nature has been obtained which has convinced the Commission that, if the enquiry had been carried out on that basis (i.e. comparison with other professional people in Gibraltar), it would have been necessary to propose considerably higher salaries for the top grades of the Medical Service and superscale, and probably for some of the middle grades as well."

All in all, therefore, the Government is satisfied that the recommendations in the Morgan Report are justifiable and it intends to implement the recommended increases subject, first to the Staff Inspection to which I have referred and to an adjustment of the figures proposed, as 72%, for October 1975, which, in our view, should be strictly related to the 70% proposed for October 1974 without the rounding up which has been done. Attached to copies of this statement will be a table showing the figures recommended and those adopted by the Government.

An offer on these lines will now be made to the Federation of Senior Government Officers.

There is a number of other points to which I should draw attention. Irrespective of the aspirations of the officers now in post - which, in justice, must of course also be

considered - it is necessary to bear in mind that, unless adequate salaries are attached to senior posts, the Government will find itself unable to recruit officers of the right calibre to carry out effectively the functions of senior posts in Government in an increasingly complex administration. The ultimate effect, if action is not taken, will be to defeat the policy of localisation of the senior civil service and to increase the numbers of expatriate officers.

It should be remembered also that while the figures recommended might seem large, taxation will make some fairly substantial inroads. A married man with two children starts paying 35% tax at £4,351 and 40% at £6,351. Taking a hypothetical example of such a family at grade 3, tax at £1,964 per annum will be paid on the 1975 salary of £7,510, leaving a net pay of £5,546 per annum. Everyone in the community is, of course, affected by income tax but it is at the level of these senior grades that the 35% and 40% rates begin to bite.

Another decision of principle which has been taken by the Government is that it would be extremely dangerous to alter in any way the individual gradings recommended by Morgan. We are certain that any changes would lead to further claims from others and we therefore consider, in spite of any views some of us might have about some specific cases, that the gradings proposed should be accepted in toto until such time as Staff Inspection takes place. Any adjustments which might then be required will be made.

In so far as future increases are concerned, we consider that the proposal in paragraph 6 of Chapter 7 of the Report constitutes a departure from the pay policy based on the Scamp recommendations and we have accordingly decided that increases from the 1st October 1976 should be in accordance with the Scamp formula but that any increases over and above this should be subject to the wages policy prevailing in the United Kingdom during a corresponding period.

Without in any way casting any kind of aspersion on the past performance of senior civil servants, it is certainly our view that the higher salaries which we are now introducing will mean that all concerned must ensure a very high standard of management in the future, including, of course, the management function of getting the best out of their subordinates. The same will, of course, also be expected in any event from other grades whose salaries have

also been raised as a result of this review.

I have said on previous occasions, but I must repeat this particularly at this stage of actual decision-making, that at no time during the course of our consideration of the Morgan Report has any advice been sought from any senior civil servant nor has any been offered.

Finally, I should inform the House, that, in our view, the salary of the Governor should be adjusted as a consequence of this review and, in accordance with established practice, I will in due course discuss the matter with the Leader of the Opposition as it is desirable that this matter should be non-controversial.

TABLE

<u>1975</u>	<u>Recommended</u>	<u>Revised</u>
Grade 1	£8,250	£8,230
Grade 2	£7,900	£7,870
Grade 3	£7,600	£7,510
Consultants	No change	
Grade 4	£7,000	£6,890
Grade 5	£6,500	£6,220
Grade 6	£6,000	£5,710
Grade 7	£5,500	£5,250
Grade 8	£5,100	£4,890
Grade 9	£4,600	£4,590

The table that is attached to the statement states the grades in 1975, the recommended salary and the revised salary without the rounding off.

I should state that this is done on the basis that the 1974 grading by Morgan will be the same except for the Commissioner of Police whose grading will be £6,050 and not £6,100.

HON M D XIBERRAS

Mr Speaker, it has been the practice here for statements to be read, but the speed with which the Honourable the

Chief Minister has read this particular statement makes me

HON CHIEF MINISTER

I had to compete with the Honourable Leader of the Opposition when he was talking with his colleagues.

MR SPEAKER

No, if the Leader of the Opposition has raised the matter before we might have been able to do something about it.

HON M D XIBERRAS

I doubt whether I could have got a word in edgewise, Sir, at the speed the Honourable Chief Minister was going. I heard some reference to me towards the end of the statement

MR SPEAKER

Insofar as the Governor was concerned,

HON M D XIBERRAS

I shall study the statement now if I can get through it.

MR SPEAKER

Well you have the chance to say anything you want now, if you want to say it.

HON M D XIBERRAS

Yes, Sir, but I have to read the statement.

MR SPEAKER

No, I am afraid we are not going to wait.

HON M D XIBERRAS

No, of course not.

MR SPEAKER

Oh of course I see what you mean.

Right, then, the Order of the Day.

Yes, Mr Bossano, if you wish to.

HON J BOSSANO

The table at the end of the statement that the Honourable and Learned the Chief Minister spoke about, this refers to one review, does it?

HON CHIEF MINISTER

That refers to the 1975. This is taking the point made by the Honourable Member about the rounding-off upwards instead of maintaining the 72%. The figure on the right is the straight 70% of the 1974, the increase is 2% to the nearest £5 or £10 and in respect of the 1974 gradings the Commissioner of Police has been altered from the grading recommended at £6,100 to £6,050.

HON M D XIBERRAS

Sir, I note that the post of the Director of Labour has been downgraded, about which I disagree, and that it is going to be subject to staff inspection, and that the Government has not thought in fact that the anomaly, and to my mind the slight on the post was sufficiently important for immediate correction.

HON CHIEF MINISTER

As I have said in the course of my statement, having decided against the Morgan Report to have staff inspection I think that will be the time to try and get any adjustment. It is not passing any judgment of whether the classification is right or wrong but rather the desire not to interfere with any one grade that would bring about a considerable amount of representations and re-adjustments.

HON M D XIBERRAS

Would the Chief Minister say, without wishing at all to debate it or put it another way, has the Chief Minister given consideration to the arguments which I used in support of this, namely that Morgan in this particular decision appears to depart from the status quo, in other words the existing situation, and appears to visualise some changes which he thought desirable and which seem out of tone with the rest of his report. I would have thought that there was enough strength there for the Government to have made an exception of this particular case because it was a pretty obvious anomaly in the first place.

HON CHIEF MINISTER

The point made by the Leader of the Opposition is to some extent shared by my colleague on the left, but I say that certainly any change would lead to further claims from others and we therefore consider, in spite of any view some of us might have about some specific cases, that the gradings proposed should be accepted in toto until such time that staff inspection takes place. Morgan did not envisage staff inspection but we are going to introduce it.

HON M D XIBERRAS

I take the point. Would the Chief Minister express his disagreement now with that particular recommendation because I still think that it was a slight on the post and I feel strongly about it.

HON CHIEF MINISTER

I would not like to pre-judge any staff inspection, but having heard the Honourable the Leader of the Opposition and having heard the views of my colleague who is the Minister for that Department, I am not without sympathy on the point. But to be quite frank I have not arrived at any judgment, I have not applied my mind to the justice of the matter because I was not going to fight it.

HON M D XIBERRAS

It seems to me, Mr Speaker, that the arguments used in Morgan, Mr Morgan had no right to use in respect of this particular post, and, therefore, I think a clear refutation of that part of the report is required from the Government.

Now, surely the Government, without saying exactly what salary the post of Director of Labour should carry, should, in order to defend that particular post, and to show Government's estimation of that particular post, should make a categorical statement now.

HON CHIEF MINISTER

Well, I think my colleague on my left has made some remarks about this in the House to which I attach great importance since he is here as Minister of that Department, and that I think the Leader of the Opposition can take as the views of the Government.

It would be unfair to try to satisfy people with words rather than with money in the case of this nature over status, but since we are putting in staff inspection I think that if it is as obvious as it appears to be, then that should be put right.

HON M D XIBERRAS

I regret that the Chief Minister has not made a categorical statement because I think this is a question of prestige also for the post and that the Government should have been prepared to do straight out.

Mr Speaker, I also raised with the Chief Minister in the debate the classification of certain posts which are at present held by UK recruited officers. Now, does the Government have anything to say there. I asked whether it was in the view of the Government, a chicken and egg situation, that the higher posts were occupied by UK recruited people because there was no local man suitable for this, and, therefore, the UK holders had been granted higher salaries than some of our local recruits.

Now, does the Government intend to say anything at all about that, and if it is not prepared to say anything about that now, is it going to be covered in the compass staff inspection?
of

HON CHIEF MINISTER

Yes, of course it will be subject to staff inspection. I attach very great importance to staff inspection. First of all because of the sensitive nature, and secondly because it has been applied to all others, so why should it not apply to the senior ones.

HON J BOSSANO

Mr Speaker, is the Honourable the Chief Minister then saying that the, for example the Deputy Governor is going to be subject to staff inspection?

HON CHIEF MINISTER

I should have thought that there is no limitation except for the Governor. Because of his particular position, I would have thought that there will be no limitation to the staff inspection that is going to be done. I have certainly contemplated none at all.

HON J BOSSANO

Who does he propose to employ to carry out the staff inspection of the Deputy Governor. The Governor, Mr Speaker?

HON CHIEF MINISTER

No, somebody from outside. If we have brought somebody else from outside to look at this matter, it is essential to have somebody from

outside to do the staff inspection.

HON J BOSSANO

Will the Chief Minister then consider, Mr Speaker, when the time comes to try and find somebody more satisfactory than Mr Morgan to do the staff inspection.

HON CHIEF MINISTER

I want to answer that one. One does not know if he is satisfactory until you see the results, and, therefore, I cannot say whether he will be satisfactory to the Honourable Member or the people who he inspects.

HON M D XIBERRAS

Mr Speaker, one more question if I am allowed, and that is, the Chief Minister mentions in his statement that in 1970 and so forth, 1972, the staff involved did not have a chance to reject proposals and so forth. Now, I am trying to look through this: could he say whether the present staff in the present review are happy with the situation, have they grave points against it, have they objected. Roughly how has the argument run.

HON CHIEF MINISTER

That we do not know. There is a Federation of Senior Civil Servants and one of the members of the committee as a matter of courtesy was informed of the proposal of the Government, that is all. They are now federated and they may well have representations. But as far as we are concerned it is a package.

HON M D XIBERRAS

Does that mean that there is no negotiation?

HON CHIEF MINISTER

That is how I take it.

HON M D XIBERRAS

I see, because the Chief Minister made the point that on previous occasions there had been no right to negotiate, I want to know whether on this occasion there is a right to negotiate or not. Because if it is a package then it is an empty right that has been given to the people at this level when the Chief Minister implied that there would be a

right to negotiate.

HON CHIEF MINISTER

Not on the percentages. If representations are made and have got any strength we shall have to look at them, but certainly not on the percentages.

HON M D XIBERRAS

What we are saying is that they have a right to represent, in the course of the staff inspection? Is that what he is saying.

HON CHIEF MINISTER

Yes, that is right.

HON M D XIBERRAS

So I take it that all the other comments he made about no rights of negotiation in respect of 1970-72 were quite irrelevant.

HON CHIEF MINISTER

No, it is not, because they can now make representations. What they have been told, as I have told the House, is that this is accepted as a whole in order to get on with it. Now if they want to hold up the exercise by negotiations and so on, they do so, at their peril.

If they do make representations they cannot be refuted, because they come from a Federation and they come from a body representing the Senior Civil Servants which is recognised for this purpose. But I would hope that they will see sense in accepting the thing as a whole.

HON M D XIBERRAS

I am glad to hear that. So they do have the right of negotiation of this. They exercise this right at their peril but they do have the right to negotiate on this?

HON CHIEF MINISTER

They would have a right to make representations, I do not know how far the question of negotiations has gone.

HON M D XIBERRAS

I see, so now we are going back to the so called 1970-72 situation in

fact, that they will not have the right to negotiate even at their peril.

HON CHIEF MINISTER

No, they have a right to negotiate but there are certain things that are not negotiable, such as the 70% and the 72%.

HON M D XIBERRAS

Mr Speaker, I do not get the picture, I do not know whether these people have a right of negotiation, to what extent they have the right of negotiations, what is negotiable, what is not negotiable . .

MR SPEAKER

No, what I think the Chief Minister is trying to say is that they have a right to make representations but not to negotiate. They can make representations but cannot negotiate.

HON CHIEF MINISTER

I think I can say with some confidence that they were anxious that Morgan should be accepted.

HON M D XIBERRAS

This is the point, Mr Speaker, that is why I have been asking throughout what do the people concerned think about this. Now we know that these negotiations take place in camera as it were in the United Kingdom as these matters are discussed and so forth but there is a definite right of negotiation amongst the highest civil servants. Now, the Chief Minister has made a point in his statement of emphasising the differences between the 1970-72 situation, where there was no right of negotiation, but I am trying to find out whether there is any substance in this point that he has made by establishing what right of negotiation exist in 1976, and he has told me now, perhaps he could correct me if I am wrong, that in respect of the percentages there is no right of negotiations.

HON CHIEF MINISTER

Well, I am not saying that there is no right of negotiations of the percentages, the point is the Government may have a right to negotiate but the Government is not prepared to negotiate on that. The right to negotiate is a different matter.

HON M D XIBERRAS

I see, so theoretically there is a right of negotiation but if they negotiate Government is warning them now that they negotiate at their peril and that the deal is a package deal. The offer is a package offer.

HON CHIEF MINISTER

Subject to staff inspection.

HON M D XIBERRAS

Subject to staff inspection. So that anything like the point I raised in respect of the Director of Labour and Social Security where the Federation might hold specific views, depending on the structure and involving one of their number, that would not be subject to negotiation.

MR CHAIRMAN

No, no, we are now beginning to debate the statement and I am not going to allow that

HON M D XIBERRAS

I do not know, Mr Speaker, I must confess, to what extent these people have a right of negotiations and to what extent, Mr Speaker, in the staff inspection there will be a right to corporate representations on the structure as a whole.

HON CHIEF MINISTER

In the staff inspection certainly. Certainly in the staff inspection there will be every right, corporate, yes, as there is now up to a point. Because they are now Federated, they have one voice and the committee that represents them can make representations, obviously.

HON J BOSSANO

May I ask the Honourable and Learned the Chief Minister to clarify in the statement whether in fact the Government in their study of this considered the possibility that there might be appropriate UK analogues which Mr Morgan has missed out by virtue of the fact that he had been provided by a floor before he started investigations and had been obliged therefore to look above this floor. Did they consider that possibility or not?

HON CHIEF MINISTER

Well, that was considered in connection with deciding on having staff inspection, but not on the merits of themselves. We did not consider ourselves qualified to look at the merits of that in the time available and in the circumstances. This I would hope will be done in staff inspections which would be subject to whatever review that is required, and the Federation has been told. I do not like to speak on their behalf but I understand that they accept this.

I would like to explain one phrase that I used because I do not want it to get misinterpreted; when I said "at their peril" I do not mean at the peril of getting nothing, what I mean is at their peril of being involved for a long time in negotiations when in fact the matter has been left to the end as I said before.

HON J BOSSANO

On the staff inspection is the Chief Minister then saying that the staff inspection will be looking at UK analogues and not just at internal relativities within this group?

HON CHIEF MINISTER

I would have thought that the staff inspection would have complete freedom and if they find analogues which are fair enough for us, I think that would be the most satisfactory way of dealing with the matter.

HON J BOSSANO

Will it be possible, Mr Speaker, to perhaps indicate to the staff inspector where the analogues can be found in case they have difficulties.

HON CHIEF MINISTER

Any help will be gladly taken.

HON M D XIBERRAS

What will be the method of implementation of this?

HON CHIEF MINISTER

The method of implementation will be to put it to the Federation and if they accept it, implement it the same as if there had been an agreement with a negotiating body.

HON M D XIBERRAS

I see, because in respect of our own allowances I believe that there is going to be a different one?

HON CHIEF MINISTER

No, well, this is a different situation because there is no provision, there is a bulk provision for the Scamp review. As decisions are taken and implemented supplementary provision is made. In the case of our allowances it is in one vote.

HON M D XIBERRAS

Is it not a bit inconsistent, Mr Speaker, in fact, is it not a fact

MR SPEAKER

No, no, we are not going to go into

HON M D XIBERRAS

My preoccupation is this one, Mr Speaker, and that is that this is being put forward, everything apparently is subject to a staff inspection, even analogues, the House has debated all this thoroughly, we have gone into individual posts in the course of motions, but the final result is going to be implemented without reference back to the House.

If this were a firm offer on the one hand - yes - but if it was not going to be subject to

MR SPEAKER

No, no, let us go on to the Supplementary Estimates.

HON CHIEF MINISTER

This is no different to the other offers that are being made.

MOTIONS:

HON ATTORNEY GENERAL

Mr Speaker, I would like to defer this particular motion. In its proper context it should come after the House has debated the Housing (Special Powers) (Amendment) Bill. If that Bill should fall then I would not proceed with the motion and when debating the Bill in my second reading speech I should have to refer at considerable lengths to the terms of the motion and it is more proper that it should be taken later in these proceedings.

MR SPEAKER

So you are asking again under Standing Order 7(3) that the motion be deferred?

This was agreed to.

Supplementary Estimates No.1 of 1976/77.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I have the honour to move that this House resolves itself into committee to consider supplementary estimates No.1 of 1976/77.

THE HOUSE IN COMMITTEE

MR CHAIRMAN

As usual I will ask the Clerk to call the Heads and I will pause in case there is anything that any one wishes to say in the matter.

Item 1 Head 4 Education was agreed to and passed.

Item 2 Head 5 Electricity Undertakings was agreed to and passed.

Item 3 Head 6 Fire Service

HON M D XIBERRAS

Mr Chairman, I am afraid to say that in all the provisions for the Biennial Review there is no inclusion of the salaries of Morgan. So we are dealing with let us say Deputy Head of Department downwards.

HON FINANCIAL AND DEVELOPMENT SECRETARY

No, look at the notes. Since obviously the Chief Minister has just ^{announced} / Morgan these do not include them, I have no idea what the Government decision was when these were prepared, so no Morgan grades are in here.

HON M D XIBERRAS

This is what has been settled already.

HON FINANCIAL AND DEVELOPMENT SECRETARY

What has been settled already.

HON J BOSSANO

Mr Speaker, the figure here I take it includes the full retrospective elements.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Yes, Mr Speaker, it does. It goes back to the 1st of October, 1974 and includes all the various re-calculations of allowances and overtime where that is applicable. And it goes to the end of the financial year. It makes the necessary provisions to carry on through to the end of 1976/77.

HON M D XIBERRAS

And the figures in the first column is the estimated provision for one year before, is it, before the implementation?

HON FINANCIAL AND DEVELOPMENT SECRETARY

That is what is in the Estimates 1976/77.

HON J BOSSANO

Mr Speaker, I appreciate that from an accountancy point of view this is the most accurate way to do it, but I think if it is possible, if the Honourable Financial and Development Secretary has got some information on it, I think it will help the House to have an idea of what in fact the service will cost now in a normal year without the retrospective element. Or perhaps give an indication of what sort of proportion of the sum involved is in fact pre-31st of March.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Approximately if you divide by $2\frac{1}{2}$.

Item 3 Head 6 Fire Service was agreed to and passed.

Item 4 Head 10 Judicial (2) Supreme Court was agreed to and passed.

Item 5 Head 14 Police

HON FINANCIAL AND DEVELOPMENT SECRETARY

Sir, I would just like to make one comment here. I think I gave the figure of £366,000 as a preliminary provisional estimate at Budget time for the total cost of the review of the Police, less the element in respect of housing. We were not far out.

HON J BOSSANO

I think perhaps the Honourable the Financial and Development Secretary might be less reticent in the future about making estimates in view of the closeness of the figure.

Item 5 Head 14 Police was agreed to and passed.

Item 6 Head 15 was agreed to and passed.

Item 7 Head 16 Post Office and Savings Bank

HON I ABECASIS

Mr Chairman, you will see that in Item 1, personal emoluments we ask for the sum of £8,645 which is divided into 2 items; one of £6,500 which is for the additional staff required for the Philatelic Bureau; and the second item for £2,145 which I am sure will be most welcome by the Honourable Member opposite, the Honourable Mr Peter Isola, is for the Saturday despatch of mail. Item 20, which is a new item, it is on a trial basis Sir, and the £23,500, Sir, which is required because the Philatelic Bureau is ever expanding.

HON P J ISOLA

Mr Chairman, I welcome this huge effort on the part of the Minister to allow for letters to be posted and to be despatched from Gibraltar on Saturdays, and I am pleased to see that the negotiations which he has held with my Honourable Friend on my left, has resulted in the public getting a very necessary service. So I would suggest without wishing to exacerbate any position there might be, for a very small amount in the terms of the total vote of that department and in terms of the total revenue that that department receives from the public in postage stamps.

MR SPEAKER

Could I ask on what date this will start.

HON I ABECASIS

The first week in July, Sir.

Item 7 Head 16 Post Office and Savings Bank was agreed to and passed.

Item 8 Head 17 Prison was agreed to and passed.

Item 9 Head 19 Public Works Annually Recurrent was agreed to and passed.

HON P J ISOLA

Mr Speaker, I would like to ask on the waterworks. It has been raining a lot in Gibraltar since January, Mr Chairman. I mean, the Minister has had more rainfall in the first three months this year than he had in the whole of last year. And he gave the distillation plant a very good rest, so what is the - I understand he gave them a very good rest. I do not know if the rest was required because he worked them too hard last year, by not importing water, to enable them to have a rest last year. Overworked them as a result and they have given up, I do not know, but certainly it is a bit alarming with all the water we had so far this year that the Minister should require a supplementary provision of £100,000 to import additional water.

I was a bit surprised to read the notice in the press about there being a shortage of water here. I just thought this was probably inspired by the shortages of rain in England, but I do not think we are connected.

HON LT COL J L HOARE

Mr Speaker, I was asked a question, I think, in the last meeting or the meeting before, on how we were going to cover our requirements for water and I did give notice that we would have to import water over the next few years until we could get another distiller because our rate of consumption is going up.

There has been a certain amount of rain but the distillers have been out completely. The North Face was out for about 16 weeks undergoing a major overhaul and even now is only producing about 60% of what it should do. The VTE has been out for about four weeks, it should be starting up today, but even when both are going, with a summer ahead of us, we have only got at the present time, after last night's rain, 6 million gallons of water, which is about a fortnight's supply, and you cannot work on that basis, of all distillers going, you have got to work on the basis of one being out of action. This, as I say, will be the pattern over the next 3 years until we get another distiller.

HON P J ISOLA

Does the Minister then regret his decision to discontinue the regular importation of water that was in existence

since it appears he requires regular importation of water.

HON LT COL J L HOARE

I would say that since 1972/73 we have been arranging for regular importation of water and from now for the next 3 years.

HON P J ISOLA

Mr Speaker, has the need arisen precisely because he has worked the distillers too hard, in order to avoid the necessity of admitting he was wrong.

HON LT COL J L HOARE

No, it is the fact that the distillers are just not producing what everybody thought they would produce in the first place.

HON P J ISOLA

I seem to recollect the Minister saying in the House that the distillers have been overworked.

HON LT COL J L HOARE

No, Sir, what I maintain is that everybody thought the VTE would solve Gibraltar's problems for ever more. It was a prototype which has not come up to expectations.

HON M D XIBERRAS

Mr Chairman, furniture for offices and residences, £13,000 for Government residences. Are these for the accommodation of new recruits to the Service, in respect of new flats required for the Government or being furnished by the Government?

HON LT COL J L HOARE

This, Sir, is a re-vote: that £13,000 is a re-vote. Money that was not spent last year for goods coming in now.

HON M D XIBERRAS

Was this in respect of new accommodation, or to enhance the present accommodation.

HON LT COL J L HOARE

I cannot say without the details of all the other, I do not even know how much we provided last year.

HON M D XIBERRAS

Is it going to be spent - my point is that sometimes we get items of this kind, one likes to keep tabs on the expenditure that is actually taking place. Is this in respect of say the Clerks of Works residences, new ones, or is it in respect of old ones, the enhancing of old accommodation.

HON LT COL J L HOARE

No, this is stuff which has been on order and just has not arrived, has not been paid for.

HON M D XIBERRAS

Is this for existing residences or for new residences that you are furnishing?

HON LT COL J L HOARE

For replacement and for furnishing of residences.

HON J BOSSANO

Mr Speaker, before we leave Public Works

MR SPEAKER

No we are not leaving Public Works because in fairness to the members of the Opposition there is item 10 - it goes over the page - and there is a fair amount. So let us go over the page and then you can ask any question before we take a vote.

HON J BOSSANO

Could I ask the Honourable and Gallant Member about something that is not included here if I may, Mr Speaker. Should he not in fact make provision for the money he has spent on building this wall for sitting on by Camp Bay? Because although he may hope eventually to recover it presumably unless he gets the money out of the Contingency Fund he will need to have authority for having spent that money, would he not agree?

HON LT COL J L HOARE

I would not know what this is being charged to, Mr Speaker, but my little knowledge of accountancy gives me the impression that this for the time being is being debited to a charge account which is then recoverable in due course.

HON FINANCIAL AND DEVELOPMENT SECRETARY

That is in fact being charged to an Advance Account in the name of the person in respect of whom it is proposed to endeavour to seek reimbursement: that will be perfectly correct.

HON M D XIBERRAS

The Financial and Development Secretary does not know whether it has or it has not?

HON FINANCIAL AND DEVELOPMENT SECRETARY

No, I am afraid I do not know.

HON M D XIBERRAS

And the Minister does not know either.

HON LT COL J L HOARE

I do not think that the wages of those people has as yet been paid, let alone brought to account over that period.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, my advice has not been sought in relation to this matter of charges.

MR CHAIRMAN

It is an item which is not in the estimates so let us not answer any more questions.

HON MAJOR R J PELIZA

Mr Chairman, on what item are we now?

MR CHAIRMAN

Public Works Non-Recurrent - page 4.

HON MAJOR R J PELIZA

Page 4, along where?

MR CHAIRMAN

Along anywhere.

HON MAJOR R J PELIZA

I am coming now Mr Chairman, to the Government Schools Improvements. I wonder if the two Ministers concerned, the one for Public Works and the other who is responsible for the building.

MR CHAIRMAN

It is a re-vote, of course.

HON MAJOR R J PELIZA

Yes, but it is money that is going to be spent, is it not, or has been spent already.

HON LT COL J L HOARE

No it has not been spent, it has been brought forward from last year. Goods have been ordered, are awaiting delivery, and the rest of it. One of them is I think for Notre Dame School.

HON MAJOR R J PELIZA

Well, I am talking about schools generally, and perhaps this is the appropriate stage in which to bring this out. I wonder if the two Ministers, the Minister for Education and also the Minister responsible for Public Works could have a look at the state of the Comprehensive School and perhaps spend a little bit of this money to put it right. One thing is at the entrance to the place in itself, the yard where they do some physical exercise and I believe they also have their own games, there is some kind of a contraption which I believe it is supposed to be a gate to stop the public entering that area which is bound by bits and pieces of corrugated iron

MR SPEAKER

But this is not repairs and maintenance, this is for improvements.

HON MAJOR R J PELIZA

Mr Chairman, perhaps this is more a question of improvements rather than maintenance. It requires a lot of improvements by what I have seen. I know the Chief Minister does not think I go round very much about this but certainly I have seen this, with my own pair of eyes, and if he goes there he will find that this contraption has I understand been laying there fore some months! Not only is it dangerous to the children, but it is a real eyesore and I hope that if some kind of fence is required there that something is done about that.

The other one is that the area is used obviously as a playing field and balls too have obviously got to be kicked around because anyone going into that area will notice a great number of window panes either cracked or broken. This is bound to happen again once the window panes are replaced and what is needed I think is some wire cages or whatever it is to protect those windows.

And if he goes to the Stadium side he will also see quite a number of windows which have been boarded up. Perhaps

they have given up replacing panes of glass there, but I suggest that some improvement could be carried out there and perhaps we would not then have a report from the outgoing Headmaster stating that the place looked like a slum.

HON M K FEATHERSTONE

I do not know if the Honourable Member has a short memory or whether he was absent at the last meeting when I answered the question on the School. The gates and railings are ~~on~~ order and are going to be put up. I also mentioned that the broken windows were going to be replaced with vandalproof windows and generally the whole school is going to be repainted and redecorated. So all the things he is worried about are in the pipeline.

HON MAJOR R J PELIZA

Well, perhaps in the meantime, Mr Chairman, something could be done to clear up the place and make it look clean at least. From what I have seen there recently I would not believe that the Minister had taken any action on that at all. I was just wondering whether this money was supposed to be for that or we still have to wait a little longer before we voted the money.

HON MISS C ANES

Perhaps I could go back to the question of the wall at Eastern Beach, it is a point for clarification. The Honourable the Financial and Development Secretary said that he had not been consulted as to where this amount of money spent was going to be debited and so on.

MR CHAIRMAN

No, No. The Honourable the Financial and Development Secretary did not say that. The Honourable the Financial and Development Secretary said that if it is chargeable to an individual it would go to a charge account; that he has no knowledge yet whether the account has come through, but if it comes through then there is a place to be debited to.

HON MISS CAANES

But he did say after that that his advice had not been sought on the matter and I would like to seek clarification, because when the question was put at question time to the Minister whether the decision was a Government decision or a Ministerial decision, the Minister answered very emphatically that it was a Government decision. I would like to know whether the Financial and Development Secretary was present at that particular meeting or not.

FINANCIAL AND DEVELOPMENT SECRETARY

First of all, the prime and first responsibility as to where expenditure is chargeable rests unequivocally with the accounting officer of the vote concerned.

If his guess is wrong it is going to be picked up in due course by audit. So that it is not either the Minister personally that necessarily has to be informed and I certainly am not. The Accounting Officer of the vote is primarily and essentially the man who decides where he is going to charge this. And I did say that if it is expected to endeavour to recover from an individual or an organisation outside the Government, any monies spent on any particular job, it is the standard practice that an Advance Account is opened in the name of the company or person concerned to which the expenditure is charged in the first instance. When it is recovered of course you are back to square one.

HON MAJOR R J PELIZA

Mr Speaker, could the Minister possibly remove the corrugated sheets lying on the ground, because it is a danger to children playing there.

HON M K FEATHERSTONE

I will look into it, Sir, and I will get on to the Public Works to see what can be done.

HON M D XIBERRAS

Mr Speaker, Public Works Non-Recurrent, would under this vote come protection of Government premises on flats.

MR SPEAKER

Whether it does or it does not there is no provision there so we cannot discuss it.

HON M D XIBERRAS

Is the Minister making any provision for this under his particular vote.

HON LT COL J L HOARE

No, that would be under Housing.

Items 9 and 10 were agreed to and passed.

Item 11, Head 22, Revenue

HON J BOSSANO

Could I ask the Government under item 25, Contribution to the Gibraltar Broadcasting Corporation, whether in fact the Government has assumed full responsibility for the staff of GBC and is responsible for their conditions and wages and salaries.

HON CHIEF MINISTER

First of all the Government has no direct responsibility for broadcasting or for television. There is a statutory body which is the Gibraltar Broadcasting Corporation which is subsidised. Now a review of the staff like everybody else inevitably came and the Productivity and Training Unit carried out a research on the matter, made certain recommendations and these were taken back to the Board itself. They negotiated the Board itself with the Union representatives, we were kept informed and of course no final authority was given until they knew that the money was coming. It is in an indirect way that we have virtually increased the subsidy normally given to GBC by the amount that would be required to make sure that the employees stand in line with other persons who are in Official Employment, but they are not our servants.

HON J BOSSANO

Mr Speaker, is the agreement with Thomson Television still the same one as has been discussed on so many occasions previously in the House?

HON CHIEF MINISTER

Yes, but that has really very little relevance now, they are Managing Agents, they only provide the experts on the technical side and so on and they have an account. The point is that they, subject to certain charges, any increases that are not recovered, or rather any increased expenditure other than what they are liable to meet under the agreement, the management agreement, which is on a year to year basis now and in fact the meetings we have had already of the Select Committee it is quite clear that neither the Corporation nor anybody else is in favour of continuing the agreement beyond 1978 which is the time of expiry. There is an understanding that it could come to an end before 1978, on a yearly basis. They are really agents in respect of certain management matters but increases in costs which had nothing to do with their agencies or the management part are obviously a charge on public funds if we want to carry on having a Television and Radio Service.

Item 11, Head 22, Revenue was agreed to and passed.

Item 12, Head 23, Secretariat was agreed to and passed.

Item 13, Head 24 - Telephone service

HON M D XIBERRAS

Mr Speaker, on telephone service. Why does it say on basic salaries only for Technical Grades, is there any difficulty involved?

MR SPEAKER

The explanatory note says "Review on basic salaries only for Technical Grades" is there any difficulty involved.

HON M D XIBERRAS

Are there any difficulties involved.

HON A J CANEPA

The Technical Grades are represented by the IPCS, other people in the Telephone Department are represented by the Transport and General Workers Union and the different agreements signed at JIC in respect of industrials have not yet been reflected in the estimates.

HON J BOSSANO

I am afraid the Honourable Member is totally wrong because the agreement for industrial workers could not be reflected here because that comes under Other Charges and not under personal emoluments.

But that is not the explanation for why it is only Technical Grades, surely, because is it then the case that the increase represents the only increase in the personal emoluments, or will there be a subsequent increase under personal emoluments for other non-industrials who may be there.

HON M D XIBERRAS

That is the point that caught my eye, why the "only" should be used there.

HON A J CANEPA

I think the "only" refers only to Technical Grades.

HON CHIEF MINISTER

For the Technical Grades only.

Item 13, Head 24, Telephone Service was agreed to and passed.

The House Resumed

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg to move that the votes detailed in Supplementary Estimates No.1 of 1976/77, be approved.

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

Supplementary Estimates No.1 of 1976/1977 were agreed to.

Supplementary Estimates No. 2 of 1976/77.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I beg your guidance. I have given you notice of

MR SPEAKER

Perhaps we will move it to committee first.

HON FINANCIAL AND DEVELOPMENT SECRETARY

We will do this in committee. Then, Mr Speaker, I have the honour to move that this House resolves itself into committee to consider Supplementary Estimates No.2 of 1976/77.

The House in Committee

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Chairman, do I now move the amendment as set out in the paper?

MR CHAIRMAN

Well, it is not an amendment. You see the question has not been proposed, you have only given notice, and what you have done is corrected the estimates before it has come before the House. The estimates as presented now are those subject to the alterations you put in. It would only be an amendment if it is something that has gone to the House, the vote has been proposed and someone proposes an amendment after the proposal. The estimates are not being considered, you have sent in a correction.

Item 1, Head 8, House of Assembly

MR CHAIRMAN

Perhaps I should say on this item that I was informed by the technical people in charge of our recording systems that unless something was done they would not be reproducing as we would like them to do so for another year; secondly I felt that it was about time that we did something for the long suffering members of our press and we are going to produce some press boxes which I think will be an improvement on the ones they have now and this is the purpose for which the vote is being asked.

HON M D XIBERRAS

I wonder, Mr Chairman, whether in due course the other improvement which were approved by the House committee, if I may put it that way, some time ago, will be carried out bit by bit. There were other recommendations if you will remember, Mr Chairman, which we discussed some time ago and I hope that these improvements do not stop at the bar or the House but are continuing.

Mr Chairman

I will endeavour to see how far we can get to them because

it is about time that we did. Perhaps now that we are at the end of this particular House and I do not know who the Opposition is going to be next, I can say without bias or fear of being accused of partiality that the Opposition do not have enough facilities to be able to meet and discuss matters in the lobby or outside the Chamber and that these facilities should be provided. There are plans which could not be put to fruition because the labour force was withdrawn at the time, but I will most certainly go into these matters.

HON MAJOR R J PELIZA

Mr Chairman, on that point I think it is very important that whatever improvements are made, and I think they are necessary and should be there, they do not interfere with the attitude of members which I am very glad to see, of getting together in a friendly atmosphere in the ante-room after a very heated debate. I hope nothing is done structurally to prevent them from getting together after our meetings. I think it is very important to bear this in mind at the planning stage. Nothing should be worse than having had a heated argument, here we all go our different ways and we never try to meet in a friendly manner.

MR CHAIRMAN

Yes, I entirely agree with the sentiments expressed by the Honourable Major Peliza. This is basically a room where members of the Opposition can meet, even when the House is not meeting, when they have not got a place to go to.

HON MAJOR R J PELIZA

And may I say, Mr Speaker, that the bar is also an excellent idea, but I hope that it is a no smoking bar.

Item 1, Head 8, House of Assembly was agreed to and passed.

Item 2, Head 21, Recreation & Sport

MR CHAIRMAN

I would not dream of playing a fast one on the Opposition, and I would like to remind them that we are now considering a contribution towards the loss incurred by the GFA on the recent tournament.

HON M D XIBERRAS

We are considering the Government contribution.

MR CHAIRMAN

Well, we are considering the House's contributions.

HON M D XIBERRAS

We are not considering the GFA's loss, but the Government's contribution to make up that loss.

HON J BOSSANO

Mr Speaker, would the Honourable Member inform the House whether the procedure that is laid down in public invitations to Sporting and Cultural Associations in that they should submit full details of their needs and provide a balance sheet before their claim can be considered, whether that has been followed, or it is intended to follow that procedure in the case of the sums of money they intend to disburse at this stage in the Supplementary Estimates, as I assume it has been done in the case of the existing provisions of £27,000.

HON H J ZAMMITT

Mr Speaker, Sir, I can assure the Honourable Member opposite that only last week we held a preliminary meeting of the Committee that considers applications for financial assistance and we have referred all those letters back asking for financial assistance and asking for audited statements of accounts of their particular organisations.

Whilst I am standing, Mr Chairman, I am not going to be too laborious about this, I had expected probably more questions on this issue, but in the questions this morning I think I should give an explanation as to why I myself

backed this and took this problem to the Council of Ministers. It was purely because the GFA - and I have a letter to substantiate this - there was a decision as to whether GFA should go to England and sue Southampton for not having turned up for the tournament.

For information I think I could say that Southampton won the Cup Final and it was three days after they won the Cup Final that they communicated, at our request, and they said they were not coming. Possibly rightly so, Sir, because teams do come here for peanuts. Elsewhere they would get £10 - 15,000 for an appearance. So when they said they were not coming I do not think in all honesty that it did keep the £8,000 worth of spectators away from the Stadium, I must be honest about this, but GFA thought that they had a case to go to the Football Association in England and sue Southampton.

I strongly advised them not to do this, and I say this, Sir, because I felt that if - and I put "IF" in inverted commas - they were to succeed with the Football Association, if the Football Association thought that Southampton had done us a wrong and we were now suing them for £8,000 - and I say these are all "ifs", because I do not

MR SPEAKER

Otherwise we are going to go into hypothetical matters.

HON H J ZAMMITT

It has been a matter which has been brought out in the press and I think I should clear myself of any possible allegations, Sir.

MR CHAIRMAN

Allegations as to what?

HON H J ZAMMITT

I am only trying to explain why I advised GFA that they could not go to the Football Association, Sir, because then we would find ourselves in very dangerous

MR SPEAKER

Yes, but that is not relevant to the vote.

HON M D XIBERRAS

What the Minister is trying to explain is why he felt that the Government should help out.

MR CHAIRMAN

No, no, with due respect what the Minister is explaining is the reasons why he gave some advice to the GFA and that is not relevant with due respect to the Minister and the Leader of the Opposition.

Fortunately or unfortunately, depending on the way you look at it, this is my decision.

HON M D XIBERRAS

Mr Chairman, I am sure noone will question your prerogative. Mr Chairman, I think it is of great importance, that the Minister should show the reasons why he has taken this line. It is a sum of money

MR CHAIRMAN

Order, the Minister is quite entitled to say that for reasons which he explained to the GFA he advised them not to go to the FA and therefore that is why he felt that this particular sum should be expended on them, but I am not having the whole thing thrashed out in this House. I am terribly sorry I think I am completely and utterly right in this.

HON M D XIBERRAS

What I want to thrash out is the expenditure of this £8,000.

MR CHAIRMAN

I am telling you here and now that the reasons why he advised the GFA not to go to ^{the} FA is not relevant, that is all I am ruling.

HON M D XIBERRAS

Mr Chairman, I certainly understand the points made

MR CHAIRMAN

I am afraid the Honourable the Leader of the Opposition is talking at cross purposes, I do not think he is quite getting to what I have ruled.

It is relevant to say anything which goes to show why the Minister has committed himself to this expenditure. What I will not under any circumstances, and on this I know I am 100% right, is to allow that the Minister should explain to us the reasons why he advised the GFA not to go to the Football Association.

That is all I have stopped him on and that I will not go back on. And that is what the Minister was doing, is that correct? Correct me if I am wrong. I am asking you if you were trying to tell the House the reasons why you advised the GFA not to go to the Football Association because if so that is not relevant. You are completely and utterly entitled to say: "Because I advised the GFA not to go to the Football Association, I felt that I had to do something". Do you follow the difference?

HON MISS C ANES

Mr Speaker. . . .

MR CHAIRMAN

No, I am afraid - order, order, - I think the Honourable Minister has now got the floor and he is entitled to finish.

HON H J ZAMMITT

I am sorry there is a lot of talking going on at the same time, I do not know what is going on.

MR CHAIRMAN

All I am saying now is that you are now holding the floor and you are entitled to continue without any interruptions.

HON H J ZAMMITT

Well, yes, as I said, Sir, that was purely why this matter which had no financial implications to Government was brought to me. As I said

this morning, I gave the date as being some time well after the tournament, but what I would like to say, Sir, is that I do not think that anybody - and I do not want to labour this because I think I could easily speak for a number of hours on this particular issue, but I will keep it down very short, Sir - is I do not think anyone in this House or anyone in Gibraltar could have foreseen such a financial disaster basing oneself on the tremendous success that we had only a year previous with Hotts County and Fulham.

Now, Mr Chairman, history in the last four years has shown that there have been endeavours to bring out professional sides to Gibraltar and some of them have been failures. Some of them have been failures because our side, our team is far too inferior and we have been licked in no uncertain way. We then tried the amateur side, Mr Chairman, and likewise we have not done well, and it was only last year at the inauguration of the Victoria Stadium Grand-stand that our expectations were reached when we had a packed Stadium.

Now, Mr Chairman, I have during the last four years in this House tried not to be unfair to people. I like to have friends all over the world, and as they say, even in hell, but Mr Chairman, in this last tournament with good teams those who went saw excellent soccer, an excellent tournament, and where I think there could be some controversy is that I am of the firm opinion that primarily sport should be for the sportsmen and participation in sport, but I also consider, under our present political situation, that when you can couple that with good first class entertainment then you are possibly killing two birds with one stone. And that is where I think the Leader of the Opposition and myself do not see for once possibly eye to eye on sport. But that is my judgment and for the time being I am Minister for Sport. But what I must emphasise Mr Chairman, is that if GFA would have had a failure last year - last year it was not GFA who run the show, it was Government who ran the show on the inauguration of the grand-stand and there was a defect. Last year we had 192 VIPs invited free of charge, and in addition to the 192 VIPs there was the press in number, and the workmen from Fabri who built the Stadium.

So taking that into account, Sir GFA made nearly £1,000 profit: that was encouraging and it encouraged GFA to have a tournament this year, spread over 4 days because four teams were coming. I will not labour on the effect of Southampton not having come at the last moment, but I must be honest Mr Chairman, I have certain sympathy for Southampton. In fact I did say that I was going to make it very brief and I have correspondence here from Southampton apologising for not coming but they make the case that they are a second division team who have struck oil for once in history and they can make a good bit of money within the next few months by going to America, the West Indies and even Japan. So one cannot blame them for not having come to Gibraltar and I regret it.

We get teams coming out here just for expenses and one can realise that the situation is not very good. Now, Mr Chairman, I notice the

Leader of the Opposition smiling over the success of Notts County and Fulham last year, and I think he would agree because he was there. In fact I think I would say most if not all members of the Opposition were there. I only saw one member on this occasion, Mr Chairman, and as I say there were absolutely no free tickets given on this occasion, Sir, other than to His Excellency the Governor, the Honorary Auditor and the Honorary Legal Adviser.

Now, Mr Chairman, I would have expected, having heard the Opposition making noises a few years ago when we decided not to have a fair

MR CHAIRMAN

No, no, I am not going to have it, I am not having it. I am sorry. I am not having in any manner or form a debate as to who should go to what event, whether it is right in going or not.

We are voting money towards a particular purpose.

HON H J ZAMMITT

Well, Mr Chairman, I do not want to make things controversial.

I was saying, Mr Chairman, that I support GFA fully for having had a tournament this year. If they had not had a tournament this year after the success they had last year I would have condemned their action of not providing adequate sport, and I am sure other people would have done so as well.

If something is popular, if something proves to be popular there is absolutely no reason at all to criticise it if it fails. Now Mr Chairman, there is absolutely no excuse because this goes right back to August last year when the teams were asked to come over, tickets had been sold on the never never for over 3 months in February, there had been adequate press coverage, adequate television coverage, and no question about this has come from anybody, particularly in this House, Sir, either in the March or in the May meetings of the House, Sir, prior to the tournament. And one wonders, Mr Chairman, whether if it had been a success anybody would have said thank you. Would anybody have thanked GFA. They deserved thanks

last year. One is only wise after the event, and I think anybody who is involved in sport in Gibraltar, judging by the response that they had last year with Notts County and Fulham could not under any circumstances have expected such a loss. However, people just do not want to go to soccer, the people do not want to go probably anywhere, but this is a matter of apathy, it is happening all over the world, Mr Chairman, people just do not want to go out and spend a few hours watching sport when there is television to watch for nothing.

Mr Chairman, one important aspect, and I am sorry Mr William Isola is not here, is that from a touristic point of view, one team alone, Lincoln City, provided 280 supporters. The wives, children and supporters from Lincoln City filled up Both Worlds. They were here for a week as you know and 16 Director's wives and families stayed for two weeks at Holiday Inn. The other team of course consisted merely of 20 in the official party.

I could also say that a certain amount of money, probably higher than expected, was spent in particular by Lincoln City who were celebrating the 4th Division Championship and the club threw a very luxurious party at Holiday Inn, something to the value of over £3,000. So there was money spent in Gibraltar and it has certain commercial value, but the value that I give it, Mr Chairman, is that one cannot deny that Mr Public failed to attend. But according to my figures, Mr Chairman, on every one of the four nights there were at least 600 children, and on the last night, 1,000 children, and that has a certain amount of merit.

Lastly, Mr Chairman, as I said I was going to make it very brief, I could go on and on and on, It must be considered, and I think members on the other side particularly those who are concerned directly with sport must realise, and at least I certainly realise it now, that having had the experience of only 12 months previous, I was convinced, I must be honest about this, Mr Chairman, that there would have been absolutely no financial loss. I think GFA was convinced that there would be no financial loss. GFA did not go towards this tournament with the hope of making any money. They worked very hard, if I may say so, for a number of months, worked very hard at night selling tickets or trying to sell tickets with absolutely one idea in mind, and that was to provide Gibraltar with a good football tournament. Mr Chairman, if I am here next year I can assure the House that Government will have absolutely nothing to do with it. I cannot stop anybody from bringing teams here but I will

certainly dismiss any possibility of coming back to us if I know that Mr Public does not want it.

My encouragement throughout was based on the tremendous success of the previous year.

Having said that, Mr Chairman, that was my commitment with the GFA in offering all possible kinds of support in the way of communications, in the way of approach to the teams, and of course let us not be under estimating, Mr Chairman, but we do very well in getting these things here purely on a political note.

MR CHAIRMAN

You can say that you can only give the support on anything else than financial but it is the money that we are talking about.

HON H J ZAMMITT

Yes, but what I would like to say, Mr Chairman, is that I know members opposite, a few of them know it, that an approach to three First Division sides in UK ended up with £15,000 just appearance money, so when we get them here for this one should be at least somewhat grateful. Mr Chairman, that is the story, may I say, in a nutshell of the GFA and that is why I had to take this decision.

HON MISS C ANES

Mr Speaker, the statement made by the Minister as regards the television coverage of the tournament, may I point out that I watch the sports programme on television practically every evening if I am at home at that time and there were only two or three slides shown at the particular time and no films of the tournament at all as distinct to the hockey tournament that took place afterwards when there were films available.

HON H J ZAMMITT

Sir, I thank the Honourable Lady for having said it. I too raised this matter with CBC Television, that I was shocked that they were filming somebody climbing the rock face, which was probably for external news, and our

football tournament received absolutely no coverage. I made representations to the Chairman of GBC and I thank the Honourable Lady for her interest in watching Sports Diary.

HON J BOSSANO

Mr Speaker, I hate to probably antagonise all members in the House but I am afraid I am going to have to ask the Honourable Minister to carry on going on and on for a bit longer, because I feel that the highly uncontroversial, if I may say so, story that he has given us is simply an indication of his support for the venture in terms of his understanding of the things that went on behind the decision that were taken and so on. But so far, unless I have missed something very important, he has not said why the Government decided to foot the bill, and in fact I am surprised that the Government should not have suggested to some of the beneficiaries that he has mentioned, like Holiday Inn and Both Worlds and so on, that they might like to make a contribution in view of the fact that they apparently were profiting. And I would just like to point out to the Minister that it is all very well to say that Mr Public has failed to turn up, but now he is coming here to ask Mr Taxpayer to foot the bill, and that is what we want to hear about.

HON H J ZAMMITT

Sir, I did say that the decision was taken at the Council of Ministers as a result of this letter received from the Gibraltar Football Association. They posed the alternatives, and they did not want money, I must emphasise that GFA have done their utmost. You can see, Sir, that this letter is dated the 9th and received on the 11th, that is 12 days after the tournament, Mr Chairman. I know they held meetings in an attempt not to have to come to the Government at all for financial assistance. The only intervention on my part was that I considered it dangerous that they should go to the FA and ask for assistance. It is done, I know it is done by many affiliated associations, but I considered it a great fear and I thought that I should take it on my own bat as Minister for Sport.

HON J BOSSANO

Then, Mr Chairman, what the Honourable Member is saying is that it was to prevent them doing that that the Government decided to give them this money.

HON H J ZAMMITT

That is it.

HON J BOSSANO

Well could the Honourable Member say how long the Government spent on this and whether the only alternative was either the Government should foot the bill or they should be allowed to go on with their plan to approach the Football Association. And also could he say whether anybody suggested that the business community that had apparently benefitted so much from all these people flying to Gibraltar were approached, or whether it was suggested to anybody that they might be approached for a contribution.

HON H J ZAMMITT

Sir, the Honourable Member I think may not be aware that business concerns in Gibraltar are taxed much more than some of them can afford, particularly in sport. I very much doubt, Mr Chairman, that any hotel or any business concern even jointly could afford a bill of this magnitude. I find it very difficult, Mr Chairman, even through my direct intervention sometimes, to find trophies from different commercial bodies, purely because - and I am not criticising at all commerce for it - they are taxed all too often. There is far too much activity going on. I think this article in yesterday's Panorama, which said that sports today is probably too much. I do not know, I am pleased to read such comment. But there is far too much going on, people obviously want trophies, gear and sponsorships and even visits abroad, and commerce is taxed a little bit too much and find it very difficult. The deviation of course was twofold. Either GFA could go to the FA and possibly get money - and I say possibly - making a case, or declare themselves bankrupt and there goes an Association.

May I say that in football no, Mr Chairman, I think it is very unfair, very unfair, to criticise an Association that has done their utmost. It is very unfair.

MR CHAIRMAN

Let us not debate whether the GFA has done right or whether it is right to assist them.

HON H J ZAMMIT

I am trying, Mr Chairman, to be as fair as possible.

MR CHAIRMAN

Well, look, we are debating an estimate and not the ability of

HON H J ZAMMITT

Well, Sir, let me just terminate by saying that GFA Mr Chairman, have something like 67 registered football teams.

MR CHAIRMAN

I am not in the least surprised, I think they are a very laudable organisation.

HON J BOSSANO

I am the one who contributed to the loss by not going, Mr Chairman, but I am going to have to contribute to the bill through my taxes and that is what I am interested in.

HON H J ZAMMITT

Well, yes, Mr Chairman, unfortunately there is no other common purse to pay, but I cannot recall Mr Bossano saying last year, when he was given two free tickets that he was not going, Mr Chairman.

HON J BOSSANO

Mr Chairman, I can assure the Honourable Member that I have never in my life gone to either football or processions, which was the other item he was concerned about, and that subsidies to either will not gain my support and I do not attend whether I have to pay for the tickets or they are free.

MR SPEAKER

I am going to call this to an end. I do not think there is anything else that we can say regarding this.

HON J BOSSANO

I would like to know from the Honourable Member when the takings were checked by Government, on what date they were checked, and who was responsible for checking the takings, because I believe that conflicting information has been given out in answer to questions on different dates.

HON H J ZAMMITT

I am afraid I did not

HON J BOSSANO

The takings for the event, when were they checked by Government. Presumably Government check how much money was collected in order to arrive at the loss, or not.

HON H J ZAMMITT

I am afraid I cannot give dates of the checking of the takings by Government, Mr Chairman. I suppose it would be the Sports Manager at the Stadium, or his staff. I do not know the date, Mr Chairman, in this particular circumstance, in this particular event, it would be checked by counterfoils but I do not know what date, Mr Chairman, I am sorry.

HON J BOSSANO

Well, is the Honourable Member aware then that on the 10th of June, according to the Government, the Government had made no attempt to check the takings because they considered this to be a purely GFA venture. Did the Minister know on the 10th of June that there had been a loss?

HON H J ZAMMITT

Yes, Sir, I did of course know by the 10th of June that

obviously there had been a loss. I mean I knew probably on the second day of the Tournament that there would be a loss.

MR CHAIRMAN

No, no, what you are being asked is whether by the 10th of June Government did not know what the takings were.

HON H J ZAMMITT

That I am afraid I cannot say. I received the cheque on the 11th, Mr Chairman.

HON J BOSSANO

Can the Honourable Member confirm that he stated on the 10th of June that he did not know what the gate money was and that it was not being checked because this was purely a GFA venture, nothing to do with the Government. On the 10th of June.

HON H J ZAMMITT

I see, Mr Chairman. What we mean by that is that it was not a Government concern, it was a GFA concern. We would obviously get the tickets back to check them, but one could not do that on a daily basis if they are not going through turnstiles.

HON J BOSSANO

No, but I mean on the 10th of June is it true Mr Chairman, can the Honourable Member confirm that on the 10th of June he did not know and he did not care what the takings were because he stated on the 10th of June that the takings had not been checked because this was a purely GFA venture. Can he confirm that this was so on the 10th of June, and I am, therefore, asking him if that was so on the 10th June, when did he check what the takings were, because he is asking us to spend money here which is public money, and we have got to know that he has done his home-work properly.

HON H J ZAMMITT

Mr Speaker, I am sorry I cannot remember where and when

I said on the 10th of June that I did not know

HON J BOSSANO

In answer to a question from the press, Mr Speaker, and I believe it was in Panorama.

HON H J ZAMMITT

I am afraid I cannot confirm that, Sir. I cannot recall exactly what I may have said on the 10th of June.

MR CHAIRMAN

Right, those in favour, those against

HON M D XIBERRAS

May I ask a question, Mr Chairman.

MR CHAIRMAN

Well, it depends on what you have to ask because we are not going to go round and round in circles. It is my prerogative to see whether we have exhausted the subject.

HON M D XIBERRAS

We were only going to explain our attitude to this vote.

MR CHAIRMAN

Then do so by all means.

HON MAJOR R J PELIZA

I am glad to say that it is not the money itself that bothers us, because one can see clearly through the supplementary estimates that we are in affluence. Happily, because I think the economic policy is working. So we are very pleased to see that as this Government is going out I do not think there is any legacy of debts left behind. In fact the in-coming one may find itself

with quite a full purse. As you can see there are no moans and groans from the Financial and Development Secretary.

MR CHAIRMAN

There has been discussion enough on this vote and I think I have been as liberal as I can. Please ask whatever you want to ask.

HON MAJOR R J PELIZA

It is not the sum of money itself, it is the principle I think that is at stake. Here we have altogether £6,000 of money that this House has got to vote. As my Honourable Friend, Joe Bossano, said, this is public money, this is the money of the man in the street in Gibraltar.

MR CHAIRMAN

Yes, but all that has been said, I would like you to get down to facts.

HON MAJOR R J PELIZA

If we have to pay this money, I think the Minister should be in a position today to say that the takings have been examined, books are absolutely correct, and there is no question of any flaws in that respect. That having been satisfied then I think the Minister should come and say that in the future this is not likely to happen any more. From now onwards we are going to have some kind of a system which will ensure that if I come to this House to ask for money it is because this is absolutely necessary and there is no other way of this money having gone astray or in any other way disappeared. This is vital.

Secondly he is asking us to give a loan to the GFA. Do we know if the GFA is capable of repaying that money? Are we doing in fact a service or a disservice to GFA by giving them a loan? If in fact it is necessary to pay this money in full then this House should pay the money in full, not make a loan, £6,000 to pay, £6,000 we pay. I do not think we have ever heard from this side of the

House of any regrets for any money paid in Gibraltar for good entertainment of any sort. On the contrary I think we have been pushing the Government to spend more money in that respect. Even for the Fairs, Mr Chairman, like the ones we brought out.

I think it is very welcome to have teams from outside. I am glad the Minister encourages them to come out, I am very pleased to see that. The more entertainment, the more sport we have here the better, but if we are going to be asked to spend money for that we must be absolutely sure that the money is spent right and we establish who is responsible for that.

And is the loss justified. He said Mr Public did not turn up. Was it perhaps through lack of publicity? I do not know, but as a businessman you never blame the customer if you are not selling, it must be something involved with the business.

MR CHAIRMAN

No, no, gentlemen, I am afraid

HON MAJOR R J PELIZA

Well, Mr Chairman I will not go on. I have almost made my point.

MR CHAIRMAN

We are not discussing the payment by the Government of an entertainment which they are providing and therefore we are going off at a tangent. We are debating whether Government should subsidise or should make a loan and a grant to a body.

HON MAJOR R J PELIZA

What I am trying to establish, Mr Chairman, is that I am not against paying the money if this is necessary, I do not think anybody on this side of the House feels like that, but we want to be absolutely sure that the money has been well spent. In the future this is not likely to happen, but if the Minister is involved in any way, however remotely involved, it has got to be a responsible element within the association to ensure that no losses

are incurred, because we know that if losses are incurred we are going to come back to this House and we shall have to pay. Mr Chairman, so this is the occasion as you will probably understand, when we have to bring up this point. Unless I speak about these things now I will never have an opportunity of doing so, and this may very well occur.

MR CHAIRMAN

Gentlemen, I do not think anyone who will have the opportunity to read Hansards once it is produced, is going to accuse anyone of preventing or depriving anyone of saying anything they have wanted to say.

Of that I have no doubt whatsoever. And I take great exception when allegations are being made. What I am not prepared to do is to sit here and hear the same thing said by five different people all over again. That is not what the rules allow and that is why at a stage when the matter has been discussed for an hour I must bring people down to earth. I insist on doing that when I feel I ought to.

HON MAJOR R J PELIZA

I am trying to be constructive, Mr Chairman.

Now, going back to the £3,000 loan. Have we got any assurance how this money is going to be paid back; has the Minister gone to the GFA and found out how this is going to be paid back, or will this in fact be a weight that will literally stop any enterprise, any further enterprise from the GFA. Because if that is so I think it would be much better to give them the £3,000, come to a final arrangement with them on how to run it in the future so that we have good sport.

We want the Minister to help the GFA, of course we want the Minister to help the GFA. I think this House wants to help GFA; I think they worked very hard, and I am sure that most of the members of the Council are most disturbed by the situation that has arisen. So any help that we can give the GFA is more than welcome, but I would have liked the Minister to have come to this House with some definite proposals on how this is going to be tackled on this occasion, how these £3,000 are going to be recovered, if they are going to be recovered at all, and with plans on how this matter of football in Gibraltar is going to be tackled in the future.

I think my colleagues and I are going to vote for these £6,00 but - we are going to carry on with the debate - but we want to bring this to the notice of the Minister himself.

MR CHAIRMAN

But this is not a debate, this is consideration of a certain item of expenditure.

HON CHIEF MINISTER

The Honourable Major Peliza has made one or two very good points on this matter which go to the roots of the problem. I think we have been very worried before, the Minister and so on. I think he has explained that he had an involvement but not a financial commitment. Now, the request from the GFA was for much more money than we are asking the House to vote, that is to say the request was for a bigger sum, and because we are conscious of public money and because we were conscious that this was not a Government venture for which the Government had a liability, we endeavoured to do it in this way, by having a half grant and a half loan.

The GFA were not happy about it, the Minister himself was not happy about it, but we ourselves felt too like members opposite feel that we had to be careful how we vote public funds.

Now the GFA have undertaken that over a period of time they will carry out hopefully more successful ventures and will pay back the amount loaned. If members opposite are prepared to allow the whole amount to be treated as a grant rather than as a grant and a loan the Government would be quite happy to do that, because the Government have got their own inhibitions about the question of money and I think the point made by the Honourable Major Peliza is a good one.

I think what has happened is that GFA have not yet recovered from the shock they have received at the failure of that venture. They have not yet recovered, they have not yet realised what has happened. It was such a big failure after putting so much enthusiasm into it that they have been numbed by the problem and have rightly come for help. We have received them with a certain amount of sympathy but always conscious of the fact that it is public money and that we did not want - there was

a considerable amount of discussions within Council of Ministers about this matter. Why should it not be said; people feel differently about this matter.

But one thing is certain which has come out of this which to my mind is particularly important, not because there is anything that may be wrong in this but which must be prevented and must not be seen to be wrong, and that is that if there is any doubt or any idea that any venture is going to land at the doorstep of the Government, then I entirely agree that there must be some control of the finances from the beginning. On the other hand if you do that from the beginning then you are committing yourself entirely to underwrite the matter. That is the root of the problem. It is the enthusiasm of the Minister, the enthusiasm of the GFA to bring out what was really a good thing that had caused the problem. It was a disaster. It was a financial disaster but it gave pleasure to a lot of people. It gave pleasure to a lot of children. It may not have given pleasure to the Honourable Member because it was not hockey, but that is another matter.

It was something which was worth it and I am glad to see members opposite viewing that in that way, and as far as the Government is concerned we are happy to transform the loan into a grant and be done with, and then have procedures which will prevent a repetition in which any aspersions can be made as to whether the cash was checked or not. I am sure there has been nothing wrong but if Government has anything to do with it it must look that there has been nothing wrong, and that is what has to be ensured for the future.

HON M D XIBERRAS

Well, Mr Chairman, I think the Honourable Minister for Labour is quite right in applauding the Chief Minister for that intervention because I think the Minister has been in a very serious situation and the Chief Minister has done his very best, at the initiative of my Honourable and Gallant Friend, to try to rescue him from that predicament.

Now I think there are certain things which must be said in reply to the points that the Minister raised and I propose to do this again as briefly as I can.

The first thing that I want to tell the Minister is that

he will not be Minister for Sport for very much longer, that he can take it from me that I shall not be attending any functions to which he invites me because he has had the lack of tact of telling me that I did not contribute to this particular venture whereas I took advantage of another invitation. I might inform the Minister that shortly before that time, albeit as regards hockey, I was paying £11 to actually participate myself in a hockey tournament, and I have supported sports whenever I have been able to do so.

As for the Chief Minister, my interest is not purely on hockey, I have also represented Gibraltar at basketball, table tennis, I have played football in the third division, I have played cricket and I have done all these things, and I want to see fair treatment for all sports.

MR CHAIRMAN

You must not start your electioneering now!!

HON M D XIBERRAS

Mr Chairman, I think the Honourable Minister for Sport started his electioneering and failed, and this is the problem.

Mr Chairman, although the Chief Minister has said that the Minister was involved in this, I must make it absolutely clear and fully in consonance with the proposals which my Honourable Friend has made, which he has made with my concurrence, but it would be a great mistake not to point out the things that have gone wrong and are likely to go wrong because Mr Zammit has acted in a particular manner over a period of time. This has been brought to the notice of the House on several occasions.

Mr Chairman, I mentioned at question time that telexes were sent and I say this in regard to the involvement of the Minister in this particular venture. Telexes have been sent quite regularly from the Government Secretariat in order to arrange for one game or another game. The Minister has personally contacted the teams himself. I do not think it is up to the Minister in a venture which was described as a purely GFA venture to involve himself to the point of encouraging an outlay

of some £14,000, the biggest thing GFA had ever attempted, and not at the same time say, "Chaps, if anything goes wrong the Government is responsible", as he has said on other occasions. Because I have no doubt, Mr Chairman, that if things had gone right then the Minister would have said, "Yes, I was involved in this".

I think even after the game, I think Mr Bossano mentioned the point, he said that there was no Government involvement, financial involvement, in this and that there was no underwriting arrangement.

But if the Minister feels so strongly about football, if he wants to give people a spectacle here, then he must put his money where his mouth is . . . Yes, but not after the event. Your own personal money, yes, your own personal money, I have no doubt, I have certain views on that which I shall not express at all about one's own personal money being used in a furtherance of political goals.

Mr Chairman, and, therefore, the Minister has gone wrong all along because he has been trying to run GFA and now it has come back on him. Now I am sure that there is plenty of evidence of this.

MR CHAIRMAN

No, no, we are not going to turn this into a vote of censure against the Minister for Sport. I am sorry, I am not having it.

HON M D XIBERRAS

Not a vote of censure, Mr Chairman, not a vote of censure, but the House should be aware that whereas the total expenditure on sport of £7,000, what the House is going to vote for is £6,000 which is almost 100 percentage increase.

MR CHAIRMAN

Yes, I accept that.

HON M D XIBERRAS

Now, in a small vote like this - if it had been in

Education, it would of course have been a ridiculous affair, but I think it is important because the scope of the Minister's responsibilities up to recently have been very limited, and this is a serious question in respect of this particular Ministry.

Mr Chairman, the Minister mentioned participation but also spectacle. This side of the House is quite emphatic that as far as participation goes, we shall certainly help, of course we shall help, we shall help as much as possible, and we have helped in every way possible as was made clear in a letter from the Secretary, of the Integration with Britain Party in the Gibraltar Chronicle: our efforts with regard to the Stadium and our own efforts with regard to the Sports Centre. So the Minister should not say himself or anybody else that our side of the House is not interested in sport, and we shall prove it by our vote on this question. But for the Minister to lead the GFA, to encourage them to risk £14,000 on the basis of a tournament involving a capital of £5,000 on a profit of £1,000, and then to say you can attempt a second division team, an outlay of £14,000 was a gross error of judgment if the Minister gave encouragement.

MR SPEAKER

Order, order, I must bring you to order. There is no statement or allegation being made here that the Minister did anything of what you are saying.

HON M D XIBERRAS

Encouraged? Of course he did, Sir. Ample statements of this have been made.

HON H J ZAMMITT

On a point of clarification, Mr Chairman, if the Honourable Member will give way, I think he has got his facts wrong, Sir.

In 1975 we had two second division teams, Notts County and Fulham; this year, Sir, we had two first division teams, one second division team and one third division team.

HON M D XIBERRAS

I stand of course corrected, yes.

So, Mr Chairman, on the point that you call me to order on, I was simply acting on information I had received and this has been confirmed by what the Chief Minister has said, at the Minister's encouragement of this venture. The Minister has said so himself, that he encouraged.

Mr Chairman, of course everybody will go to the rescue of GFA. But we do not want this action to be interpreted as condoning the Minister's part in this, and, therefore, we propose to carry out, apart from our proposals, we cannot move proposals to increase the supply of money to any department, the Government will have to do that, but I would like to move a reduction of the total amount agreed by £1 to show that we are not in agreement with the part the Minister has played in this.

Mr Chairman, GFA is finding it very difficult to recover from this, no doubt, because ventures may be, I hope that they do recover from this and I hope they do not listen to Mr Zammitt in the future if he does encourage them in this way and that they only use their own commercial judgment on this because these things must stand or fall by commercial judgment unless the Government is prepared categorically before the thing begins to say, "We shall underwrite", and the people should know that Government is underwriting.

Mr Chairman, but I think it is fair of Honourable Members that if we are to increase this from a £3,000 grant and £3,000 loan to a £5,999, which I will propose to aim at, then the House should be given certain other information, because I am concerned about control of the monies at the Stadium, I am concerned that in one particular sport one particular method appears to be followed, whereas

HON H J ZAMMITT

That is not so, Mr Chairman, I am sorry but that, Mr Chairman, is not so. Every single user of the Stadium gets exactly the same treatment, and the Honourable the Leader of the Opposition being involved as he is in hockey well knows it.

MR CHAIRMAN

Order, order.

HON M D XIBERRAS

Mr Chairman, I have mentioned the stamping of tickets by the Government and this has been done on other occasions for GFA.

MR CHAIRMAN

I am not having this. With due respect, I think you have been long enough. You can make your point and we will take a vote.

HON M D XIBERRAS

The question I wish to ask the Minister is, has the account now been audited? The accounts submitted by GFA, and could he give us a breakdown of those accounts. It is very important to the House because the House is going to vote money for this purpose.

HON H J ZAMMITT

Mr Chairman, Sir, I have the figures here of the Statement of Accounts submitted by the Gibraltar Football Association. I cannot honestly say that I know they have been audited. Certainly they have been seen by the GFA Council and one of the gentlemen in the Council is a Government Official, an accountant in Government, and I very much doubt

HON M D XIBERRAS

Have they been audited?

HON H J ZAMMITT

I do not know, I cannot say, they have submitted vouchers with this Mr Chairman, and if the Honourable member wants to take notes of the

HON M D XIBERRAS

What I wanted to find out was whether they had been audited.

MR CHAIRMAN

The answer is that he does not know.

HON M D XIBERRAS

I would certainly welcome an indication of this, especially gate receipts.

HON H J ZAMMITT

Mr Chairman, I am sorry I am afraid I cannot say they have been audited.

HON M D XIBERRAS

I mean the gate receipts on his list.

HON H J ZAMMITT

Gate tickets £5,720.50p.

HON M D XIBERRAS

Mr Chairman, the attitude that we have taken on this is subject to audit of the accounts of GFA before the disbursement actually takes place. It is subject to audit. I would like to know also how much money GFA had in the bank when they tackled this venture. Does the Minister have this available?

HON CHIEF MINISTER

That is a perfectly reasonable request and we will certainly comply with it before the disbursement is made: that the accounts should be audited.

HON M D XIBERRAS

Mr Chairman, I am very surprised that the Minister does

not know whether the accounts have been audited.

HON CHIEF MINISTER

We would have done it but we are talking now about the matter, the excess money that has been suggested from the other side.

HON M D XIBERRAS

But, Mr Chairman, I appreciate that, but on the basis of giving the GFA £3,000

HON CHIEF MINISTER

But we were not going to

HON M D XIBERRAS

And £3,000 on loan

HON CHIEF MINISTER

Anyhow before payment would have been made any prudent payer would have asked for more details, there would have been an investigation into the accounts.

HON M D XIBERRAS

Mr Chairman, can I ask another question. What is the loss incurred by GFA? What is the loss?

HON H J ZAMMITT

The loss at the moment, Sir, is £7,744.90p, but may I say to the Honourable Leader of the Opposition that whether it is £3,000 loan and £3,000 grant, your £5,999 or £6,000 grant, I can assure members of the House, Mr Chairman, that nothing will be paid until these figures are verified, that is only obvious. But what the Leader of the Opposition must realise is that this came through on the 11th of June which gave me time to take it to Council of Ministers and before we knew where we were these supplementary estimates were printed in preparation for

this meeting of the House.

HON M D XIBERRAS

Mr Chairman, another point is that the Minister said that this could not have been foreseen. Now I appreciate that but it is a criticism of the Minister's attitude in these matters that we are making. We are not trying to curtail initiative but no association can afford to have an outlay of £14,000, a very big outlay just like that, especially when the thing was announced in a GFA press conference reported in the press that there were misgivings about this expressed to the press at the time, to the extent that the Committee of the GFA were asked who was this Mr X who was backing this tournament, who was he and was this not a bit adventurous, and questions of this kind. And that is why others were not prepared by the reaction of GFA that they should risk this amount.

I think the Minister encouraged them at that time and that there was Government backing.

MR CHAIRMAN

We are not going to reopen that in any case.

HON M D XIBERRAS

Mr Chairman, I do not know what procedure the Government propose to follow but subject to what the Minister said about auditing and so forth, do they propose to increase the grant to £6,000 flat, and if so would they take into account what we have had to say and reduce it by £1, otherwise we shall move an amendment. I do not think that it would be very gracious, in fact, after the proposal has come from this side, that this £1 should be denied us.

HON A J CANEPA

Mr Chairman, I do not think that it can be considered to be at all unreasonable that giving the undoubted success of the two matches between Notts County and Fulham in May last year, the GFA should have been building on that and should have been somewhat more adventurous. It is a normal attitude

MR CHAIRMAN

I hate to stop you now, but I am going to say this, that everything which is said, even though I realise that you have not had a word in this debate until now, anything that is said by anyone which is a repetition I will not allow, because otherwise we are going to reopen the whole thing and we have been going for an hour and a half.

HON A J CANEPA

I shall try not to repeat. I do not think that that is unreasonable. It is well known, Mr Chairman, that the public in Gibraltar are very, very keen on sport, it is well known that on certain evenings of the week it is impossible to hold public meetings because there are football matches on television, and, therefore, given these reasons I do not think that it was at all foolhardy that it was an error of judgment on the part of GFA and of my colleague the Minister that such a tournament would have been successful.

The teams that were brought over were of the pretty high quality and it was clear amongst those people who attended the tournament that there is not a great deal of difference in the United Kingdom between a first division team and a fourth division team. So it was good quality football, the sort of thing that the public of Gibraltar had in better years supported and in other parts of the world even across the border it had also supported.

As regards the Minister's involvement in this I have been very close to him on this matter because he knows that I am keen on soccer and he uses me as something of a sounding board to find out what are my views on the matter, what is my judgment on the matter, and the fact that the telex at the Government Secretariat was used for contacting people in the United Kingdom has not been limited to football, it had been made available for hockey, it has been made available for

MR CHAIRMAN

We are reopening the wounds and I am not going to allow that to happen. As I said it is a repetition of everything that has been said and I am sorry, I am not having it, because we are going to start all over again.

HON A J CANEPA

Well, Mr Speaker, I will introduce a new element then. I have certain ideas about how the GFA could be assisted and about the extent to which there should be a loan and about the extent to which there should be a grant.

We have heard that The FA were to be approached on one matter. I thought that FA, who have been very good friends of Gibraltar in the past, could have been and could still be approached in order that next year in 1977 they may bring over an FA team which they have done on two previous occasions.

MR CHAIRMAN

That in itself is enough to allow the Opposition to tell you that what they are trying to prevent is another fiasco next year and we are going to start all over again and I am not having this.

HON A J CANEPA

Mr Chairman, you are not allowing me to repeat myself, you are not allowing me to introduce new material to back another suggestion

MR CHAIRMAN

No, no, with due respect to the Honourable Minister. What I am not allowing at this late stage is to cover the field that has already been covered.

HON A J CANEPA

Mr Chairman, the FA have come in the past on two occasions to Gibraltar for nothing, to give the highest possible sort of entertainment. Virtually an England team coming to Gibraltar for nothing, to give our people a great deal of pleasure. I think the GFA could approach the FA again next year to come out here on a goodwill visit. It would not cost us a penny and I am sure it would give the GFA badly needed funds, either to meet the amount over and above these £6,000 which they are going to have to disburse or perhaps to meet part of the element of the loan. Perhaps

the loan does not have to be £3,000, perhaps it does not all have to be a grant of £6,000, perhaps it could be a grant of £5,000 and a loan of a £1,000 and I am suggesting a way in which the Gibraltar Football Association without having a millstone around their neck - and I think the Honourable Major Peliza made a very good point because the GFA must be in a position to be forward looking, to look after soccer in the future - the GFA could be helped in this way I think the GFA would have a moral commitment because of what happened with regard to Southampton. So what I have in mind is another suggestion which perhaps Honourable Members might consider.

HON M D XIBERRAS

Our desire to increase this vote to a grant is to take this element of concern. If the GFA is to be built up it should be built up properly. Now, if the Minister for Sport considers that such a proposal made by the Minister for Labour is a possibility, then it is up to Honourable Members opposite. But we have offered and we are prepared to back this up with the vote but whatever it is we will move the reduction of £1. This is in order to show our concern.

MR CHAIRMAN

May we have some firm proposal as to what the House wishes?

HON CHIEF MINISTER

Mr Chairman, I move that the figure £3,000 where it first appears should be changed to £5,000, subject to the audited accounts, and that the figure £3,000 should be reduced to £1,000. In item 81.

MR CHAIRMAN

We will have to take two votes.

HON M D XIBERRAS

Mr Chairman, I will move an amendment. I do not know which comes first.

MR CHAIRMAN

The second one and you can make it the inclusive round figure of £999. The first amendment moved by the Honourable the Chief Minister is that the figures appearing in columns 3 and 4 of item 2 of Head 21, Subhead 80, should be changed from £3,000 in each case to £5,000. We could save ourselves a tremendous amount of trouble if the Honourable the Chief Minister does not move that the figure £3,000 in Subhead 81

HON M D XIBERRAS

Mr Chairman, my reduction was on the grant.

HON CHIEF MINISTER

He agrees to £4,999.

HON M D XIBERRAS

£4,999 for item 80.

MR CHAIRMAN

Then you have to move an amendment to the proposal before we take a vote. The proposal now is that the figures £3,000 appearing in columns 3 and 4 of Subhead 80, item 2, Head 21, should be substituted from £3,000 to £5,000 in each case.

Now the Honourable the Leader of the Opposition wants to amend that motion. Right? And his amendment is that the Chief Minister's amendment should be amended in itself by the reduction of the figure by £1. In other words that the figures should be £4,999. Right?

So I will put the question because we are all in agreement and I am not going to propose it, and that is that the Chief Minister's amendment to item 2, Head 21

HON M D XIBERRAS

Mr Chairman, I said that I would like to move this amendment of a reduction by £1.

MR CHAIRMAN

You are doing it. You have done it. You have told me, and if the Honourable Mr Devicenzi will allow the Leader of the Opposition to listen perhaps he will be in agreement, because he will be asking me afterwards as to what I have done.

HON M D XIBERRAS

Mr Chairman, on a point of clarification. Am I right in saying that the Opposition can not move extra disbursement of funds, in other words I cannot move myself an increase in that figure. Am I right in saying that.

MR CHAIRMAN

No one can move

HON M D XIBERRAS

I can invite the Government to do so.

HON CHIEF MINISTER

I think the Government can move expenditure but not the Opposition.

MR CHAIRMAN

The Government can move expenditure, yes. It is the revenue that cannot be increased.

So, I will not propose the question moved by the Honourable the Leader of the Opposition which is that the Honourable the Chief Minister's amendment to item 2, Head 21, subhead 80, that the previous £3,000 in the third and fourth columns should be reduced by £1, and should read £4,999.

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

The Honourable Miss C Anes
 The Honourable L Devicenzi
 The Hon P J Isola
 The Hon W M Isola
 The Hon Major R J Peliza
 The Hon M D Xiberras

The following Honourable Members voted against:

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

The amendment to the amendment was accordingly defeated.

MR CHAIRMAN

The amendment as moved by the Honourable the Chief Minister now stands before the House, which is that item 2, head 21, subhead 80 should be amended by the substitution of the figures £3,000 appearing therein under columns 3 and 4 by the figure £5,000 in each case.

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

The amendment was accordingly carried.

MR CHAIRMAN

We now take another vote on an amendment moved by the Honourable the Chief Minister, and that is that item 2, Head 21, subhead 81 should be amended by the substitution of the figures £1,000 in columns 2 and 3 for the figures £3,000 where it appears.

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

The amendment was accordingly carried.

The House resumed.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, I beg to move that the votes detailed in

Supplementary Estimates No.2 of 1976/77 be approved as amended.

Mr Speaker then proposed the question,

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

Supplementary Estimates no.2 of 1976/77, as amended, were agreed to and passed.

MR CHAIRMAN

We will now recess. The Improvement and Development Fund does not present much difficulty and perhaps if members would like to glance through them now we might possibly get them out of the way now. They are basically revotes and perhaps the Financial and Development Secretary would proceed with this.

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, Sir, I have the honour to move that this House resolves itself into committee to consider Supplementary Estimates Improvement and Development Fund, No.1 of 1976.

The House in Committee.

Improvement and Development Fund (A) Housing was agreed to and passed.

(B) Schools was agreed to and passed.

(C) Medical was agreed to and passed.

(D) Other development was agreed to and passed.

(F) Municipal services: (a) General rates account.

HON M D XIBERRAS

Mr Chairman, I sought certain assurances in respect of Gardiner's Road. I do not know whether this applies to the services or to the vote itself. These are the services, I do not know which it means but

HON LT COL J L HOARE

It is Gardiner's Road: services to Gardiner's Road.

HON M D XIBERRAS

I made the point in connection with an item in the . . .

MR CHAIRMAN

In this particular vote as a matter of fact?

HON M D XIBERRAS

In this vote in respect of Gardiner's Road and the point was that I was not satisfied with how the development had proceeded, how the matter had been dealt with, and I sought certain assurances, asked certain questions, and I suggested that there should not be a commitment of Government money until these questions were answered.

Now at that stage I was told of course that it was not possible to give me direct answers to my questions. The question was: had there been any profiteering on the land element in the transactions that had taken place in respect of the land at Gardiner's Road, and I suggested that there should be no development, there should be no work until those answers were given.

Now is any Honourable Member of the Government able to inform me whether they have made any investigations in respect of this.

HON CHIEF MINISTER

I remember perfectly well this item when it was taken. I then said that these were services which were required and were recoverable from the people carrying out the development.

This was part of it only because the item is a bigger one: this was only the revote, the other money has been spent in connection with sewers, water, electricity etc.

HON M D XIBERRAS

I am not asking what it is about. I know what it is about but in respect of this particular item I asked that members of the Government should investigate whether there had been any profiteering on the land, by the selling of land to separate developments when the contract was given for the development as a whole.

HON CHIEF MINISTER

I remember that there was no particular evidence at the time of any profiteering. If any commitment was made to enquire into the matter there must be a paper on it and it must be circulating and I will ask for papers. Normally if there is a commitment by a Minister on any thing it is of course taken out of the context and minuted and the matters should come back.

HON M D XIBERRAS

I asked the Attorney-General a very, very long time ago, I asked several questions which he answered and he said that there was no proof of this at the time, but I suggested certain ways in which the matter might be followed up and in subsequent occasions I have made the same point. I think it is a bad thing to allow this to go unchecked.

HON A J CANEPA

I do not know if the Honourable the Leader of the Opposition, Sir, is talking about a matter that I took myself an interest in and which I investigated.

HON M D XIBERRAS

No, the Honourable Member is quite right, but I was not referring to him, I was referring to an overall commitment. The Financial and Development Secretary also gave me certain information but I am afraid that on this question of the possibility of profiteering I am not yet satisfied and I intend to bring it out every time this matter is raised.

HON LT COL J L HOARE

With due respect, it certainly does not arise out of the services. The services have to be provided, sewer pipes have to be laid, the electricity cables have to be laid, so it does not arise from this, and whatever the questions were that the Honourable the Leader of the Opposition posed, they have nothing to do with this particular provision of services for Gardiner's Road.

HON M D XIBERRAS

It just gives me an opportunity, with Mr Chairmans indulgence, to raise the matter, and in the short time available to this House if it comes up again, I shall raise it again.

- (a) General Rates Account was agreed to and passed.
- (b) Brackish Water Service Account was agreed to and passed.
- (c) Potable Water Service Account was agreed to and passed.
- (d) Car park was agreed to and passed.
- (L.) (New) Mechanisation was agreed to and passed.

The House Resumed

HON FINANCIAL AND DEVELOPMENT SECRETARY

Mr Speaker, I beg to move that the votes detailed in Supplementary Estimates Improvement and Development Fund No.1 of 1976/77 be approved, and that the sum of £203,952 be appropriated to meet the expenditure detailed therein.

Mr Speaker proposed the question

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

Supplementary Estimates Improvement and Development Fund No.1 of 1976/77 was approved and the sum of £203,952 was duly appropriated to meet the expenditure detailed therein.

The House recessed at 8.40 p.m.

WEDNESDAY THE 30TH JUNE 1976.

The House resumed at 10.30 a.m.

MR CHAIRMAN

Before we go on to the business for the day which is Bills, first and second readings, I would like to inform the House that I have received notice from the Honourable the Leader of the Opposition that he intends to move a motion. I have of course informed the Leader of the Opposition that under Standing Order 19 5 clear days must elapse between the receiving of the notice and the moving of the motion, and that subject to that prerequisite of the Standing Orders the motion is in order and will be heard provided that as I say the conditions of Standing Orders are met.

BILLS

FIRST AND SECOND READINGS

The Food and Drugs (Amendment) Ordinance, 1976.

The Honourable the Minister for Medical and Health Services moved that a Bill for an ordinance to amend the Food and Drugs Ordinance (Chapter 61) be read a first time.

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

The Bill was read a first time.

HON A P MONTEGRIFFO

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

Sir, the purpose of this Bill is to exercise the control that we have under regulations in a more effective manner. In 1964 we introduced the Food and Drugs Regulations and they have become practically a dead letter, despite the

fact that we introduced such exemptions so that the shops that were then in existence could gradually put things in order. The only alternative we had therefore, short of being sanguine about it, was to close down about 120 shops and I am sure the House would have been up in arms if this had been done. Through a process of persuasion we are gradually bringing these shops into line in conforming with the provisions of the Food and Drugs Ordinance.

Now, Sir, in 1968 the new Food and Drugs Regulations were brought out in the UK and this is precisely what we are now doing here ourselves. The Regulations are prepared and they will be the guiding principle on which we shall exercise our powers under this particular Ordinance. But in order to prevent the situation that we have had from 1964 up to now, where the enforcement was very difficult to implement, all that we are doing now is that before any shop which sells open food, and in this particular case it includes catering premises, they will have to apply for permission to the Public Health Department so that we can give the necessary advice and be sure that they will comply with the requirements of the law.

Sir, I think this is a good piece of legislation, it is a common sense one which will enable us to fulfil the duties under the Food and Drug Ordinance, especially in the circumstances of Gibraltar where so many people and aliens are opening shops, and I am sure that this will be welcome by the House.

Sir, I commend the Bill to the House.

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

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

The Bill was read a second time.

HON A P MONTEGRIFFO

Sir, I now give notice that the Committee Stage and Third Reading should be taken at a later stage in these proceedings.

This was agreed to

The Honourable the Minister for Medical and Health Services moved that a Bill for an Ordinance to amend the Group Practice Medical Scheme Ordinance, 1973 (No.14 of 1973), be read a first time.

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

The Bill was read a first time.

HON A P MONTEGRIFFO

Sir, the amendment arose out of a Government policy decision which perhaps I should add was accelerated by representations made by the GTC, and it was after negotiations with the GTC on the 23 of February that it was agreed that we should extend the scope of Group Practice Medical Scheme to provide contributors to the scheme with free hospital treatment.

It is an extension towards a more comparable health scheme. This is all the Bill intends to do. It will mean of course higher contributions and the Bill will become operative in January 1977.

The reason why it is being brought now is because later on in the proceedings my friend on my right will be bringing a Bill on Social Insurance, and as the insurance stamps have got to be printed in conjunction with the Group Practice Medical Scheme, this must be agreed now.

Sir, I would also like to take the opportunity because it is the last time I have got of announcing it in the House, that at estimate time, when I brought up the question of the abuses that have been creeping into the GPMS, particularly people with shopping lists of drugs, the Honourable Mr Xiberras, the Leader of the Opposition, then asked me what remedial measures I proposed to take and I said that I had some under consideration. As far back as February the question of increasing the prescription fees was under discussion with the Gibraltar Trades Council. The Board of Management of the Medical Department were completely in favour except for one member who represented GTC, and I must in fairness to

the GTC say that they were against this proposal because they felt that all prescriptions should be free and paid for out of taxation.

Now in increasing the fee from 10p to 20p, this is not by way of a fiscal measure because it brings in very little money, and if we were to accept that the whole of the Group Practice Medical Scheme should be paid from taxation, which in part it is at the moment, the deterrent would not be there and people would carry on demanding even more, not realising that in any case they are paying if not through a contribution through taxation and, therefore, the rot would carry on.

I therefore give notice to the House - this is done through Regulations - that from the end of July the prescription fee will go up to 20p per item.

Apart from that, Sir, I commend the Bill to the House.

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

HON J BOSSANO

Mr Speaker, the Honourable Minister for Medical Services made reference to the views of the Trade Union Movement on this matter and in fact the approach to the Minister arose out of a resolution passed at the last General Conference of the Trades Council, and, therefore, can be seen to be something that reflects not just the decision making of the Executive of the Council, but in fact the views of the delegates at a general meeting with representation from the entire Trade Union Movement.

The resolution was passed unanimously and pressed for the extension of the existing medical services towards the achievement of a comprehensive service. The move by the Government in this direction is gratifying since we feel that it is an essential part of the achievement of European standards for the people of Gibraltar that social medicine should take root and flourish in Gibraltar.

At the same time of course the position of the representative of the Trades Council on the Board consulted in respect of the increased prescription charges to which the Minister has referred is part and parcel of this attitude. The decision was taken at the

level of the Executive Committee, it was referred back to the Executive Committee of the Trades Council for a policy decision, the Executive Committee had discussed the problem on various occasions, I have raised it on a number of occasions at the request of the Honourable Member, and although the Executive or the Trades Council is as concerned as the Minister that there should be no abuse of the medical services because that can only endanger the long term viability of a National Health Service, we are absolutely clear in our own minds that any move towards making the patient pay more is a move in the wrong direction and will be resisted by the Trade Union Movement. This has been made absolutely clear to the Minister. It is a matter of principle and we feel in fact that medicines should be free, that the patients, that sick persons, should not be required to pay, that the community should be required to pay. If people are getting medicine prescribed which they do not need then it should be stopped. The fact that they pay 20p instead of 10p for medicines they do not need is no improvement in the situation as far as we can see.

It is up to the medical profession not to give patients medicines they do not need. It cannot be good for them, Mr Speaker, and therefore I cannot see why making them pay more for it, as well as making the people who do need them pay more for it, is going to solve the problem. In my own mind I think the only thing that the Honourable Minister for Medical Services will achieve by the proposal that he has the intention of implementing in July is that he will collect more money.

I do not think in fact that this will produce a drop in the number of prescriptions and I think other alternatives such as if necessary saying that certain types of proprietary drugs which can just be bought over the counter which do not need prescription should not require a prescription, and that the doctor should not be there to prescribe things like that.

That might have been a solution, and then if somebody wants to gorge themselves on aspirins then they are free to do so at their own expense and not at public expense. But I think that if they are required to gorge themselves at 20p a time, instead of 10p a time, that will not in fact bring about any noticeable diminution of demand.

If in fact the situation is as serious as the Honourable Minister has told us, and we have no reason to doubt that it is so, then it is too serious in fact to attempt to

cure by a patch-up job hoping that the deterrent of paying a little bit extra for the medicine will be sufficient. I think what it requires is a firm hand in the matter on the part of his department, on his part, that the situation should be thoroughly investigated and that the doctors and the patients should be told what the medical services are there to do, which is to provide the medicines that the patient needs, not the medicines that the patients may feel he would like to have. Because in fact if that is the case the doctors quite frankly, Mr Speaker, are failing to provide proper medical care for patients in the Group Practice Medical Scheme.

If the doctors are prepared to prescribe whatever the patients ask for then quite frankly we might as well give the patient a pad or empty prescription forms and let them get on with the job and that might save him the money. He could save more on doctors salaries than he is likely to get in increased prescriptions charges.

So I think if there is still time for the Minister to reconsider his decision I would certainly urge him to do it. I can assure him that the feelings on this is very strong, it is something that is in principle completely unacceptable, it goes against the whole concept of socialised medicine and he will find opposition to it.

MR SPEAKER

If there are no other contributors does the Honourable Member wish to reply?

HON M D XIBERRAS

Mr Speaker, this subject is an emotive subject and the subject of much political controversy, and even though the Bill only has two clauses I am sure that in the United Kingdom this might very well be a major political issue, such as school meals, or school milk and things of this kind. The reason for this of course, as the House is aware, is that in what the Minister is going to call socialised medicine, from time to time one expects the patient to be able to get as near no contribution at all as is possible, and usually it is only for financial reasons, in other words that the Medical Service is not balancing its books, that prescriptions charges are increased, and purely I would say for that reason, at

least for people of a particular political persuasion. Therefore, the Bill before the House is an important matter and even if it were not in theory it would be in the practice now because the Minister has mentioned certain remarks I passed about the attendances at the Health Centre.

It is true, Mr Speaker, that on this side of the House we had viewed with increasing concern the development at the Health Centre; we had been concerned about the number of patients; we had been concerned by the days on which patients can be treated; we have been concerned by school boys, school girls, being present there during school hours; we have been concerned about the shuttle service which appears to exist there whereby a patient moves in, is given a quick prescription and is sent up there, as it were, or given as the Honourable Mr Bossano said a proprietary drug, and we have been concerned, and Honourable Members have shared their concern with the number of people. The Minister for Labour I think was concerned about labour and absenteeism and so on at some particular stage. Concerned over all these sort of things, as well as in medicine there is no one particular drug which can cure all the evils, there is no panacea, so too we feel that this particular prescription of the Minister's is not only no panacea, but it may very well be the wrong prescription for the malady.

Certainly, the Minister has in the past tried to obtain the cooperation of Members of this House, and the cooperation I believe in very frequent meetings with the Trade Union movement and also with his Board of Management, and the cooperation of which this essentially community thing rests is at least threatened by what the Honourable Mr Bossano has had to say and I do not think that the play is worth the candle in this case in view of what Mr Bossano has said, and I think that perhaps the Minister who is want to consult with the Trade Union Movement might have done so before moving this Bill rather than after.

HON A P MONTEGRIFFO

The Bill itself is as a result of consultations with the GTC!

HON M D XIBERRAS

I am talking about the prescription, I am sorry.

Mr Speaker, if you are going to increase charges then there is - we had an example yesterday in the case of the £6,000 and the Minister for Sport - there is a need to have before the House some sort of economic justification of the need to increase charges or to increase prescriptions. This would certainly be demanded by MPs in the House of Commons on this particular issue and I think it is our duty to ask the Minister, or the Financial and Development Secretary to tell us what the situation is and what the need is for these increases so that the House can be in absolutely no doubt that as a deterrent this increased prescription charges would have no effect at all, it would just make a particular

practice somewhat more expensive for the malingerer, but on the other hand it would not be justified for the persons who really need this kind of service.

Now, the Minister of course must be very concerned about the situation when he brings measures like this to the House, and I am sure the House does share this concern, but this brief statement in support of the measure cannot be taken as evidence of a thorough examination of the problem. It seems to me that he has taken the easy option, a facile solution, and he has brought to the House simply increased charges which he has not at all justified.

Mr Speaker, the speech of the Minister in introducing this Bill was one of negative: it is not for this, it is not for that. I wonder what it is for. It is not a deterrent, it is to raise money to provide services, I do not know what extra services are going to be provided; there too in this area there is quite a lot of dissatisfaction and we would like to see something more comprehensive from the Minister.

Now, since the Bill is a very short one I do hope that the Minister does not expect an automatic approval of the House for the Second Reading and that he should advance his argument on this now. Raise in contribution, raise for employers, employees, self-employed persons, and those who have elected to become contributors is quite an emotive subject, as I say, and one which the Minister must justify before he gets the support of Honourable Members of this House.

I am sure that other people can add to this and perhaps someone will give us a run down of the financial needs for this and why Government cannot contribute to the fund itself - any financial constraints on the Government - why rationalisation cannot be effected, why the place cannot be better run before one goes to the point of increasing prescriptions or anything else.

We would like to know also what sort of yield this will bring, how much money will come in as a result, how many people would be involved in this. The Minister for Social Security does he have a fair picture of the accounts, of the financial position. On the prescription charges, Mr Speaker, the Minister has not chosen to make a separate statement, he has tucked it away in this particular Bill, and I think that the very least that he could have done in prescription charges is to have made a statement at statement time, rather than put it in under this particular Bill.

I know the Minister is worried and always concerned about having to ask for money to burden people, although the burden in itself is not overbearing, nevertheless, he as a knowledgeable politician knows that prescription charges is a sensitive issue. To further his concern in this matter I am sure that he would agree that the proper place to have made a statement about prescription charges was in fact at statement time. So perhaps some Honourable Member of the Government

other than the Minister who has the right of reply in this, could answer some of those questions so that other members on this side of the House will be able to contribute.

MR SPEAKER

Are there any other contributors. I will then call on the Minister to reply.

HON A P MONTEGRIFFO

Mr Speaker, I shall try and answer some of the intelligent questions because some others I could not understand, he was mixing things up.

To start with the 4p, as I explained in my opening remarks was the fee that was agreed to with the GTC as being a fair charge for patients getting in return free treatment in the Hospital, and that was based on the money that we are currently collecting at the hospital, more or less. That is why I say that one expects that the Government or the taxpayer should provide some sort of subsidy to the scheme. That clears that one and there is nothing very much more I can say on this one.

As regards the other point he raised about children etc. going to the Health Centre, that I think was raised by him and measures were taken to put a stop to that sort of situation.

Now, I do accept that perhaps I should have brought a statement on the question of the prescriptions rather than to have tucked it into this Bill. The reason why I did not do so was that since it forms part of the Group Practice Medical Scheme I felt that I would bring it in here in deference to the Honourable the Leader of the Opposition who had previously asked me to say what I proposed to do about this. It is true that this could have been done better by way of a separate statement: I accept that and apologise.

Now, the amount of money which taxpayers are subsidising the Scheme with is round about £35,000 a year at the moment. This is what it is more or less costing the taxpayer, but that is not my fear, my fear is that the drugs bill is mounting. The increase in the prescription fee by 10p will roughly bring it about £10 to £12,000 per annum, but that is not the object. It may well be that Mr Bossano's judgment is more valid than mine. I hope that when people go and ask for medicine for the whole family, what we call a shopping list, and they find that if they ask for many items it is going to cost them £2, then they themselves will exercise some sort of control. That is the purpose. As to the doctors being blamed, yes, in fact they are to blame, but it is very, very, very difficult in general practice, and even in consultants practice, to be able to withstand the great pressures of the patients.

In fact we all know now that there is a new type of disease arising out of this over-prescribing as a result of which 12% of hospital beds are occupied by such patients. It is very, very difficult for the doctors. For example if you have the flu you do not need antibiotics, but if the doctor does not prescribe antibiotics they have a hell of a row with the patient. They cannot carry on with rows every moment of the day.

HON M D XIBERRAS

If the Honourable Member would give way. Is it not also a fact that in this particular set up of socialised medicine where people pay a little or nothing for their prescriptions, but where the doctors in fact are working on a piece rate as it were, he is collecting for each of the patients that go to see him, there is also not only an interest on the part of the patients but also an interest on the part of the doctor to create a regular pattern of consultations. Now, does the Honourable Member think that that is also somewhat to blame in the circumstances of the Health Centre where the doctor's fee paid by the Government is a relatively small one and that a number of cases are necessary to bring the salaries up.

HON A P MONTEGRIFFO

No Sir, that I think is not fair. Perhaps I would put it another way. No patient is given less time than he should be given, it is not a question of I am afraid I am not giving way any more. Secondly this is not something which is peculiar to the Group Practice, it is even worse in private practice, but of course there the patient pays. They prescribe the most expensive medicines because it is the patient's belief that the more expensive the medicine the better treatment they get.

Mr Bossano's argument was a valid one but I have been trying to persuade the GTC to bring me a list of what they feel should be prescribed and what should be bought over the counter. If anything, in fairness to Mr Bossano, and the GTC, it may cost a patient more to buy a medicine over the counter at 30 or 40p, than to pay 20p for a medicine that could cost him £1. So that is the only point I would mention.

/is that

I would rather try the system and if it has no effect at all, as it is not a question of bringing in more money but of fulfilling a Government responsibility of seeing that the thing does not get out of hand, I do give an undertaking to the House that if after four or five months the thing has not worked as I thought it would work I shall not hesitate to bring the fees down back to 10p. But I think it is my responsibility, short of not prescribing certain items that should be bought over the counter, as Mr Bossano has suggested, and which was put to me by the GTC, but it has the other side of the coin and that is that people would be paying more.

The other point, and the last one that I am going to raise, is that of course this does not affect all the people in the Group Practice Medical Scheme, about 2,000 are not affected by this, and on average, since people take $2\frac{1}{2}$ items per prescription per week, this will cost them about 15p more a month.

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

The Bill was read a second time.

HON A P MONTEGRIFFO

Sir, I beg to give notice that the Committee Stage and third Reading of the Bill should be taken at a later stage in these proceedings.

This was agreed to.

The Education (Amendment) Ordinance 1976.

The Honourable the Minister for Education moved that an Ordinance to amend the Education Ordinance, 1974 (No 11 of 1974), be read a first time.

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

The Bill was read a first time.

HON M K FEATHERSTONE

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

Sir, the present Ordinance, under Section 73, states that no fees shall be charged to entitled children, and then goes on to say what is classified as an entitled child. The entitled child is the child of a person resident in Gibraltar who is normally entitled to the social benefits of Gibraltar. There have arisen certain cases where it is rather difficult to interpret what are the normal social benefits. One example could be a woman who comes back to Gibraltar with her children or her child, she may be separated from her husband or perhaps her husband is going to a trip to the Antarctic for two years on a job and she comes back to stay in Gibraltar with her parents during that time. It may occur that she is not going to work in Gibraltar and she would not normally be entitled to the normal social benefits, and as such the child would not get free education although the child would have to attend school if he were of school age.

So the intention of the present Bill, Sir, is to repeal Section 73 of the present Ordinance and to put in its place that no fee shall be charged to any child of compulsory school age based entirely on the criterion of the residence of the parent. If the parent is automatically a resident of Gibraltar or has a certificate of permanent residence or a residence permit for 3 months or more, or may be on a monthly permit but has been here for 3 months, then the child would automatically qualify for free education and we would be free of the difficulty of interpreting whether the parents were normally entitled to the social benefits.

The other part of the Bill, Sir, the last part, makes a slight change in so far that we are removing the possibility of charging for children under the compulsory school age for any nursery or other education that they obtain, one anomaly that could have crept in since we accept children in our schools after the age of 4. If we were to have made charges for children under the compulsory school age, which is 5, we could have got children of $4\frac{1}{2}$ in a class with a child of just over 5, one child liable to be charged fees the other child going free. This is being removed. At the same time another anomaly apparently is that the power to provide for such fees would come from the Governor under Section 82 rather than from the Minister.

Sir, I commend the Bill to the House.

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

HON M D XIBERRAS

Sir, I did not catch the last phrase that the Minister spoke.

MR SPEAKER

He said that previously under the Ordinance the powers were vested on the Governor and it has now been transferred to the Minister, or is it the other way round?

HON M K FEATHERSTONE

No, Sir, at the moment it appears that they are vested in the Minister and they should be vested in the Governor under Section 82.

HON M D XIBERRAS

Which powers are we talking about?

MR SPEAKER

The powers under the Ordinance

HON M K FEATHERSTONE

To charge fees.

HON M D XIBERRAS

Oh I see, Sir. Thank you.

Mr Speaker, I think that the subject matter of this Bill is one with which I had in respect of a particular case which I might relate to the House. I had a number of contacts with the Minister and with the Attorney-General, and it arose in this way, the House might be interested to know. A British and also a Gibraltar lady married to somebody who had a British passport but was from Guyana was in the course of events landed here in Gibraltar whilst

her husband was prospecting for a job in the United Kingdom. The man had been in the Royal Air Force and he had given service to Britain in this respect. The wife had been born here in Gibraltar, she had two children and she had left Guyana as a result of certain laws that were passed which affected children, in her opinion, adversely at the age of 11 or 12. She returned to Gibraltar, as I say, whilst her husband was prospecting for a job in the United Kingdom and would remain there apparently for an indefinite period because the job situation was not particularly promising.

The lady came here and there was some doubt as to her Gibraltar status, even though she had of course lived in Gibraltar all her life until she was married, and then of course she wanted to put the children into school here. And it was discovered that it was not possible to admit, the children, which of course made the mother very cross indeed. She went to see the Minister, representations were made to me, I spoke to the Minister, I spoke to the Attorney-General, and generally speaking we were stuck because of course the test was that the person should apply for supplementary benefits and when she was eligible for supplementary benefits then she would be eligible to have her children admitted into the school.

HON M K FEATHERSTONE

Could I just ask the Member to give way.

The children were always entitled to go to school, it was a question of being admitted free of charge.

HON M D XIBERRAS

Yes, in this case it was a question of how much money, in other cases of course that can occur it would be a question whether they would be entitled or not entitled. A case could arise where they would be entitled or not entitled to go to school.

Now the fees of course were again a bit of a bother not only from a financial point of view, and this woman's husband was of course out of the job and it was a very sad story, but from a point of view of principle of course it was hard for someone born in Gibraltar to have to pay for the education of her children. Agreed that she was not contributing much in taxation but this was of course a refuge for her and her family was here and the matter of

principle was of course extremely important to her.

So, Mr Speaker, in my approach to the Government I distinctly had the impression that this was a very difficult and stormy problem, not because obviously of the one case I am relating but because theoretically the flood gates might be opened and we might very well have a good number of people coming here with a connection with Gibraltar and educating their children here at Government expense. I see no immediate danger of this happening but of course if this were to happen this would be the time for remedial action to be taken. In any case, Mr Speaker, it seems to me that the flood gates have by no means been opened by this Bill, in respect of most of the proposals in the Bill. The flood gates have not been opened but I certainly would like to ask the Minister to comment in respect of his consistency as regards his previous conversation with me and the third proposal in the Section (iii) there - "has a permit of residence valid for a period of 3 months or more".

Now, I wonder whether the Minister still feels, or the Attorney-General still feels there might be difficulties over this one, or whether there are sufficient safeguards in the Bill as it stands.

Mr Speaker, "Does not require a permit or certificate to reside in Gibraltar", obviously that is one there and I certainly agree obviously, "has a certificate of permanent residence". Now normally as Honourable Members know we are talking there of people who have been in Gibraltar for a considerable period of time. So there I do not think we are making much of a concession, falls again in line with other legislation that we had passed in this House, it does tidy up things; it gives people with certificates of permanent residence, I would imagine another right as it were, explicitly stated, and this is a good thing. The next one, No 3, "has a permit of residence valid for the period of 3 months or more". Now there I imagine one is talking about somebody here on a work permit, one is talking about various workers from abroad who have come to Gibraltar to work and 3 months is, I believe, the minimum period for which a work permit is issued in the normal course of events, for it takes some time for the permit to be approved and so forth. So that means that the children of workers from abroad would be entitled to education in schools here. There are considerations in respect of the contributions to the economy in taxation and otherwise which workers from abroad make, and, therefore, the corresponding moral entitlement to some of our services. However, there are very grave constraints upon the Government as

regards the number of school places that are available, an amount of housing which can be offered, the size of Gibraltar, very grave constraints that Honourable Members on this side have had to wrestle with in their years in Government, and a balance must be kept by any administration before there is to my mind any relaxation of a kind we might not be able to cope with in the future.

It is true that by and large the position is covered by immigration laws and our control of Employment Ordinance which states that the work permit is issued in respect of the person who is going to do the work. And of course there is a very definite interconnection with the Immigration Procedures and our labour procedures as is right and proper and, therefore, there are some safeguards in this matter in respect of the families of workers from abroad.

May I interject here, Mr Speaker, that I am perfectly happy that many workers who have contributed over the years to Gibraltar, and have been residents here for many years - I know one who has been resident here for 15 years continuously and hardly goes home for a holiday - that these persons should certainly be entitled to some of the benefits of the taxation - and this man happens to pay quite a lot of taxation because he makes good money - should get some of the benefits, but has the Minister and the Government generally considered however that in saying that in theory were the families of persons who have a work permit for three months, if theoretically they were allowed into Gibraltar, the families I mean, the children are entitled to free education, have they thought of the overall effect that might very well overtake the rest of our laws.

Once a right is given it is not possible to keep it in the vague recesses of theory, one has to admit that someone who is given a right will try to see that it is implemented, and, therefore, the position is not one to be approached lightly, it is one for care and consultation.

Consultation, Mr Speaker, with those I will give way to the Honourable Member.

HON CHIEF MINISTER

It sounded like a funeral cration.

HON M D XIBERRAS

Not my funeral, Mr Speaker, it might be the Honourable Member's opposite. The Honourable Member can go and have another coffee if there is coffee there, if he does not want to listen to me. I shall give way to the Honourable Member.

MR SPEAKER

No, you do not have to give way.

HON M D XIBERRAS

I see. You were complaining, Mr Speaker, not so very long ago that I was talking across the House. I entirely rely on your guidance in these matters.

Mr Speaker, but perhaps the Chief Minister of Gibraltar might pay more attention to what I am saying. It is a very important subject.

You see, Mr Speaker, there are 3,600 or so workers from abroad here and I would say that on average, though not in individual families, there are two children per family. Some of course have large families, as my Honourable Friend Major Peliza or my Honourable Friend Mr Bossano.

MR SPEAKER

I think we must come down to earth. With due respect we must speak with relevancy. The 3,600 workers who live in Gibraltar are not entitled to keep their families in Gibraltar, and that you and I know, because they are not members of the EEC. So you must be relevant to the subject. You see what I mean, do you not.

HON M D XIBERRAS

Yes, of course. I entirely agree with you, Mr Speaker, that because they are not members of the EEC they have no rights. But my argument, with the greatest respect, Mr Speaker, is not that one, my argument is that the law refers to any one who has a permit of residence valid for a period of 3 months or more. Now, of course, Mr Speaker, as the House is aware it is not only members of the EEC who can have a permit

MR SPEAKER

Yes, but the Ordinance says, "if the person has a permit of residence and his child is living with him". This is what I have been trying to say.

HON M D XIBERRAS

Yes, Mr Speaker, but the point I am trying to make is that we can certainly open these gates and keep the immigration gates closed: certainly this can happen in a number of Ordinances, but Honourable Members are aware, however, that in opening this particular gate I think that the Government uncharacteristically, and I would like to hear their reasons and their opinions about this, has stated that anyone who had a permit of residence here for 3 months, whether he be an EEC or not, is entitled - obviously if he has the residence

MR SPEAKER

And the child.

HON M D XIBERRAS

And the child. Well this might very well be a fact, I do not know, Mr Speaker, whether the Immigration Ordinance precludes a child being given a permit of residence for a particular time or not.

MR SPEAKER

No, this is not the reason why I am saying it, I am saying it because if he has not got the child here he cannot attend school in Gibraltar.

HON M D XIBERRAS

I do not know whether he has a child or not, Mr Speaker. The law says nothing about children, this particular law.

MR SPEAKER

The law is specifically to enable a child to go to school without paying any fee.

HON M D XIBERRAS

Yes, Mr Speaker. Well, this is the point, which you have put in a nut shell, which I am making, that the law is about children of people with work permits, and yet people with a work permit are mostly in practice excluded. But I am talking about the cumulative effect that this is likely to have on these matters because there are children and the pressures on the Immigration Ordinance in this particular area are going to be quite severe, and it is known that I am not talking about one particular country, I am talking at least of two and perhaps three countries.

Mr Speaker, I cannot understand, coming back to the case which I narrated at some length. At the beginning, why the Government has not maintained rather a more even keel in respect of this particular one of three. Now I would like to have some sort of description of the policy from Honourable Members opposite, whilst by no means depriving certainly the woman I was talking about at the very beginning, of the right to free education.

And (iv) "has a permit of residence and had been in Gibraltar for not less than 3 months". That is a person who is not necessarily here with a work permit but a person who has a permit of residence and comes here for three months. That is a person who might come from Tangier or from Malaga or from England or from Germany and stays here three months under a permit of residence, which I imagine is what the person needs to be here, three months in any case, and is entitled to free education. Is that what the Bill says? I do not know whether it does mean that, perhaps I am mistaken. But again such liberality astounds me, Mr Speaker, after my initial discussion with Honourable Members on the other side. Of course there should be a balance, especially in respect of contributions made. If persons contributes here to the economy or to taxation over a period of time they should certainly be entitled to some of the benefits, but I do not think it is safe to assume that a person who has a permit of residence here for three months necessarily will have contributed enough for this right to be given straight away.

Certainly I would not like to say, yes, to this Bill unless I have a statement on immigration policy on this matter. I know, I have had first hand experience of immigration procedure as Minister for Labour. I know the inter-relationship, I know the constraints on the Government, and I know the operation of these procedures at first hand. I am aware of them. But the procedures can change and have been changed, and now we are moving into an area where we are entering into commitments, which theoretically can be a very grave commitment.

With all due respect, Mr Speaker, without referring to either Mr Bossano or Major Peliza, the commitment is a very great one, even theoretically, and therefore I think it is fair that the Government should make some sort of a statement in respect of immigration.

In respect of other cases of course, in respect of what I might call without defining it the worthy cases, I am entirely in favour of the law. And perhaps I have dwelt over long on the possible dangers, but certainly it is much easier for the Minister to be able to decide, to have some clear cut parameter by which to operate. I think that the position he found himself in the particular case I mentioned at the beginning of my speech was very awkward for the Minister and required consultations with various members of the Government, I believe, and then an adjustment of fees and so forth. This might very well make it easier and this I welcome. I also welcome it in respect of people of long standing here, 10 years or 15 years, even people who are established here, though again an analysis of our work-force will show

that some of those fellow workers who are here from abroad and we used to regard as newcomers to the Gibraltar scene, we should examine them, we shall find that from 1969 to date 7 years have elapsed and in 1968 there were about 1,800, I believe of them, and that means that a good percentage of people have been here now for about 7 years. Therefore, I have, Mr Speaker, deliberately just skimmed around the problem because I know it is a very important one, and one which will have to be faced at some particular time. The problem essentially is the right of not only our visitors, but more important, of our labour force from abroad.

MR SPEAKER

Are there any other contributors?

HON MISS C ANES

Mr Speaker, I would also just like to make reference to the case which my Honourable Friend Mr Xiberras was mentioning. I was also asked to look into this case and I referred the matter to Mr Xiberras.

This lady, who had for political reasons to leave her country in a hurry, was in a terrible nervous state. She did not know what her position was going to be. Her eldest daughter, who was two weeks short of her 11th or 12th birthday could have been taken away from her and sent to a camp where she would have had to remain until she was 30, and by this time neither mother nor child would have known each other, because they would not have allowed any contact between them. After leaving her country the family had to break up, the husband had to stay in England to find employment and suitable accommodation for her and her family, the little savings they had had they did not know whether the money had been given clearance to be taken out of the country they had left. In fact when she got here she was practically living off her parents or relatives, and on top of that her husband who had found employment could not send enough money because he had to keep himself also. And then she realised that her two eldest children, were of school age, although they could be admitted into school she was asked to pay for their education. Naturally, on top of all that she had already suffered this was rather a shock to her.

Happily the family have been reunited, they are very happy together and the children are now in school in England and

so on.

I am glad to see that something is now going to be introduced to try and find a solution to such cases. I hope that we do not have another similar case again in Gibraltar but should there be one, or any other Gibraltarian for that matter who should have to come to Gibraltar for any reason to be with their family that at least the question of their children's education presents no problem and that the parents do not have to worry on top of everything else of having to find enough funds to be able to pay for the education of their children, at least whilst they are in Gibraltar.

HON J BOSSANO

Mr Speaker, on the question of the dependants of immigrant workers I think it is very important to realise that in spite of all the misgivings that we have about the potential load on our social structure if we were to provide facilities for the dependants of the immigrants workers, and whatever we may be doing in fact to try and safeguard the position, the situation really is that we do not provide such facilities and we may not be moving towards this by the amendment we are now considering, but we have a commitment, that is Britain has got a commitment, as a signatory to the Helsinki Agreement in fact to provide free facilities for immigrant workers, and certainly we may not be far off the day when there could be pressure from immigrant workers on the British Government, which I think in the last analysis is where responsibility lies for the control of immigrant labour and the entry of immigrant workers into Gibraltar, I believe the line of responsibility between the Chief Immigration Officer is direct to the Governor, not to the Government of Gibraltar, and it is Britain as signatory with some 52 other nations to the Helsinki Agreement, that has got a responsibility, and the responsibility is absolutely clear in that agreement, it is an international agreement, and it is binding on Britain to implement not only within the United Kingdom but in fact in all the territories where Britain is responsible for immigration, and Gibraltar is one of those, to provide facilities for dependants of immigrant workers which are no less favourable than those provided to the native population. And it specifically mentions in fact the provision of education to the children of immigrant workers of no less a standard than that provided.

So let us not think in fact that this is something we can

just shut off because though we are not doing it and though there is no move to do it there is in fact an international obligation to do it. And if there should be a build up of pressure on this it would certainly put Britain in an extremely embarrassing position internationally, because I believe that in this area and in many other aspects the treatment of immigrant workers in Gibraltar falls well below what is expected, certainly in Europe and indeed by the standard set by international organisation such as the Labour Office. Clearly the problem that we have in Gibraltar is a problem of size, that is it is the magnitude of the problem that is so overwhelming, because in virtually every other community in Europe, including those communities which depend to a very high degree on immigrant labour, for example such as Switzerland, the proportion of immigrant labour to the native labour force is nowhere near the proportion that we have in Gibraltar.

I think the number of immigrant workers that we have in Gibraltar which accounts for almost a third of our labour force must be the highest in Europe, and this means in fact that we have got a false sense of balance in that the wealth of the community is produced by a labour force that is 33% higher than the community that made demands through social services on a whole range of things that are normally associated with the modern welfare state. So that we may be lulled into thinking that we can make provision within our economic possibilities for certain things, and neglect to take into account that their contributions to that, through taxation, through output, through the generation of economic activity, is being made by a labour force 33% higher than that which is making direct demands on our social services through dependants. It is very important because long term - that is if there is a long term future for Gibraltar which has been put recently in doubt, if there is one - long term we must look at the permanent population of Gibraltar and look at the economically active proportion of the permanent population in order to enter into some sort of long term assessment or projection of the potential of that community in terms of providing the services that the community needs. Because what the whole community consumes must be generated by that proportion of the community which is employed. And the proportion which is employed in our case is high by virtue of the fact that we do not consider as part of the community all the dependants of a third of the working population.

Now, this may produce an over optimistic assessment of our potential and it is not an assessment that we can ignore because it is an unrealistic assessment, because it is contrary in fact to the whole trend internationally of what

is considered to be due to an immigrant worker. The whole push internationally is that the immigrant must be treated in the host country with a degree of recognition of his rights as a member of that community where he settles, rather than as has been the case for so long in the past, a factor of production.

The way we treat structurally immigrant workers in Gibraltar is the way immigrant workers have been treated throughout centuries, as a factor of production. As far as we are concerned the worker here comes and makes a contribution just the same as the capitalist might come and make a contribution. Somebody could come from abroad and invest money, and somebody comes from abroad and invests his labour, his manpower, in Gibraltar and he gets paid for that just like somebody investing money either makes a profit or makes a loss and gets a return. But in fact the human needs of that individual, his rights as a person are, I am sorry to say, ^{is} in the whole overlooked in Gibraltar. This does not mean that Gibraltar is worse than other communities are, it is something that has been taken for granted for centuries wherever there has been movement of labour, not just across national boundaries but within national boundaries. Where different ethnic groups have moved from one area or another the treatment has been exactly the sort of treatment that we give immigrant workers in Gibraltar, but we must recognise that this is coming to an end throughout the world and that in Gibraltar we cannot isolate ourselves from what happens outside our own small community. Sooner or later we get the impact and the trend throughout the world, the commitment of nations like the United Kingdom in international organisations to that the right of the

individual in the whole community should not be inferior to the right of the normal permanent residents or of the natives in that particular community. And I think the point that has been made, Mr Speaker, by the Honourable the Leader of the Opposition is a very valid one and I think in fact that as I say we should not think that what he was saying about the potential burden on our system, and the burden is in fact quite frightening if we think of an additional requirement probably in excess of 33% considering that the immigrant worker, notwithstanding their long absence from home seems to be much more fertile than the natives, the potential burden probably in excess of 33% would in fact mean virtually the collapse of most of our social services. I think that we have had some experience, I think the Honourable Member for Medical Services can probably confirm that he has had some experience of trying on humanitarian grounds to help people and the potential load on the medical services or on the educational services, or on housing for example if we were to try to provide the standards that we want for our own people to all those who come and live in Gibraltar and

work in Gibraltar and to all their dependants, would mean the absolute and total collapse, overnight, of virtually all our social welfare institutions.

I think that the danger is not a danger that is staring at us in the face but that we should not go away with the thought that it is a danger that does not exist; it is real, it is in the trend of what is expected of recipient countries that take immigrant labour and the greater the disparity between what is considered normal internationally, and what Britain accepts as a commitment and a way we go about things, the work it is for us, not only because it would be wrong that we should be out of step with what is considered right and progressive elsewhere, but because in fact our own position, which is bad enough already, would be certainly worsened. Our name would be blackened and our enemies would make use of this in getting support for their cause in the quarters in fact perhaps from where we are recruiting our immigrant workers from.

MR SPEAKER

I will call on the mover then to reply.

HON M K FEATHERSTONE

Sir, I have listened with interest to the points made by the Honourable the Leader of the Opposition, and the Honourable Mr Bossano. The question is very simple: the Immigration Ordinance of course is the supreme ordinance in Gibraltar as far as whether a child may reside here. Under the EEC terms if an EEC national were to come to Gibraltar and obtain a job and if he obtained reasonable accommodation he would be entitled to bring his family. Once his family is here and has permit of residence, the children are here and have a permit of residence, they are bound by the Education Ordinance and insofar as they are of compulsory school age they must go to school. And this is where we are saying that they are entitled to free education if the child is obviously a resident here and the father has a permit of residence of 3 months or more, or has been in Gibraltar for 3 months and has a permit of residence.

The very fact that a child who is a resident of Gibraltar, or has a permit of residence in Gibraltar, is entitled to free education does not mean that an immigrant worker who has a permit of residence in Gibraltar can by virtue of that permit of residence claim a permit of residence for

his child. I think there is no doubt about that whatsoever. It is the Immigration Ordinance that will remain supreme, but once a child has got a permit of residence then it must be treated under the Education Ordinance, in the same way as the child of a Gibraltarian or of a child with a permit of residence. I think that is the situation as it is. I therefore commend the Bill to the House.

HON M D XIBERRAS

If the Honourable Member would give way on this matter, and as I think it is a delicate matter I would have hoped that because of its contents there might have been some consultation outside this Chamber about this. Now

MR SPEAKER

Has the Member given way?

HON M K FEATHERSTONE

Yes, I have given way.

HON M D XIBERRAS

Thank you. I think that there are a number of situations which no doubt have been carefully looked at but I would like to be assured that they have been looked at.. May I just mention one.

In those cases in which the parents are both working in Gibraltar there is more of an obligation, it is more reasonable that the children should, after the parents have been here for quite a long time, be allowed to reside in Gibraltar and of course they cannot be sent to a Government school or to the Government nursery either, but there is a particular School which caters for these particular persons. Because of the policy on permits of permanent residence, which sometimes are difficult to get, we have these parents and obviously their children, in a limbo for a considerable period of time. It may get up to 20 or 30 years here. Now for that period there might be a formulae whereby the child may be allowed to stay in Gibraltar, but as soon as you confer a right on that child

MR SPEAKER

20 or 30 months, not years.

HON M D XIBERRAS

For a permit of residence?

MR SPEAKER

No, you have mentioned a period of 20 or 30 months?

HON M D XIBERRAS

No, 20 or 30 years.

MR SPEAKER

He will have ceased to be a child by then.

HON M D XIBERRAS

I am talking about the parents. And the child therefore would get rights from the parents, and once you give the child rights then there would be a constraint on applying immigration procedure more rigidly. You might very well get in cases where it is possible to distinguish between people of long standing in Gibraltar and people who are not of long standing in Gibraltar you might get a backlash effect whereby the child in the application of the laws now, once they have been conferred rights in respect of education, the backlash may affect them adversely, that they would have to leave Gibraltar. Because what you cannot do for one, or rather what you do for one

MR SPEAKER

Well that is an immigration or that is not relevant to this.

HON M D XIBERRAS

Well I am saying, Mr Speaker, is that it will have an effect on the application of immigration rules and I wonder what the Government has thought about this. I think it is a very delicate situation which needs to be studied.

HON M D FEATHERSTONE

Sir, this is one of the most unlikely instances that one is going to get. But if there were a case that both the parents were in Gibraltar and working it would seem strange that they would have a child somewhere else. But if the Immigration Authorities saw that it was worthy that the child, if such a child was living elsewhere, should be granted a permit of residence, then I would see no reason why that child if it were of compulsory school age should not be given free education. After all the two parents are contributing to the benefits of Gibraltar.

Sir, I commend the Bill to the House.

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

The Bill was read a second time.

HON M K FEATHERSTONE

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

This was agreed to

HON M D XIBERRAS

Could I ask the Chief Minister to say when he proposes to recess today?

HON CHIEF MINISTER

It all depends on the progress we make.

The way we are going we are very slow and we will have to dispose of a considerable amount of work today and I suppose we should sit until 7 or 8 p.m. Longer if necessary, if we see that there is lack of progress.

The Employment Injuries Insurance (Amendment) Ordinance 1975.

The Honourable the Minister for Labour and Social Security moved that a Bill for an Ordinance to amend the Employment Injuries/Ordinance (Chapter 49) be read a first time. Insurance

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

The Bill was read a first time.

HON A J CANEPA

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

In moving the second reading of this Bill, Sir, and indeed of the two immediately following it, I would like to draw the attention of the House to the statement which I made on the 18th of May, 1976, when I outlined in some detail the proposed changes which it was intended to make to the Social Security Scheme. I also gave my reasons then for bringing these Bills to the House before the dissolution, reasons which are sincere, which have been generously acknowledged as such by the Honourable Leader of the Opposition when I mentioned this to him. I do not intend, therefore, Mr Speaker, to go over the whole ground again, and I will limit myself to saying, therefore, that the primary purpose of the Bill is to increase Injuries Benefit, Disablement Benefit and Industrial Death Benefit, by 20% in January 1977 over the existing rates which were introduced in January this year.

The opportunity has also been taken at the same time, Sir, to lower from 20 years to 18 years the age at which an insured person becomes liable to the adult rate of contribution and entitled to the adult rate of benefits.

The House may like to be informed as well, Sir, that an adult rate is paid to a labourer now at the age of 18 and therefore there is some logic really in lowering from 20 to 18 the age at which an insured person should pay the adult rates.

Sir, I commend the Bill to the House.

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

HON M D XIBERRAS

Yes, Mr Speaker, but before I do perhaps I would clarify this matter with the Chief Minister until when he intends to

MR SPEAKER

Not in the House. You can do that at the ^{Ante} Chamber because as the question of adjournments and recesses is a matter of convenience, and if there is no agreement between the parties of course it is my prerogative to recess, ~~but~~ it is the Chief Minister's prerogative to adjourn. Therefore, if there is a motion for the adjournment because there is disagreement, then you will be able to say what you want to say.

HON CHIEF MINISTER

I have nothing to add to what I said before. If we make progress we will finish at the normal time.

HON M D XIBERRAS

No, Mr Speaker, I was not enquiring about that at all, I was enquiring about something quite different, because we had also agreed that the House would be resumed at another date.

HON CHIEF MINISTER

That is a completely open matter depending on how we get on with the business here.

HON M D XIBERRAS

It is not a question of an open matter, Mr Speaker, it is a question of what the Honourable Chief Minister said.

MR SPEAKER

Then perhaps you might get together and come to an agreement.

HON M D XIBERRAS

Well, Mr Speaker, the Bill before the House is one of a number of Bills which the Honourable the Minister for Labour has brought to this House to increase benefits and it has been the practice of Honourable Members on this side of the House to urge him to do it in a greater degree than he is prepared to do it.

It will be recalled that the Honourable Member chose a stage by stage approach to the development. I myself am not convinced that this was entirely necessary and that he was not doing it in order to string out the general effect of his measures on the public. I feel he could have moved to a position much more quickly of what I might call the universal pension in one direction, and that he might have moved to a much higher level of pensions, of benefits, in much shorter stages or perhaps . . .

MR SPEAKER:

May I clarify something now so that we do not have misunderstandings later. Do members wish to address the House under this particular Bill on the three Bills that are coming or do they wish to speak on each particular Bill at its proper time?

HON M D XIBERRAS:

As far as I am concerned, Mr Speaker, I would like to speak on each of the Bills. I believe the Honourable Mr Bossano also has amendments to this particular Bill.

MR SPEAKER:

No, no, I am not talking about amendments, I am talking about the general principles.

HON M D XIBERRAS:

On the general principles of this Bill . . .

MR SPEAKER:

Fair enough you can do it one way or the other, but what I cannot have is members speaking on the general principles of the three Bills and expanding on the three of them in each case. You can take your choice, you can expand on the general principles of the three Bills, under each particular one, or you can speak on the general principles of each Bill as it comes to the House. What I will not have is the general principles of the three Bills touched upon each time a particular Bill comes up. Do you follow what I mean.

HON M D XIBERRAS:

There is no suggestion that I intend to do this in all three Bills.

MR SPEAKER:

No, no, I am asking for the convenience of Members. Which do they prefer. If the Members prefer that we should touch on the general principles of the three Bills on one of the particular Bills I would give leave to do that, that is the only reason I was asking.

HON M D XIBERRAS:

Thank you, Mr Speaker.

Mr Speaker, therefore, when these Bills come to the House it perhaps is opportune at this particular moment when we are discussing a Bill which is going to apply not even to this Government's term of office, but the next Government's time of office, to do a little bit of reminiscing in the general context of the general principles of the Bill.

The Minister has said of course on occasions that there were a number of adjustments to be made involving various Ordinances and so far I cannot remember but I think I am right in saying that he has changed the same Ordinance more than once in the course of his four years in office. And the House should understand that basically the Minister has done this as a result of an actuarial review which was asked for, I think, in 1971, and was not produced until after the demise of the last administration, and the information which, therefore, came into the possession of the present Minister for Labour was basically the information on which he has been able to estimate what benefit will be payable and what contributions should be made.

Now, I know that he has been continuing consultations with the Actuaries and I have no doubt that their advice has changed from time to time. I think the Minister, who has stated elsewhere his general aim in respect of pension as being half of the working wage, I believe it was, could have arrived at that particular level rather more quickly than he did.

Mr Speaker, one of the constraints in arriving at certain standards is obviously the contribution which workers can reasonably be expected to pay out of their basic wage. And I remember in relation to the notion for a permanent economic relationship with the United Kingdom that I said that the basic wage - which was of course pre-Scamp I think it was even pre interim award - the basic wage was so low that by the time he took money out for the basic expenses in life such as rents, and including the social insurance contributions and the element of taxation, the basic wage had been frittered away to nothing. And I mentioned, I remember, the level of the basic wage, as it was then as a constraint upon social development. You could not ask a man to pay insurance to the necessary degree and give him adequate benefits in his old age because he didn't earn enough for this.

Now because of reasons of which the House is aware that basic wage had been increased quite substantially, as we saw looking at Supplementary Estimates No.1 earlier in this meeting, and of course the level of contribution which employed persons can reasonably be expected to pay had increased as well. And therefore, Mr Speaker, with the changes that have taken place over the last four years, both in the wages field and in the social insurance field, one now feels that certain standrads should be aimed at.

Now, there has been of course a great debate on standards, I mentioned the Minister's standard stated at the AACR Conference. There are other standards which Honourable Members on this side had in the past aspired to, and that is of course the standard commensurate or equivalent to those obtaining in the United Kingdom. Of course Honourable Members may have had time to peruse the documents of agreement in respect - I am talking about the recent talks in London - and they may have had an opportunity to peruse that part of the document which deals with a permanent economic relationship. I don't happen to have a copy at hand but I seem to remember that in that document it was the agreed view of the Government and the Integration with Britain Party, the AACR and the Integration with Britain Party, that standards in Gibraltar, with the help of Her Majesty's Government by allocations of money, should be increased to British standards, by which of course it does not mean the standard obtaining in St Helena but those in the United Kingdom.

Now there have been certain difficulties in the way of implementation of this particular joint proposal, but I feel that in the social insurance field where our situation by reason of the nature of our contributing labour force is not as disadvantageous as might be other aspects of our economy, there is no reason to go back on standards which have been once considered to be acceptable.

Mr Speaker, I appreciate that the Minister made his statement and we carried out our consultations before there was definitive commitment up to this particular point, but I would like some indication in case the Minister happens to be in that place some months from now when the Bill comes into existance, that this 20% or so increase which this Bill proposes is not going to be by any means the end of the road. A little bird tells me that he himself is not satisfied with these standards and that he might consider post agreements at some future date, if of course he is there to do what Honourable Members on this side would certainly do if they were where the Minister is now, and that is to move beyond this 20% mark, which is simply a convenient figure in order not to stop the momentum which the Minister feels it is necessary to keep up, but which I have intimated I thought it was not necessary to start since momentum implies a gradual development, and I think the Minister's development in this field, though he has done well, has been all too gradual.

Now, Mr Speaker, the Minister has referred to our agreement and has made a very brief statement. I can understand why he has made a brief statement in introducing this Bill, he has of course made a prior statement to the House about this matter, which unfortunately again I do not have with me, but I remember this because he showed it to me sometime before in his office. We had something of a chat in the Ante Room after the meeting and I queried one or two cases but I am absolutely convinced that the Minister had produced the statement that was agreed and I must say this clearly.

The Minister found himself in the predicament of wanting to carry out this increase but really in doing so he would have to depart from a convention that legislation which is due to come into effect after the proposer had moved out of office, and is not due to start within his term of office, should of course be subject to the agreement of both sides of the House. And of course this side of the House cannot very well demand from the Minister that he do this or do that in the circumstances, particularly if the proposal is not an unreasonable one.

MR SPEAKER:

Which proposal?

HON M D XIBERRAS:

The proposal to increase the benefits by some 20% which is in the Bill, which is going to come into effect after this Government has had to face an election.

But I would not like my agreement to this, or my responsibility for the measure before the House, in any way to be construed as acceptance of the Minister's standards as stated in this other place, or in any way an abdication of the standards which this side of the House has set itself and which are contained of course in the permanent economic relationship part of the proposals which I referred to.

I would wonder whether the Minister, in the course of any of these three Bills before the House, might give the House an indication, since this may well be his last opportunity to do so before the elections, whether he would give the House an indication of the state of the Fund and what the prospects are for the future. He would have to take certain yardsticks which I leave to him, but I have expressed my own and perhaps he will oblige me by mentioning these yardsticks and saying how much for instance pensions in the United Kingdom are now; whether he feels we can catch up, whether he feels that we can go beyond them; or how long it would take to catch up. But I think that a statement from the Minister as to what is possible in the future would be enlightening to Honourable Members in this House, in this possibly his last intervention in one of these three Bills.

Now, Mr Speaker, a welcome part of the Bill is that part which confers I believe it was greater universality. That is, which brings more people under the Scheme which erodes differentials between pensions.

HON A J CANEPA:

I regret to have to say, Mr Speaker, that I think the Honourable Leader of the Opposition is wrong there.

MR SPEAKER:

I think so. I did not want to say so. This is Employment Injuries, not contributions.

HON M D XIBERRAS:

I beg your pardon.

MR SPEAKER:

This is why I asked you originally whether you wanted to speak on the three Bills or not. I hope that the Honourable the Leader of the Opposition realises how liberal the Chair is.

HON M D XIBERRAS:

Absolutely, Mr Speaker, I am most grateful for the Chair's liberality today.

Mr Speaker, the general remarks which I have made now will not of course be repeated by me in respect of each of the three Bills which will come, that would be to abuse of your liberality, Mr Speaker. I remember, Mr Speaker, in another context in the 1967 talks with Lord Shepherd my attention being drawn to the rules of relevance but, Mr Speaker, I would hesitate to think that Lord Shepherd was more liberal than yourself. I'm sure he was not and that one lasted three days, Mr Speaker.

MR SPEAKER:

I think you are entitled to say that Lord Shepherd was certainly more liberal than I will ever be.

HON M D XIBERRAS:

The subject then was more important, though I am not for a moment minimising the importance of this one. So we are dealing with the other Bill. Well, Mr Speaker, I think that perhaps with those general remarks, since I shall have specific interventions to make in the other two Bills, I will allow other members to contribute.

HON J BOSSANO:

Mr Speaker, the Bill which is now before the House seeks to establish new rates of employment injury compensation as from January 1977, and the Honourable Member I think has indicated that the timing of the Bill has got absolutely nothing to do with the forthcoming elections, other than that he wants to make it easier for the incoming Government to find the groundwork laid for them so that they can proceed with the administrative task of introducing the new rate for January 1977.

Nevertheless, Mr Speaker, it is of course significant that in previous occasions that the Honourable Member has raised the rates of compensation a lot of argument has been required I think to get him to move, and I think the prospect of a nearby election must of necessity, I think, if the Honourable Member is honest with himself and with us, made it more palatable to take perhaps greater risks in raising standards fast. I think, Mr Speaker, in the previous occasions that the Honourable Member has brought Bills to the House, and he probably has got a record which nobody else has in the number of times the rates have been revised since he has been in office, and this is his last attempt, in the previous occasions I think his main arguments against any proposals that I have put forward have been that we were both moving or wanting to move in the same direction but that his philosophy was that the pace had to be slower than I wanted, and that things had to be done in stages. And this in fact is something that applies not just to this Bill but to the others, but I will not go into how it applies to the others because I intend to speak on all of them.

As far as industrial injuries are concerned the rates are greater for example than those under the social insurance benefit or unemployment and so on, and the gap between the two was increased I believe in 1973, when the Honourable Member accepted that whatever the position of the Social Insurance Fund, in the case of the Employment Injuries Fund the call on the Fund was sufficiently low to enable us to make a greater provision without needing to worry about increasing contributions. Now, I think the position of the Employment Injuries Fund is in fact proportionately healthier than that of the Social Insurance Fund because of the potential call on it, and I remember the Honourable Member at that time resisting further pressures to increase by saying that nevertheless, although this was true, the Fund as a whole was so small that if there was a great disaster involving a work-place and a

lot of injuries then the Fund would be put under immediate pressure. Well, this is of course true, but that is true of the Fund I think whatever the level of benefits. If there was a big enough disaster the Fund would be wiped out however low we put the benefits.

I myself, Mr Speaker, consider that when the House considers the adequacy of the benefits being provided we should get an indication of how this compares with standards elsewhere in Europe, for our own guidance is seeing how well we are doing or how far we are behind people, and I think it would be a good thing if the Minister for Labour and Social Security in his contribution gave us some indication, as far as he is able to, of how he sees each of our benefits comparing with those provided in the rest of the EEC, and in the United Kingdom.

I am not suggesting that he should have all this information at his fingertips, nor am I suggesting that we have to have a rigid correlation between our benefits and those of other communities, since in fact I know that throughout the EEC the position is a very diverse and complex one. Although there is a commitment at EEC level to harmonise all social insurance and welfare benefits in the long term, at present if one were to draw a league table of each European nation compared with the rest, then the leaders in one particular benefit would come at the bottom of the league when considering another benefit. This applied to pensions, industrial injuries, family allowances and so on, so that in some respect you might find that France is at the top, in another benefit it is the UK that is at the top, and in another benefit it is Germany, and, therefore, one can't say, Mr Speaker, that we should copy everything from the United Kingdom because in some respects the level of benefits are better elsewhere, but I think the Minister for Labour and Social Security will recall that when the Gibraltar Trades Council went to see him in respect of the motion passed at the Annual Conference of the Trades Council calling for European standards in our social services, we mentioned that the targets should be what the target is for the rest of Europe. And the harmonisation process in Europe is intended to harmonise at the highest level so that the commitment in fact long term is that if the United Kingdom has got the best level of old age pensions then the rest of Europe will be expected to move in respect of old age pensions to that level, and if Italy has got the best level of family allowances then the rest of Europe is expected to move to the Italian level and so on. So that no nation in Europe is expected to come down to the standard of anybody else. Harmonisation is intended to be achieved at the highest level now operating in any one member state and, therefore, this is the wider context in which our own social services must move, and when the resolution was moved in the Gibraltar Trades Council it was in fact moved by my own Union, by the Transport and General Workers Union, which is perhaps more intimately interested in things like employment injuries compensation because regrettably it is the industrial workers that have got the highest incidence of industrial

injuries, and they are our members and we have got a very direct interest in these matters, and we moved the motion in the General Assembly with the idea of putting it to the Government of the day as the views of the Trade Union Movement as to what our long term projection, our long term movement should consist of in the field of social welfare, namely that which has been accepted within the EEC and taking that as the backlog to the social insurance legislation should then move at the possible pace consistent with our own resources at any given time.

Now, certainly I think in the field of industrial injury it is absolutely vital to provide the highest possible level of compensation and of protection for people who are unfortunate enough to suffer an industrial injury. It is in fact, Mr Speaker, when one thinks of it, totally inhuman that a man or a woman who through having to do a particular job which may involve a certain risk in order to earn his livelihood, becomes incapacitated and loses some of his earning power, should he in any way suffer a loss in his standard of living. And it is absolutely immoral that somebody earning his living should as a result of an injury suffered at work should take on a job where his earning potential is reduced. This in fact is the normal consequence when there is a survivor to an industrial injury.

The disability that results in almost all the cases means that over the rest of that persons working life his potential for earning a livelihood is reduced and the compensation that he gets of course is intended in some way to meet this need and in some way to adjust for his suffering and so on in terms of monetary compensation, something which of course we know cannot really be quantified. The pain and disruption and so on caused by an industrial injury cannot really be quantified, and the best one can do of course is to try and make up for it. Therefore, I feel very strongly, Mr Speaker, that on the question of an industrial injury, where it is by virtue of the worker having to earn his livelihood that he is then restricted in his standard of living, there we should not be conservative in our generosity in making provisions. In fact the amount of contributions that is required to cover one for industrial injury I feel is low. It is not noted of course because one pays a global social insurance contribution which includes the employment injuries contribution, but the employment injuries contribution on its own is very low. And it is very low of course because although there are too many industrial injuries, one would be too many, nevertheless in relation to the entire labour force, the number is not very high and the burden of providing for those who do have accidents at work is shared by the whole labour force and the cost on each one is low. And I think that in this particular aspect, above all else in the question of industrial injury where we are looking at the immediate rather than the long term in the sense that it is something that can happen at any moment in time to anybody, and the unfortunate person that is caught before the increase comes in is then prejudiced for the rest of his life, there we must aim as high as is considered adequate anywhere else in Europe. And if the contribution

needs to be increased, and I don't think the contribution should be increased simply for the purpose of building up the Fund I think they should be increased in order to roughly speaking meet the outgoing commitments of this Fund, the same as I believe the Honourable Member is now doing in respect of social insurance, then I think the member will find that in this respect more than in the others, he will have the support of working people. Because whereas unfortunately many workers do not see the need to provide for old age they do see the need to provide for protection against injury at work. And whenever there is injury at work the sympathy and the solidarity shown by workers toward the injured persons, where usually voluntary contributions are made to help the family and so on, is evidence enough that workers are very conscious of the risk that they are at at work and of the need to protect themselves and their families. To insure in fact against this risk. And I think the Member should seriously look at this position.

I regret of course that whatever I may be saying now at this stage will not be reflected in this Bill because one of the things that I feel is undesirable about the present system is that I feel it would be better for the House to enunciate principle and to debate at the level of policy as regards what should be the benefits payable under Ordinances such as this and perhaps a greater part of the technical work of producing tables for different levels of disability and so on, and for different levels of contributions, should be left to be done by Regulations. Because quite often, Mr Speaker, to be quite frank with you, I myself find, and I have no doubt that this is an experience shared by other members, some of these tables incomprehensible. And I feel that if the House could have the opportunity to debate these things, because I think that it is right that they should be debated here, then perhaps the technical work could then be done by regulation. The Government might have a more flexible situation in which to alter levels of benefits and so on to adjust to events and to refer what they were doing back to the House, to inform the House perhaps by motion or a statement being brought to the House where other Members would have an opportunity of commenting on what was being done or suggesting other ways in which it might be done.

I put this thought forward here, Mr Speaker, for the future because I realise that at this stage, the last meeting of the House, there is little that you can do. But I must say that the simple revision of the existing benefits by 20% in order to meet the projected rate of inflation and a little bit better to my mind is not an approach which I would commend to the Honourable Member. It may be that at this stage in the light of the present Government he feels that there is nothing else he can do but I think that his position has meant lost opportunities for individuals. It is something that cannot be lost sight of: I am not just talking about theoretical matters, about figures and about paperwork, I am talking about something that can mean a difference between a comfortable - perhaps comfortable is not

the right word to use when one is talking about somebody, the victim of an industrial accident, but at least a bearable standard of living and one where people have to pinch and scrape to make ends meet. If that situation is lengthened for anybody for a number of months in my view, Mr Speaker, if it can be avoided at all it is unpardonable not to avoid it.

MR SPEAKER:

I will now call on the mover to reply.

HON A J CANEPA:

Mr Speaker, because Honourable Members opposite, and in particular the Leader of the Opposition, have chosen to range rather widely over the whole ambit of social security benefits on a Bill whose primary purpose is to increase injury benefit, disablement benefit, and industrial death benefit, by 20% next January; because they have chosen to do that I hope that you will allow me some latitude in replying to their points on the same wide range, giving you the assurance that I do not propose to range equally widely on what is really the most important of all the Bills, which is the one before the House later on on social insurance.

MR SPEAKER:

Do you intend to be very long?

HON A J CANEPA:

About 10 minutes, I think, Mr Speaker. Also I have been invited to comment because this is the last occasion when I shall have the opportunity to move amending Bills in the present House of Assembly, though I hope that that will only be the case for the time being, and that I shall have another occasion next year.

On this stage by stage approach, Mr Speaker, that I have adopted over the last 3 or 4 years, I would like to say of course that in particular on what the Leader of the Opposition said, it is just a matter of judgement as to how one should approach this. And my judgement to some extent has been coloured by the fact that shortly after I came into office in 1972, I received - in those days I used to have consultations with the Pensions Sub-Committee of the TGWU as I have had earlier on this week with the new Pensions Committee of the TGWU - quite a lengthy memorandum from the Transport and General Workers Union because they stated that employers contribution should be increased and said nothing at all about employees contributions. One

could not help but think that they would oppose any move to increase workers contributions into the various social insurance Funds by any sizeable amount, so that was definitely an inhibiting factor to the extent to which I felt I could get support for any necessary contributions that there might be, and of course ones freedom of movement is very very much greater if one can get an undertaking in particular from the Transport and General Workers Union that they will support any necessary increases in contributions, because in that case of course one can move much quicker in increasing benefits knowing that whatever adjustment needs to be made on the contribution side will be seen in a sympathetic way, will be approached sympathetically.

Also of course the other inhibiting factor about the level of benefits generally is the extent to which they are related to wages. To my mind I don't see how you can have the basic wage of a labourer standing at £25 a week and the level of Old Age Pension standing on £25 a week. There is a certain inbalance there. And in the past, therefore, over the last four years one has been inhibited in this respect, and also one has been endeavouring to link increases in benefits rather more closely to the Index of Retail Prices, though in the case of Old Age Pension the increase has been of the order of 700% over 4 years and there has not been the move at all in the Index of Retail Prices, thanks be to God, otherwise we would have had what I think is called hyper-inflation.

But again, the TGWU in those days, in 1972, had that approach, that they should be linked to the Index of Retail Prices. For the future our approach I think should be different and my party has committed itself as Honourable Members opposite have already said, at its last party conference to a different approach.

As regards the state of the Funds, the Honourable the Leader of the Opposition invited me to comment on this and about the prospects for the future. Let me inform the House, Mr Speaker, that information is now being compiled to be sent to the Actuaries in London who by law are required quinquennially, after each 5 year period, to review and advise on the state of the Fund. The last time that this was done was for the period ending 1970. In the event the report wasn't received until well into 1973 and we are already in 1976, Mr Speaker, and it is now that the Actuaries are in the process of carrying out the review for the period which ended in 1975. So I would not like to hazard a comment about the state of the Fund, what I would tell the House is that the incoming Administration should have early in 1977, on the time scale of what happened previously, the latest comments of the Actuaries and that can be used to build on in the future. I think my own personal comment is that the prospects are pretty good, and I think that our standards can be raised to European levels, and so I have informed the Gibraltar Trades Council when they came to see me.

In fact at the moment the standard in UK, if we judge them by the level of average earnings in UK and by the level of average earnings

in Gibraltar, are lower, because UK is one of the countries nearer the bottom of the European league that the Honourable Mr Bossano made reference to. In fact as far as Old Age Pension is concerned, which is the most important of the benefits, there are only two countries as I recall it, I haven't got the information here at hand, but as I recall it there are only two countries, Germany and Italy, who have a higher level of Old Age Pension than we do in Gibraltar. And if it is taken into account that our Old Age Pensions are not taxable whereas they are elsewhere then the position is even better as far as Gibraltar is concerned at the moment and in 1977. But of course we must look further to the future, and the commitment for the future is that we shall be linking the level of Old Age Pension to average earnings and my party is committed to introduce a scheme, a formula, whereby that figure will be 50% of average earnings.

Coming back to this particular Bill, Mr Speaker, which deals more with employment injuries, I do not have with me, and I am doubtful about the extent to which we have information in the Department about the level of injury and disablement benefits in other countries in the Common Market, but the Honourable Mr Bossano is correct in saying that there is a great deal more freedom and a great deal more flexibility on these short term benefits because the proportion of the total social security contributions, the proportion taken up by the employment injury contribution, is very small and therefore a few extra pence added on to the contribution can make an enormous difference. Therefore, whatever the standards are in Europe we can reach in fact we can reach higher standards if it were to be thought that here in Gibraltar there is greater susceptibility for one reason or another to injuries and that therefore employment injuries benefit should be higher than in the rest of Europe, it would not be difficult to do that because what is involved is a few extra pence of contribution, and that I think can be afforded.

The Honourable Mr Bossano said that perhaps because it was close to an election one was increasing these benefits by 20%. Well, we have never, Mr Speaker, increased employment injuries by less than 20%. My recollection of the last few Bills is that 20% has been the minimum and usually we have gone beyond. On some occasions we haven't increased contributions, here a small increase is being proposed. On some occasions we haven't had to do so. And, therefore, what I say is this, Mr Speaker, for the future. If I am returned to office, if I have responsibility for this field in the future, I am prepared, as I have already told the Honourable Mr Bossano, to work very very closely with the Unions and with the Gibraltar Trades Council on this to have the maximum consultations.

Because a new Administration coming in later in the year has about 15 months before it needs to bring - well it won't have 15 months to bring the proposals, but if the benefits are going to be increased as in the past on an annual basis it will have until January 1978 and,

therefore, there is a longer period than what we have had over the last few revisions. I think that that new Administration, whoever they may be, will have a good launching pad, they will have the benefits of an Actuarial review, they will have the benefit of reasonable increases in benefits, for instance, Mr Speaker, disablement gratuity stood at £800 in 1973, it is now £3,600. This is evidence of what can be done. So there is a very big foundation to work on.

I agree with the Honourable Mr Bossano that provision should be made in the Ordinances so that changes can be brought about by regulations. This would be administratively a very very good thing and one would not need to be bringing constantly all these numerous Bills to the House, one could embody in the legislation a formula and a provision for adjustments to be made in the future by regulations and I think that that would be very very helpful, and I pledge myself to work towards that as I say, if I have the responsibility in the future. If I don't, if I am on that side of the House I shall be pressing for that. So with those remarks I commend the Bill to the House.

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

The Bill was read a second time.

HON A J CANEPA;

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

This was agreed to.

MR SPEAKER;

Right, we will now recess until 3.15 this afternoon.

The House recessed at 1.05 p.m.

The House resumed at 3.15 p.m.

The Social Insurance (Amendment) Ordinance, 1976.

The Honourable the Minister for Labour and Social Security moved that a Bill for an Ordinance to amend the Social Insurance Ordinance (Chapter 145) be read a first time.

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

The Bill was read a first time.

HON A J CANEPA:

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

Sir, as in the case of the Employment Injuries Insurance (Amendment) Bill, this Bill incorporates the improvements to the principal Ordinance which I outlined in my statement of the 18 May 1976, and which are intended to come into force in January next year. The main clauses of the Bill have a fourfold purpose. The first is to increase contributions by 18%, the increases to be shared equally between the employer and the employee. In the case of adult males, each will be required to pay an additional 11p, and in the case of adult female 9p. The increases are marginally less for self-employed persons because of the fact that they have no entitlement to unemployment benefit.

Secondly, the standard rate of periodical benefits, that is Widows Benefits, Guardians Allowance, and Old Age Pension, are to be increased by approximately 20%, making the standard rate of pensions for a couple £15, and for a single person £9.20p a week.

Thirdly, the lower rates of pension which are now payable to persons who retired prior to 1968 are finally being abolished and those pensioners will in future receive the same pension as those who retired in similar circumstances after 1968. For them the increase will be more of the order of 36%.

The fourth of the objects of the Bill is to lower, as in the case of similar provisions in the Employment Injuries Insurance Bill, from 20 to 18 years the age at which an insured person is regarded as an adult, and, therefore, liable to the higher contribution and also eligible to the higher benefit.

These various objectives may not be clear from a reading of the Bill, Mr Speaker, because of the terseness of the various clauses but I shall of course be glad to explain them clause by clause at Committee Stage should any Honourable Member so wish.

Let me add in finishing that Maternity Grant and Death Grant are not being increased on this occasion and that the insertion of the last table in the Bill is only due to the need for reproducing it in full in the course of reducing and renumbering the various parts of the Second Schedule to the Ordinance.

One other thing I would like to mention, Mr Speaker, is to draw the attention of the House to clause 2. This has no practical effect other than to make up-to-date reference to UK legislation in the subsection of the Ordinance which provides that regulations may be made for modifying its application for persons who are insured in UK. Such regulations in fact already exist whereby a person is exempted from liability to pay a social insurance contribution in Gibraltar for any week in respect of which the Director of Labour and Social Security is satisfied that a contribution has been paid under the UK legislation by or in respect of that person.

Mr Speaker, I commend the Bill to the House.

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

HON J BOSSANO:

Mr Speaker, I would like to say that the level of pensions for a married couple that is to be applied from the 1st of January 1977 of £15 is considered to be inadequate by the body that represents the greatest number of pensioners in Gibraltar organised in an organisation, this is the Pensioners Section of the Transport and General Workers Union which now has some 500 members, and it is a view that I share.

The Pensioners Section would have liked to have seen introduced in the Bill a commitment that pensions would have been revised in January 1977, and subsequent years, or at another more convenient date, to reflect the effect on average earnings of the pay reviews that are scheduled to take place in October of each year. The £15 figure represents less than 50% of average earnings as established by the Government employment survey for October 1975, that is average earnings of adult male employees. But this figure in itself, which is something in the region of £32.80, the average earning figure, is of course as we know an under representation an under calculation of the true position as

regards average earnings because the real wage at the time will only be known when the retrospective elements of the current pay negotiations are fully carried out. Now in fact of course the figure will not reflect that position. What will happen will be that the next employment survey will show a very large increase in average earnings which in effect will be the accumulation of three wage increases, the October 1974, the October 1975, and the October 1976, so that it will appear as if there has been from one year to another a very large increase.

It is impossible of course to know what is going to happen to the cost of living over the next seven or eight months in Gibraltar. We know that the Index of Retail Prices has slowed down considerably in the course of the last 12 months and there seems to be little explanation for this. In fact throughout the private sector wage negotiations took place in September of last year and wage increases in the private sector which are in effect the only ones which could have a bearing on the Index of Retail Prices, it is the only source of locally generated inflation that there might be if there was some truth in the argument that has been heard before in the House about forcing an inflationary spiral through high wages, if that were true it would be true in the private sector. In fact we have seen in the last 12 months that it hasn't happened, so I think there is little doubt now in anybody's mind that the most important element in inflation in Gibraltar by far is the effect of the world economy and the effect of the value of the pound on our own imports.

It is by far the most important thing and that is totally outside our control. Regardless of which Government is in office no Government can save the pound.

And how adequate the pension will be in January 1977 as compared to January 1976 is unpredictable at this stage and I accept that the Honourable Member has done what he thinks will at least guarantee the preservation of the real value of the pension and perhaps give some improvement, and he will undoubtedly be giving an improvement to those people who are being given the full benefit, and he has of course the support of the Trade Union Movement on this. The Trade Union Movement has felt that this was right for the long time and has pressed the Government for a long time to bring about this. It has been done in stages and this I believe is the final stage, but as far as the pensioners are concerned and as far as trade unionists are concerned we would have preferred to have seen in the legislation a direct link between wages and the efforts of the Trade Union Movement to improve wages and the level of pensions. I believe that the Honourable Member is sympathetic to this idea and that he is willing to consider a move in this direction if he is in Government at some future date. In the circumstances there is nothing that one can do of course but to raise the matter again when and if the New House of Assembly is elected.

But I would like it to go on record, Mr Speaker, that the £15 in itself can only be seen realistically when we reach January 1977, and then we will see just how inadequate it is. It certainly looks inadequate to many of us and I think that the sooner that the move is made towards a direct link with average earnings the more secure pensioners will feel about their income and their livelihood, and the happier those of us who are concerned about the welfare of senior citizens will be.

MR SPEAKER:

Well, then I will call on the mover to reply.

HON A J CANEPA:

Mr Speaker, with regard to the point that the Honourable Mr Bossano has made about the inadequacy of the pensions I would like to inform the House that I held a meeting with the Pensioners Committee of the TGWU earlier this week on Monday when this was the matter that was discussed at great length. I should say, Mr Speaker, that of course one doesn't have to be limited in bringing proposals to the House about any particular level of pensions, it doesn't have to be £15 a week, the sky is the limit virtually, and I might have been a highly popular man if I had as a result of this meeting with the TGWU myself given the House notice of my intention to move an amendment increasing the level of pension to £23, £24 or £25 a week, but I think that would have been something of an election gimmick. I think that would have been blatant electioneering and therefore, Sir, when I made the statement in the House last May and when I spoke to the Leader of the Opposition earlier about my intentions, it was a part of a deliberate programme and a deliberate policy which has seen over a period of three and a half years pensions increasing by about £4 per year, without at any stage feeling complacent and feeling that we were reaching the end of the road and I think I have always admitted that there was a great deal of work to be done.

We also discussed the other day some of the mechanical difficulties about relating a formula that will link increases in pensions through movement in wages to the Employment Survey of the previous October, but this is something which can be looked at at the appropriate time. I should say, Mr Speaker, that I should go further than what the Honourable Mr Bossano has said, namely that I am not just sympathetic to the formula I feel that I am committed to it, and the reason why I cannot accept that it should be introduced at this stage is that in my view the mandate which we have on this side of the House for such a far reaching step is running out. I do not feel that given the ticket with regard to pensions on which we

contested the election in 1972, and given the statements of policy which I have made at various times in this House about social security pensions, I do not feel that the Government has a mandate to introduce what is undoubtedly something very very desirable. I think that what should be done is that a fresh mandate should be sought from the electorate and, therefore, a Government coming in later on this year is in an ideal situation to introduce such a far reaching step, namely, some provision in our legislation for a formula which will link future increases in pensions to the movement in wages that there is going to be in Gibraltar in October each year. I have no doubt that this can be done in 1977, the legislation can be introduced in the House next year to take immediate effect in January 1978. To that extent I can committ myself and I also hope that the fact that in the UK the level of inflation is being got under the control will have a beneficial effect here in Gibraltar. We ourselves I think have done quite well in the last year, our level of inflation has been running at about 11%, and if it doesn't go beyond that I just hope that beyond January 1977, the level of pensions though not what one ideally would want, which is a much higher pension, will not have been seriously eroded into and that the people concerned will nevertheless be able to maintain their head very reasonably above water.

Mr Speaker I commend the Bill to the House.

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

The Bill was read a second time.

HON A J CANEPA:

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

MR SPEAKER:

Do all members agree that the Committee Stage and Third Reading of the Bill be taken today should this be so?

HON M D XIBERRAS:

Mr Speaker, did you say today?

MR SPEAKER:

If it should fall today.

HON M D XIBERRAS:

If it should fall today. The reply to that is no. I do not agree that it should fall today. I think we should certainly wait in view of impending developments. I should say that I've had a talk with the Chief Minister in the Lobby of the House and he has undertaken to give me a reply about certain matters tomorrow.

MR SPEAKER:

Well, insofar as Standing Orders state the position, if any member objects for a Bill to go through all its stages on the same day, all that happens is that the Committee Stage cannot be taken on that particular day but it can be taken on the following day.

In other words your objection is valid and, therefore, this particular Bill, to which you have objected, will not definitely be going through Committee Stage today.

HON A J CANEPA:

Mr Speaker, on a point of clarification, are the impending developments that the Leader of the Opposition talks about anything to do with the Bill that has just been given second reading.

MR SPEAKER:

Perhaps I have been able to restrain my curiosity whilst you haven't. I wouldn't know, but members don't have to give reasons why they object for the Committee Stage to be taken on the same day. The Standing Orders say that if one single member objects, without stating reasons, then the Committee Stage cannot be taken.

Therefore, I have restrained myself from asking the reason because it may not be relevant.

HON CHIEF MINISTER:

We have sufficient business to go on today with the rest of the Bills for First and Second Readings and the Committee Stage for the Bills which have been agreed.

HON M D XIBERRAS:

Mr Speaker, I have no objection to stating my reason. May I do so?

MR SPEAKER:

If you feel like it, yes. May I say that no debate will take place.

HON M D XIBERRAS:

In that case, Sir, I won't but ^I may reassure Mr Canepa that it has nothing specifically to do with that Bill but it has to do with the whole purpose of the House of Assembly and with the procedure in this House and the cooperation between one side and ^{the} other and with statements that are made and with the arrangements that are made beforehand.

THE NON-CONTRIBUTORY SOCIAL INSURANCE BENEFIT AND UNEMPLOYMENT INSURANCE
(AMENDMENT) ORDINANCE, 1976

The Honourable the Minister for Labour and Social Security moved that a Bill for an Ordinance to amend the Non-Contributory Social Insurance Benefit and Unemployment Insurance Ordinance (Cap.113), be read a first time.

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

The Bill was read a first time.

HON A J CANEPA:

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

Sir, this is the third of the inter-related Bills which embody the changes which it is proposed should be made in January 1977 to our Social Security Schemes. In this particular Bill Retirement Pension

is being increased from £6.30 to £8.40 for a single person and from £10.30 to £13.50 for a married couple. These increases represent 33 $\frac{1}{3}$ % and 31% respectively and are, therefore, considerably in excess of the 20% norm which has been followed in the previous Bill.

The reason for this is that in equity the level of Retirement Pension should be kept in line with that of the pre 1968 Old Age Pensioners in comparable circumstances, and the latter as I have already explained will be receiving a higher percentage increase as a result of the abolition of the differential between pre and post 1968 old age pensioners.

Retirement Pensions, Sir, are a charge on the Consolidated Fund and the additional expense which this increase will bring is of the order of £10,000 a year, but no additional provision will be required for this financial year because provision for the period January/March 1977 has already been made in the approved estimates for the current financial year.

Turning to Unemployment Benefits, Sir, which is however payable from the Social Insurance Fund, again we are allowing for a 20% increase making the standard rate of the benefit £3.28 a week. This is provided for in part 1A of the Table in clause 4(b), and to forestall possible queries perhaps I should say that the lower rates in the Table in clause 4(a) only apply to persons who have been resident or insured in Gibraltar for at least two out of three years immediately preceding the date of entitlement. Few persons in fact will draw this rate of £2.76 a week, which even then will be very low, but which is still 130% more than the existing rate of £1.20 a week, and which was the standard rate when the scheme started in 1955.

Clause 2 of the Bill, Sir, I should explain as well increases the earnings limit within which a wife may be regarded as still dependent on her husband for the purpose of paying him a dependents increase to his own Retirement Pension.

Sir, I commend the Bill to the House.

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

HON J BOSSANO:

Mr Speaker, on the question of Unemployment Benefit I would remind the house that the last time we discussed a series of Bills like the ones we have had today, changing the rates of benefits, and where I repressed the Minister for Labour and Social Security in fact to widen the scope of our welfare state and he objected most strongly on the grounds that

he didn't want to introduce the doll in Gibraltar, I recall his words, but I would like the Honourable Member to tell the House honestly how he expects a person who becomes unemployed through no fault of his own, and that is an important consideration because in fact the Labour Department to my knowledge takes quite a rigid line in investigating claims for Unemployment Benefits, and so they should, I think we do not want to encourage people to live off Unemployment Benefits simply because it is more convenient to live on Unemployment Benefits than to have to obtain employment, but they do take quite a rigid line and in fact for example a person generally speaking finds it difficult to obtain Unemployment Benefit, or to have a claim for Unemployment Benefit accepted, unless he or she is made redundant. The situation is that if a person leaves his place of employment voluntarily he is not entitled to Unemployment Benefit. And quite often of course in my experience workers leave their employment, particularly in a place like Gibraltar where in most cases the people who go and claim Unemployment Benefits are employees of the private sector, generally speaking in the public sector there it is very rare for cases of redundancy to take place, and it is also rare for people to leave employment in the public sector without having found a job to go to.

In my experience most of the claims for Unemployment Benefit, which quite often come to the Union for advice, are from the private sector. And if an employee leaves his place of employment voluntarily he cannot claim Unemployment Benefit. And as I was saying, in a place as small as Gibraltar, there can often be in small firms a clash of personality between the owners of the firm or the management and the individual which makes the continued employment of the person in that establishment a very unpleasant one.

MR SPEAKER:

No, no, I think in fairness to everyone let us take it from the point that there is someone unemployed and whether the benefits are sufficient or you feel they should get more. I don't think we should go into the question of how someone becomes unemployed.

HON J BOSSANO:

It is very relevant, Mr Speaker, because the entitlement to Unemployment Benefit is laid down in the Ordinance we are amending, and there it says who can claim Unemployment Benefit and how one can be disqualified. And one of the reasons that one is disqualified is that one has left one's job voluntarily. It is a fact of which I am well aware that some people leave their jobs voluntarily because it becomes impossible for them to carry on working . . .

MR SPEAKER:

But the present Bill does not seek to change these conditions.

HON J BOSSANO:

No, Mr Speaker, but the reason why I think it is relevant to know this is because if one seeks to improve the benefit then one is open to the charge that people will pack up their jobs and apply for Unemployment Benefit. That is the counter argument that is put to a push for a higher benefit. They say, well in that case if you are going to have £25 on the dole, he leaves his job to go on the dole. Well, he cannot, because he is disqualified if he leaves his job whatever the benefit it is. I mean there is absolutely no **incentive** to leave the job when they are going to give somebody £8, but what I am saying is that even if you provided the incentive he wouldn't get it because he would be disqualified. That is the relevance of the argument.

So this is in fact an important factor to counteract any possible argument that if we raise the payment we would get a mass exodus from employment to claim Unemployment Benefits. And also the other thing is that if an employer claims to have dismissed an employee for misconduct, not in the moral sense or anything like that, but misconduct in the industrial sense, for example refusing to carry out a task that the employer considers to be legitimate, that also disqualifies a person from Unemployment Benefit.

So the most important group of people who are in need of Unemployment Benefit, apart from the fact that we have in our community, as indeed in all others, a group of people who are virtually unemployable and those people tend to exhaust their Unemployment Benefits quite early on any way because it only lasts for 13 weeks and then they go on to Supplementary Benefit which is **not** the subject matter here, the most important group that Unemployment Benefit is intended to cater for in Gibraltar as indeed anywhere else in Europe, are those who are inbetween jobs. These people are very important because in fact it is vital in a developing economy to encourage labour mobility, and I think the Trade Union Movement for example, Mr Speaker, usually puts up a very tough fight to prevent a loss of jobs and redundancy, but if there is a good cushion, and if there are other areas of **expansion**, then it is good generally speaking, although what may be good in the long term for the whole community may inevitably be bad for specific individuals, it is a good thing generally speaking . . .

MR SPEAKER:

You are now generalising, I am sure you must agree with me, as far as the general principles of this particular Bill are concerned.

HON J BOSSANO:

No, Mr Speaker, I am talking about the good points of having high Unemployment Benefits, that is what I am talking about. In order to be able to convince members that this is so, I need to explain to them that it is so because high Unemployment Benefit takes away the hardship from unemployment and unemployment in itself is not necessarily a bad thing provided the type of unemployment we have got, and that is the type of unemployment that we are likely to have in Gibraltar, is unemployment where there is contraction in one particular sector of Gibraltar's economic life, expansion in another one and people are between one job and the other.

Now I think that although it generally comes as a shock to people to find themselves without a job, it is not necessarily a bad thing because labour mobility is a good thing, it gives flexibility, and I think the Government should seriously consider how they can expect the question of any change in manning levels and so on to be treated with any degree of cooperation by the workmen if the prospect is being put on the dole with the sort of level in Unemployment Benefit for January 1977. Here we have been talking about radical changes, Mr Speaker, in another Bill, in the Social Insurance Bill we were thinking of linking long term benefits like social insurance Old Age Pensions to wages, this is in fact a radical and a new approach, I agree with the Minister there, but there cannot be anything radical about having a direct link between wages and Unemployment Benefits, because if a working man needs a certain pay packet to feed his family and if he becomes unemployed he needs exactly the same income the week after, there is no question about it. So the link is real and is natural there, and I feel that the Government should in fact in this case, look to the adequacy of this, in terms of the position of Gibraltar's changing economic needs in the terms of redundancies taking place in certain areas and expansion in others. And the fact for example that we have got one particular industry in Gibraltar which is very prone to redundancy, we have got the construction industry in Gibraltar where the standard practice here is that there are peak demands for labour and moments of slack, and it is quite normal for a construction worker, and they are a significant proportion of our labour force, I think they amount to about 20% of their labour force, they are under threat of redundancy almost all the time. The normal practice here is that workers are taken on to work on a site rather than for a particular Company, and that when the work on that site starts running down people are laid off. Then when the same Company gets another contract they start taking people on again, and in between one and the other these very often unskilled workers that we need in Gibraltar, and the level of Unemployment Benefit can have a very significant influence on whether they decide to stay in Gibraltar in between one building project and the next. If they go from Gibraltar then getting them back here is much more expensive for the community as a whole than a higher level of Unemployment

Benefits would have been. And in any case after all the Unemployment Benefit is something to which they themselves contribute. It is their money that we are talking about, we are not talking about public expenditure, because this part of the Bill is not something that comes out of public funds, as the Honourable Member has said, this comes from the Insurance Fund, so I would like the Honourable Member to say what thought is given to these matters in arriving at the level of the Benefits here, and I shall possibly be moving amendments to the level of benefits once I have heard his argument in this point.

HON M D XIBERRAS:

Mr Speaker, I do not have very much to contribute to this but I would like to say something on the argument of Mr Bossano as regards the mobility of labour and how it is affected by the level of benefits.

Mr Speaker, it has been the general tendency, as I have said in respect of another Bill presented by the Honourable the Minister for Labour and Social Security, for the Minister who deals with these matters by stages, and it is something which I have said already I do not particularly agree with, but in the various stages through which the House has taken the various Bills, there has been as far as I can recall no radical departure from the relationship between one form of benefit and another form of benefit. The Minister has in fact upped the benefits but I do not think a qualitative consideration has entered into the Minister's mind and created the possibility of a qualitative difference now in the relationship between the various benefits.

Now, Mr Speaker, I think the mobility of labour is a matter which brings to mind opportunity for employment in the private sector and the distribution of our labour force generally. It is a well known fact that the preponderance of Gibraltarians in the public sector of employment is due in no small measure to the security which public employment provides as opposed to the private firm. After all in public employment the man is guaranteed a work pension and the man is guaranteed a certain treatment and his job is not affected by fluctuation or visititude in a particular industry, whereas in the private sector, not only as Mr Bossano has said in the construction industry, but in other industries as well, the turnover is very much greater: the possibility of losing one's job, even though this prospect has been diminishing, is nevertheless much higher in the public sector and it is not in Gibraltar's interest, as some of us found out in 1969 when a great proportion of the private sector labour force . . .

MR SPEAKER:

No, no, in fairness to me, Mr Xiberras, we are not going to discuss the whole labour situation in Gibraltar under the guise of a Bill

which seeks to increase Unemployment Benefits.

HON M D XIBERRAS:

I was simply saying, Mr Speaker, that it is in the interest of the economy and this was recognised personally in the Beeching Report, to have a fair distribution of the labour force in the private sector and according to various trades. It is Government policy, as much the Government from this side of the House as from that side of the House, generally geared to providing conditions of security in the private sector comparable to those obtaining in the public sector.

Mr Speaker, most people in Gibraltar are prepared to subscribe to that idea but it is up to the Government to do something concrete about it. And with this Bill comes an opportunity of providing the security which would enable our craftsmen, especially the young ones, to look towards the private sector for employment. If he has security there then our training schemes will not run amiss for lack of people moving to the private sector.

MR SPEAKER:

No, no, I must bring you to order, again, with due respect.

HON M D XIBERRAS:

I wonder if the Honourable Member opposite has given consideration to this . . .

MR SPEAKER:

No, Mr Xiberras, I am bringin you down to earth, please. I am trying to do it as kindly as possible, but I will have to call you to order if you insist.

HON M D XIBERRAS:

I simply want to reinforce the point made by the Honourable Mr Bossano. Whether he has given consideration to this and whether he is prepared, and I do not know what amendments Mr Bossano has in mind, but certainly I would say that . . .

MR SPEAKER:

Amendments at the Committee Stage?

HON M D XIBERRAS:

At the committee stage, yes. But certainly the whole character of the Bill might be changed if the amendments are the type I think they are, and if the Government could see their way to accepting them.

Now the contribution: Government cannot do everything of its own bat, sometimes there have been Governments that have provided sums of money . . .

MR SPEAKER:

This is the Non-Contributory Ordinance that we are discussing now.

HON M D XIBERRAS:

I am talking about Unemployment Insurance Benefits towards which the Employer and Employee contribute. I am saying that Governments might in certain circumstances where there are drastic movements of labour or the possibilities of this happening, Government has stepped in occasionally and provided cushions, buffers, so that people can move around from one sector of the economy to the other.

Now this is not what I am arguing should be done on this occasion, I am arguing that in fact it should be the money provided by the employers and the employees themselves that should be used to create a reasonable buffer should these changes take place either between jobs in the private sector or if it should happen between one sector and another sector.

Therefore, Mr Speaker, the Minister should give this his honest consideration in replying to the House and at the very least keep an open mind about the prospects. After-all this Bill is going to in some way set a pattern for future years and the work the Minister has done could be finished off by providing a change in the relationship between the various types of benefits available to Gibraltarians.

MR SPEAKER:

I will call on the Minister now to reply.

HON A J CANEPA:

Sir, the Honourable Mr Bossano alleged that the Department of Labour

and Social Security is very rigid in its approach to claims for Unemployment Benefits. I do not think that he is quite correct. In fact whenever the Department receives a claim for Unemployment Benefit it immediately gives the applicant the benefit of the doubt and Unemployment Benefit is paid until there may be a re-assessment of the situation following the report which is received from the employer as to the reasons for their former employee being unemployed. But the benefit of the doubt is **always** given initially. Should there be a reason for disqualification which he also mentioned, I think I ought to make it clear that disqualification is never for an indefinite period, it can only be for a maximum of six weeks. This is what would happen for instance where an individual voluntarily leaves employment, he would be disqualified but only for six weeks and this follows the practice exactly in the United Kingdom. In this respect our Social Insurance Legislation is modelled on that of the United Kingdom.

As **regards** the desirability of having mobility of labour, undoubtedly it is a good thing that there should be facilities for moving, say from a contracting sector of the economy to an expanding sector. That is a good thing particularly where the building industry is concerned, but this is an industry which, as has been mentioned, traditionally has a very high turnover and sometimes the turnover that it has isn't just due to projects coming to a close, this is an industry which in Gibraltar is rather notorious, and it is a matter which has been mentioned here in the House, for dismissals due to unauthorised absenteeism at given times of the year. This is a very substantial reason. This is something that we know in my Department for the turnover in this particular industry, but despite the turnover and whatever relationship may have with the level of Unemployment Benefit, I think it is important to bear in mind that in the past quarter of this year, in the period from January to March, the number of people employed in the private sector of the building industry actually had an increase of **about** 50, in spite of the fact that the project at Varyl Begg has been coming to an end. So that I think is something which is good.

All the benefits, Mr Speaker, under the four Ordinances which are before the House this afternoon are traditionally inter-related and this is what happened when the Social Insurance Scheme that was enacted in 1955. And what has happened over a period of time is that that inter-relationship has been **maintained** except primarily for Old Age Pension which has tended to **outstrip** some of the other benefits. But I don't know whether the Honourable Mr Bossano recalls that in 1973, at the time of that revision, he moved an amendment to this particular part of this Ordinance to Unemployment Benefit which I accepted, which disturbed the relationship that had existed previously and which I accepted and which raised at that time the level of Unemployment Benefit above some of the other benefits for which it is not interrelated. And that has been maintained since

then because Unemployment Benefit certainly have been increased by as much as the other shorter term benefits like Injury Benefits and so on. He was going to move a similar amendment to Injury Benefits, to which this one is very closely related, and I committed myself to do so with a later Bill and this again was done in 1973.

Of course the problem is to strike the right balance with Unemployment Benefit. You do not want the family to suffer hardship and yet you do not want to encourage people to go on the dole. I myself have evidence of not very old pensioners, people who have a good occupational pension and who are below the age of 60 because they were able to leave a certain area of employment, who have no incentive whatsoever when they have found themselves unemployed to get a job immediately. With a good occupational pension as they have of about £70 or £80 a month, round about Christmas time they have adopted the attitude, well, I am going to take the 13 weeks Unemployment Benefit which I am entitled to. I have got considerable evidence of a number of cases that I happen to know of personally. So this is the difficulty that one is faced with in this particular area of Unemployment Benefit.

As far as a Gibraltarian is concerned, he does of course have his fall back of Supplementary Benefits, which the maximum allowance is closely related to the level of the wages of the labourer and, therefore, one hopes that that family doesn't suffer hardship.

As far as our alien workers are concerned, the statistics in my Department tell me that the average alien worker claiming Unemployment Benefit usually substantiates his claim with four children and therefore he would be getting a level of about £20 a week, which is very closely related to the level of Supplementary Benefits that we are paying at present, and not what will happen later on in January.

One final point, Mr Speaker, one that the Honourable the Leader of the Opposition brought up again is this question of our difference in approach in doing something by stages or doing it all in one go. My attitude is that if you have improvements by stages at least the improvements come along, if you want to do it all in one jump there can be a danger of a delay and this is where I would criticise the approach of the Leader of the Opposition, not in this matter but on other matters where his attitude is, "I want it all and I am not prepared to compromise and settle for nothing". I don't know whether that was the reason why there was some period when nothing was done in this field.

HON M D XIBERRAS:

Will the Honourable Member give way. I think I explained that the Actuarial Review - pensions had not been tackled for a good number of

years prior to my becoming Minister for Labour and the Actuarial Review was not finished till somewhere around 1972, I believe it was, and since there was no Actuarial information there was no possibility of knowing what the potention of the Fund was and, therefore, no possibility of tackling the different benefits and contributions and carrying out the improvements.

HON A J CANEPA:

Very Well, Mr Speaker, but I am in the same position now. I am waiting for the Actuarial Review for the 5 year period ending 1975, and if the actuaries were to say that the Fund is so healthy that you can sustain a much higher level of benefits for the next 50 years, I could have come to the House and increased all these benefits very very substantially. Instead I prefer to say, well, if the actuaries report come whenever it has to come in the meantime let us get on with some minor improvement; if nothing else, which are desirable and which people can benefit from.

HON M D XIBERRAS:

Mr Speaker, will the Honourable Member give way. There are two extra factors which the Honourable Member has not had to face, essentially these were the withdrawal of Spanish labour and the commitment over a very long time to the paying of certain contributions which obviously would affect the Fund and which was debated in the House for a very long time. Secondly, obviously the influx of another type of imported labour force, and it was because of this that the Actuarial Review, which eventually saw the light of day in 1972, was extremely important. But I am sure the Minister will grant me that those two factors, not knowing how much we had to pay the Spanish workers or how this would be done, which depended on the Foreign Office, and the new influx of labour, were two factors which made that Actuarial Review extremely important. Therefore it was/wanting to do it at one go it was waiting for some kind of actuarial authority so that we could judge what could be done at all.

/not

HON A J CANEPA:

I don't wish to prolong the thing unnecessarily. If the Leader of the Opposition asks me to give way again the last thing I want to do is to be discourteous.

The commitment to the Spanish workers still exists and the day that it has to be setled, if it has to be settled, unless the thing is delayed so considerably that all the former Spanish pensioners die by that time, otherwise it will be a staggering commitment and it will

cripple the fund.

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

The Bill was read a second time.

HON A J CANEPA:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill should be taken later in these proceedings, tomorrow if there is objection, otherwise today.

MR SPEAKER:

Well I am going to ask the House whether . . .

HON A J CANEPA:

If the Honourable Mr Bossano wishes to move an amendment I would be grateful if he would give me as much notice as possible of the amendment.

MR SPEAKER:

Well I am going to ask the House, as I am in duty bound, whether any member has an objection to the Committee Stage being taken today should this be possible. Since there is objection that means that it cannot be heard today, that is the end of the matter. Next question.

THE ELDERLY PERSONS (NON-CONTRIBUTORY) PENSIONS (AMENDMENT) ORDINANCE
1976

The Honourable the Minister for Labour and Social Security moved that a Bill for an Ordinance to amend the Elderly Persons (Non-Contributory) Pensions Ordinance, 1973, (NO.27 of 1973), be read a first time.

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

The Bill was read a first time.

HON A J CANEPA:

Mr Speaker, I have the honour to move that the Bill be now read a second time. This short Bill, Mr Speaker, merely seeks to increase the level of this pension which currently stands at £3.20 a week for a single person in line with the norm of the increases which have been proposed under the other Bills, namely a 20% increase bringing the level up to £3.80 a week.

In doing that, Mr Speaker, we are maintaining the relationship that has existed between this pension and the ordinary Old Age Pension. If we think of a couple getting £3.80 each a week, that is about £7.60 a week, which is just over half the maximum pensions payable to the Old Age Pensioner, namely £15 a week.

I think I said last year, when we took the final step of lowering the age to 65 for all, that I do look forward to the day when it will be possible to increase the level of this pension, more in line with the Old Age Pension perhaps not the whole way because people haven't contributed to this particular pension and a distinction must always be drawn between what is contributory and what is non-contributory, otherwise the incentive would be for people not to contribute. But I would like to tell the House that there are about 1,000 of these pensioners involved and a glance at the approved estimates earlier this year will show the staggering commitment which with these increases is in the order of £200,000 per year.

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

HON M D XIBERRAS:

Mr Speaker, the step by step approach which I referred to just now, I think creates or is most evidently to my mind discriminatory against a sector of the senior citizens of Gibraltar on the subject matter of this particular Bill. I know that there is considerable debate as to the propriety of establishing the same level of benefits between people who are in receipt of social security benefits because they

have contributed and because their employers have contributed, and people who have not contributed and receive therefore rather less than the former.

Now, on the one hand one has the argument generally favoured by the right which is that people who spend money and part of their savings in providing for their old age indirectly through the Social Insurance Scheme should be rewarded accordingly and therefore actuarial principles and principles of social insurance are held to apply and there is an element certainly in our legislation of a fair return for the contribution made.

Now, on the other hand it is said, and this argument is held by the left generally, that although initiative or through initiative . . .

MR SPEAKER:

Perhaps I am not seeing the wood for the trees, but we are not going to surely discuss the general principles applicable to all social limitations just because we want to raise quite rightly the payment of non-contributory pensions, I think we should be talking of the general principles applicable to this Bill, which must be whether the increase is sufficient or not in the light of circumstances. But let us not for goodness sake generalise to the extent that we tackle every single bit of social legislation that we have in Gibraltar, because that is not the object of this.

HON M D XIBERRAS:

Mr Speaker, I am taking up the Minister's last point.

MR SPEAKER:

Yes, but he did it in another Bill.

HON M D XIBERRAS:

No, no on this point. I don't think, Mr Speaker, you probably heard my argument . . .

MR SPEAKER:

Perhaps it is because I follow it too well that I have been able to explain what I have said.

HON M D XIBERRAS:

I am referring to the argument and nothing else. Mr Speaker, my argument is precisely taking up where the Honourable Mr Canepa left off, and that is that he hoped, he said, that the difference - and obviously we are talking about the level of benefits - I look forward to the day when the difference between the non-contributory benefit and the contributory benefit would be less than it is today.

MR SPEAKER:

Yes, but in order to be able to reply to Mr Canepa you have expounded for the last seven minutes the virtues of the fact that someone who has contributed should get more benefits than the one who hasn't. That is accepted.

HON M D XIBERRAS:

It is not, Mr Speaker. This is what I am saying, or I am going to say.

That this is not accepted at all by me.

MR SPEAKER:

Well, let us talk about what is, because otherwise the intervention is going to waste more time than I am trying to save. Let us talk about the principles affected by the Bill this is what the Old Age non contributory pensioner gets.

HON M D XIBERRAS:

In a nutshell I am arguing that the level of these benefits should be much higher, provided of course our finances allow it, because it seems to me that whatever considerations Mr Canepa may have had in mind, and I have heard them from other people, it is not right to penalise people who might very well not have had a chance of contributing towards a social insurance pension through no fault of their own. And if I may say so the step by step approach of Mr Canepa which I had reservations about, my reservations are nowhere more applicable than in relation to this particular Bill.

Mr Speaker, these persons, I cannot recall how many they are but they are a dwindling number, who are in receipt of . . .

MR SPEAKER:

I think Mr Canepa said 1,000 didn't he?

HON M D XIBERRAS:

Yes but that is dwindling.

HON A J CANEPA:

During the course of 1975 the zenith was reached. From now on it depends at the rate at which people die. It is the maximum, what we have now.

HON M D XIBERRAS:

Very well, Mr Speaker, it is the maximum and it is likely to be a dwindling number from now onwards, and of course the higher you raise these non-contributory pensions the faster the numbers will dwindle. You see, Mr Speaker, it is again a phylosophic consideration that Mr Canepa has brought and I do not think it has any place and of these 1,000 people, Mr Canepa is talking about in 1975, how many of these, perhaps the Minister might tell us in reply, have had the chance to contribute to a social insurance pension.

I know that in England the exercise was done rather faster. I think it was 1946 and the exercise was done rather faster I believe and if not it should have been, Mr Speaker, but in any case I think that here in Gibraltar where a remodelling of pensions is taking place then this level of benefit should be much higher, I do not think that people who have contributed have any moral rights to object to any of those 1,000 who did not have a chance to contribute. Not those of course who opted out of the system. Some of them might have some of them might not have, but it is the duty of the Government, it was the duty of the Government of the day and perhaps Governments were not up to these things in those days, to ensure that everybody set aside some monies for social insurance contribution, therefore, this is something which I believe the Honourable Mr Canepa and I discussed in the . . .

MR SPEAKER:

Yes, but we are again wandering.

HON M D XIBERRAS:

And I would like to have seen, a sharper movement and a narrowing

of the differential to a greater extent than has actually happened.

I hope that the Honourable Mr Canepa will tell us from a philosophical point that there is a financial impediment to the noncontributory benefits being raised rather more. If there are such financial impediments, if the Government cannot afford to do this, then fair enough, we must accept this. My reading of the financial situation is that now is a good time to accelerate the diminishing of this differential. This could very well be done now. The Minister said that he looked forward to the day when this could be done: could he not hasten that day by increasing the non contributory benefits now.

HON MISS C ANES:

Mr Speaker, I do not have very much to say about it, but I do welcome this Bill because I do feel that these elderly people need to be protected. I feel also that the sum of £3.80 of course is very low considering the rate of cost of living today in Gibraltar. There are cases where elderly persons receive this as their sole income and they will find it very difficult indeed to make ends meet on £3.80 a week. I hope though that whichever Government comes in after the next elections will take account of consideration of this and will ensure that this is one of the first things that will be looked into for the future and that we may be able to increase these weekly contributions to these elderly persons to a more substantial level which will make it less financially difficult for them to meet their cost of living today.

MR SPEAKER:

I will then call on the Minister to reply unless Mr Bossano wishes to speak.

HON J BOSSANO:

Mr Speaker, I would like to say that as I have said already the level of pension for contributory pensioners of £15 is considered inadequate by many people including myself, and it goes without saying that if £15 is inadequate then half that amount can hardly be considered satisfactory. So that unless the Honourable Member gives an indication that he proposes at the Committee Stage to amend the table in the Bill, I shall be moving an amendment myself.

HON A J CANEPA:

I would like to take up the point that the Honourable Lady made. This pension, in very few cases I would imagine, is being paid to

people who live on their own, to elderly persons living on their own. It is being paid to elderly persons who are living with their own families, because if they are living on their own, unless they have a very substantial income of their own, they would be receiving Supplementary Benefits which are considerably higher than this, and really it was introduced originally to compensate people in a way for the fact that, in some cases through no fault of their own they hadn't had an opportunity to contribute to the Social Insurance Scheme, and also as a gesture to elderly persons who live with their families and the Government considered that they ought to have a small sum of money that might give them some self-respect, to make some contribution in the home, or to be able to afford some presents or what have you for their relatives.

In the United Kingdom of course something similar wasn't done until the people were over the age of 80, and it was over 25 years after Beveridge and all that that entailed, that such a step was taken. We were able to take the step very much earlier here.

It is true, Mr Speaker, and I am not going to comment about it at any great lengths, but there is this debate as to the extent to which people should or should not contribute to a scheme and what they should get out of it. But already you have got people who are contributing to the Social Insurance Scheme who are getting a reduced rate of pension, and if a couple gets a reduced rate of pension because for instance they only contributed an average of 25 contributions a year say instead of 52 as they ought to have done and that entitles them to a pension of say £10 a week, to my mind it is envidious that someone who contributed nothing at all should get that amount: out of what? Out of the Social Insurance Fund, certainly not; out of the Consolidated Fund, out of Revenue, perhaps the community does have such an obligation, such a duty.

HON J BOSSANO:

If the Honourable Member would give way. Is it a fact that if for example the person on an average of 25 contributions, the couple get say £10 and the Honourable Member established the Elderly Persons Pension at £12, they would get a difference of £2.00 in fact he would be helping not only those who have not contributed at all but helping those who have got less than the minimum number of contributions.

HON A J CANEPA:

It could be made up, yes, but then the argument is whether the taxpayer should be making the difference up or whether the contributions to the Social Insurance Fund should be making the difference up, and in that case what about the persons who have contributed religiously for

a whole working life of 40 years 52 contributions a year, what does he get out of the fund or out of the taxpayer.

The fact also remains, Mr Speaker, that very many of these 1,000 pensioners are people who opted out of the Social Insurance Scheme: who had an opportunity to contribute in the past. The pension is now being paid to people over the age of 65 and, therefore, bearing in mind that the Social Insurance Scheme has been going on for 20 years, very many of these people now getting the pension were round-about the age of 45 when the Scheme started, and very many of those opted out later on and again there is inequity. The question is posed about the extent to which now the community owes them something because through their fault in this case they did not contribute as they had the opportunity to do.

The cost of these pensions, Mr Speaker. I mentioned that with the 20% increase that it is proposed, I think, I haven't got the approved estimates with me but if Members check I think they will find that it is going to put the bill for the taxpayer up to about £200,000 a year, and, therefore, to quote the figure for instance, supposing we were to increase these pensions by another 50%, bringing them up to £11.40 for a couple. That would cost the taxpayer another £100,000 a year. It is not for me to say whether the finances of the Territory can afford that, that I leave to my Honourable Colleague on my right, but it is a staggering amount, and that added to the fact that I am not sure about what is the answer to the questions which have to be imposed, and which I have posed myself, would make me reluctant, I should give notice, to accept amendment to increase the level of these pensions.

HON MISS C ANES:

Would the Honourable Member give way. He mentioned that people who may be living along could of course not be able to live with £3.80 a week and that they are entitled to Supplementary Benefits. Are these people informed of the fact that they can apply for it, or is it up to them to find out? Some people may not have anyone to advise them of the situation and then find themselves in difficulties. Does the Department look into this and tries to help these people who may not have a relative or may not know enough about the situation to apply for supplementary benefits.

HON A J CANEPA:

The Department doesn't go round as it were inviting people to apply for Supplementary Benefits but the Supplementary Benefits Scheme is one which has been in operation now for very very many years. People do have some reluctance to going to the "Welfare" as they call it,

this has always been an inhibiting factor, but I think that it is well known in the community that this Scheme exists and we do have our Social Workers - I do not want to anticipate a motion later on in the Agenda - we do have our Social Workers who are in contact with elderly people in the community and they would have I think the duty, if people are suffering financial hardship, to draw their attention to the fact that this Scheme exists.

HON MISS C ANES:

Mr Speaker, you will be surprised to hear that there are still elderly people in Gibraltar who are unaware of certain benefits to which they are entitled by the fact that they are Old Age Pensioners. I know because I have made it my duty, shall I say, or because of friendship, I have looked into this.

The Minister knows that I have written to him about this and that there are still unfortunately elderly persons who for one reason or another are still not properly informed, or do not know, and unless they have someone who happens to be a friend of the family, or who hears about it and contacts them, these people are not visited by the Social Workers, and, therefore, are unaware of all these benefits that they can get. I know that probably there are very few left but some do exist.

HON A J CANEPA:

I wonder whether that sort of person, even if there were to be advertisements in the press, I wonder about the extent really to which they would get to know. All I can say is that generally I welcome from any quarters whatever such cases are brought to the notice of the Department because the community has got a duty towards these people and if anyone is entitled to a benefit they must be encouraged by every means at our disposal to apply.

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

The Bill was read a second time.

HON A J CANEPA:

Mr Speaker, I beg to give notice that the Committee Stage and Third

Reading of this Bill should be taken at a later stage of these proceedings.

MR SPEAKER:

Do all members agree that this should be so should it fall today?

HON M D XIBERRAS:

Mr Speaker, in view of the fact that I objected to at least one of the others I object to this particular one even though the overall situation has improved somewhat.

MR SPEAKER:

Well, I am delighted to hear the patient is doing better,

THE TRAFFIC (AMENDMENT) ORDINANCE 1976.

The Honourable the Attorney-General moved that a Bill for an Ordinance to amend the Traffic Ordinance (Chapter 154) be read a first time.

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

The Bill was read a first time.

HON ATTORNEY-GENERAL:

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

There are three amendments in the Bill and if I can anticipate and welcome the appearance of my Honourable and Learned Friend Mr William Isola I would say that all three amendments have been considered and

approved by Transport Commission.

Now, the first amendment. I think when I was a boy I used to read somewhat stupid riddles - when is a door not a door; etc., and one you could ask at the moment: when is a public service vehicle in respect of which a certificate of fitness has been issued, when is it fit. The answer is, when it is not fit. Now if that sounds rather foolish, let me perhaps explain. Understandably the Ordinance provides that a public service vehicle should not be used unless there has been issued a certificate of fitness, that is the ordinance. The regulations provide what these conditions are and then go on to say, "notwithstanding that a vehicle does not comply with the conditions of fitness nevertheless the Transport Commission can order an examiner to issue a certificate of fitness." This is, to our way of thinking, somewhat foolish. By all means make provision for allowing a vehicle to be used even though it doesn't comply with all the standards, but do not call it a certificate of fitness, and that is all we are doing in this first amendment. We have provided in regulations which will be published on the same day a provision: certificate of fitness if the vehicle is fit, if not the Transport Commission can in proper cases order an authority for the vehicle to be used. So they will use the same criterion as they are using at the moment, but we will not give a certificate of fitness if the vehicle has lost it, they will merely get an authority, and that is all the first amendment in clause 2 is doing. It is maintaining the status quo, taking away this anomalous situation of a certificate of fitness being issued when the vehicle does not comply with all the conditions laid down. No person will be deprived who has got a vehicle now, and no person in the future will be deprived of the chance to use it as a public service vehicle merely because he hasn't got a certificate of fitness, merely because of this change.

The second amendment: each year there has to be published at the moment in a newspaper a list of all the persons applying for public service vehicle licences. This is a somewhat costly procedure and instead we are providing that the application should be published in the Gazette, but at the same time there should be a short notice, much less costly, in the newspapers drawing attention to the issue of the Gazette with the application concerned in it.

And the third amendment relates to the driving of taxis. Now as I am sure Honourable Members will be aware, a taxi is likely to be driven either by its owner or by a named driver. Nobody else can drive except in somewhat unusual circumstances which are not relevant to the House at the moment. What we are now doing is saying that where a taxi is off the road for repairs, the driver of that taxi can be authorised as a named driver for another taxi. It stops him being out of employment because his vehicle is out of employment. He can get another job until his own taxi is back on the road.

Mr Speaker, I commend the Bill to the House.

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

HON W M ISOLA:

Mr Speaker, I think this side of the House welcomes the proposal as stated by the Honourable and Learned the Attorney-General, and I think it is perfectly sensible in the case of a car being out of service due to extensive repairs, and the Transport Commission is satisfied, that the driver should be allowed to drive another vehicle, it is ^a perfectly sensible step forward and we on this side welcome it.

We naturally welcome also the question of the cessation of publication of the enormous list of all the drivers every year as it is an unnecessary expense and quite frankly there has never been any objection. I think this is well covered by a small little notice referring the matters to anyone who should so wish to object, to refer to the Gibraltar Gazette. So, this side does welcome this amendment which is a step forward in the right direction, and I am very pleased that the Transport Commission has in this case been consulted, and no doubt that is also a step forward by the Government.

HON M D XIBERRAS:

Mr Speaker, just as a matter of curiosity, is there any reference to the report by Mr Barns?

MR SPEAKER:

Not in this Bill, no.

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

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

MR SPEAKER:

~~Do all members agree that it should be today, should this occur?~~

HON J BOSSANO:

Mr Speaker, I propose to move an amendment at the Committee Stage and I would not like it to be today.

MR SPEAKER:

Right, next Bill.

HOUSING (SPECIAL POWERS)(AMENDMENT) ORDINANCE, 1976

The Honourable the Attorney-General moved that a Bill for an Ordinance to amend the Housing (Special Powers) Ordinance, 1972 (No.11 of 1972), be read a first time.

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

The Bill was read a first time.

HON ATTORNEY-GENERAL

Mr Speaker, I have the honour to move that this Bill be now read a second time. I did not have the privilege of being a member of this House when the original Bill was passed and became the Housing (Special Powers) Ordinance, 1972, but I understand that the reasons

behind the legislation was that Government generally, in fact both sides of the House, were concerned with the fact that in some cases of Government tenancies, the best use was not being made of the property. Persons who had a Government tenancy were perhaps not occupying the premises, they might be away and nevertheless there would be property lying vacant. And so a legislation was enacted to provide that where a person is not in personal occupation, nevertheless, the tenancy could be terminated. There was a right of appeal, and indeed before the appeal the Housing Allocation Committee had to agree; there was then a right of appeal to the Court if the person alleged he was in occupation, but if there was no appeal or the appeal was not then the tenancy was terminated.

Experience has shown, and there was a particular court case in this matter, that personal occupation can be very nebulous indeed. In the particular case the person concerned had I think only occupied the house for some 60 days in the course of the year but nevertheless the Court held that because of the circumstances he was deemed to be in personal occupation. He left some furniture there and he paid his bills, and so there you had this particular house virtually unoccupied and with the housing situation in Gibraltar that just seems to be wrong.

And so what we have now done is that we have introduced a new concept and I shall have to refer in the course of this speech to a motion which I shall be moving later in the course of these proceedings asking the House to approve the making by the Governor of certain rules under the Ordinance.

What we are now doing is saying that with effect from 1st July 1976, a person must occupy the premises for at least 270 days in a calendar year beginning the 1st day of July. To occupy means to sleep in the premises. If he does not do so, then if the Housing Allocation Committee agrees, the tenancy can be terminated. I shall now refer to the rules of which members have got copies. This is the proposed motion, and if members will refer to the motion they will see this.

"A tenant shall be deemed to be in personal occupation of premises notwithstanding he does not sleep in such premises on such day but any day that the reason that he is not so sleeping is that he is on Government duty, whether inside or outside Gibraltar, he is on a course approved by Government, or he is prevented from personal occupation through circumstances beyond his control." Let us suppose he goes on a holiday, he is taken sick, and he is away for a period of time. Through circumstances beyond his control he would not be liable to have the tenancy terminated. And those of all as of right and in his discretion the Housing Manager can at any time authorise a tenant to be absent. And if the Housing Manager refuses to grant such authority then there is a right of appeal to the Housing Allocation Committee.

This would seem to be a reasonable approach to ensure that the best use is made of our accommodation. Now that is the provision contained in clause 3, 4 and 5, of the Bill.

Now, two points: those absent before the 1st of July, 1976 will be taken into account. And, secondly, you are not liable to have your tenancy terminated more than a year after the calendar year in which the absence occurs. So let us suppose the tenant is out of his house from January, February, March, April, May 1977, at any time after the calendar year beginning on 1st July, 1978, the absence cannot be retrospective to that earlier period. It can only be in respect of the previous year.

Now, the next provision to which I would refer is clause 6. At the moment where a tenancy is terminated and a person refuses to get out he is guilty of a criminal offence, but what the Court cannot do is order him out. And so further proceedings have to be taken to have him evicted. That would seem to be somewhat illogical and so by clause 6 we are giving a court where a man is convicted of remaining in property that even though the court convicts him it cannot turn him out at the moment, which is somewhat anomalous, and additional proceedings have to be taken in the civil court to get him out. What we are doing by clause 6 is to provide that the court that convicts him can also order him to get out.

Clause 7 introduces two new points. The first is that it lays down the context of the entitled tenant. An entitled tenant is defined in clause 2, and this will mean that where a tenant dies certain people will be entitled to take on the tenancy if they have a close relationship with him. Those people are set out in the clause. If members will look at clause 2, they will see that they are the widow or widower and then in certain case, the children. So we are giving this right. And the second concept that is introduced is the right of entry and this is where damage is likely to occur, further damage is likely to occur, because of some occurrence in a property to which the Bill relates.

Let us suppose there is a burst pipe in the property in a block of flats, and the water is coming through into the flat below, and in due course into the flat below that. This gives a right of entry in cases of emergency to the Housing Manager or to anybody acting with his authority. He is enjoined to do as little damage as possible but nevertheless he is entitled to enter and abate the cause of the damage.

This already exists generally in respect of all properties in the case of fire, that was in the old Public Health Ordinance and is now contained in the Fire Brigade and Fire Services Bill. It is a logical, sensible provision.

Clause 8 of the Bill is again to a certain extent consequential. It lays down for the purposes for which rules can be made, or additional purposes for which a rule can be made, and clause 9 merely amends the form of notice of determination of a tenancy.

I think I can fairly say that this would appear to give effect to what was the original intention of the House, that personal occupation was necessary, but in view of the difficulties that had occurred where personal occupation and in fact wasted occupation, let me put it that way, if a person occupies for only perhaps 30 days in the year, why should he be allowed to deprive other needy people of accommodation.

There are ample safeguards in the rules, the safeguards as of right, specific one of duty or where circumstances are beyond control, and the discretionary where the Housing Manager gives him authority.

Mr Speaker, I commend the Bill to this House.

MR SPEAKER:

Before I put the question to this House does any Honourable Member wish to speak on the merits and general principles of the Bill and before any member does that we will recess for tea and then we will take it over from there after the tea recess.

The House recessed at 5.00 p.m.

The House resumed at 5.30 p.m.

MR SPEAKER:

Right, we are on the Housing (Special Powers)(Amendment) Bill and I invite members to speak on the general principles and merits of the Bill.

HON M D XIBERRAS:

Mr Speaker, when the principal Bill was introduced, the Housing (Special Powers) Ordinance was introduced by the previous administration, I had the honour to introduce this Bill in this House, and Honourable Members opposite I remember complained that even though the general purpose of the Ordinance was one which they could support, yet the

mechanics of it were not to their liking. They complained at the time of the intrusion of personal freedom, they complained of the ambiguity of certain definitions, and generally speaking I believe it was either the Honourable Mr Abecasis or the Honourable Mr Montegriffo who said that the intention was good but the measure itself did not do justice to the intention.

Now, Mr Speaker, this Bill was a most controversial one in its time, that is the principal Bill, and I knew in introducing it that I was skirting certain dangerous areas, but that it was necessary to do so because of the very serious housing problem that existed and the very serious problem that the Housing Unit had to contend with. Basically the purpose of the Bill was to make the best use of existing Government accommodation and to try to eliminate practices whereby the agreed processes of Government which aimed at the fair distribution of housing were not circumvented and that people on the housing list would have confidence in that housing list and fair play would be done and seen to be done.

Now, Mr Speaker, I find it somewhat surprising, therefore, in view of the attitude of the then Opposition, that some of these measures have come before the House. I know that from somewhere else there was certain advice at the time of the Housing (Special Powers) Bill, certain misgivings expressed, and I find in this amendment to the principal Bill that at least in one and possibly in three of the main provisions of the Bill, the Government is now not only skirting the dangerous areas but putting at least one foot into them.

The provision which defines personal occupancy in respect of the Housing (Special Powers) Ordinance contained in this amendment is one of surprising rigidity, and quite uncharacteristic of the attitude of Honourable Members opposite when they were on this side of the House. To define with such preciseness "personal occupancy" to the extent of stating how many days a person, or should I say the householder, should be in occupation of his dwelling, namely 270 days out of 365 or 366, to my mind poses very serious problems and will not provide a solution to whatever difficulties the Government may have had in the implementation of the general purpose of the principal ordinance.

I appreciate that in a court of law the general intentions of the Bill are difficult to uphold in the absence of concrete definitions, and even in less far reaching measures in the United Kingdom, they have had a great debate about occupations, about squatters, and so forth, and people have in Britain shied away from positions which here are already included in the principal ordinance. Therefore, the House will understand my hesitation in supporting a further encroachment into personal freedom, and I think we have passed the bounds in respect of these 270 days, the bounds of what is reasonably and even of what is practicable.

As a definition of common sense I would imagine that roughly speaking it could be said that a person who is not in occupation of his flat for this period, roughly the period stated in the amendment, could not properly be said to be in personal occupation, but the difficulty is in drawing the precise line, because if one draws the precise line then transgression of this line has to be measured. And one can go from the subline intention of this Bill, if I may say so, to ~~the~~ ridiculous provision, if I may say so, of this amendment.

Let us imagine the concrete situation where the householder of the family does happen to be away for periods of time, and let us imagine a non-too-scrupulous Administration at some future time wanting to get hold of accommodation, asking this person for proof that he has been in occupation of the flat for 270 days.

If I may exaggerate the point, does the householder have to provide certificates as to where he has been; does he have to provide witnesses of his activities; will he be threatened if he cannot prove this with the transfer of the tenancy to someone else in his family. I appreciate that I am exaggerating the point and that I am certainly not complying with the intention of Honourable Members opposite. It is not that. They wish to see the law upheld in the courts. But surely this is not the way to do it, because they will be enmeshed in, at best Bureaucracy, at worst put at the mercy of an unscrupulous Housing Authority, of individuals, or even of a committee.

Mr Speaker, for the fair implementation of these rather harsh powers it is necessary to have some sort of consensus of how a Housing Authority should act including of course the Minister. We would have in this House a certain amount of disagreement as to the validity of the pointage system, as to the validity of the Housing Allocation Committee, and I believe it was the Minister for Housing and, the ex-Minister for Housing, were both, I believe, quoted at saying at the AACR party conference that the Housing Committee was a piece of paper.

HON H J ZAMMITT:

Mr Speaker, what we said was **that** the Housing Allocation Scheme was a piece of paper, not the Committee.

HON M D XIBERRAS:

I stand corrected. But the ex-Minister certainly said that he had had disagreement with the Housing Allocation Committee, and it has been discussed in this House and the disagreements were seen to be serious about a number of allocations.

Now it is the general standing of the Committee and the machinery which it is supposed to administrate which will colour the public attitude to any extra powers that they are given. Any definition of those powers also depend on the general standing, and the general standing also depends on the Government of the day, because if a Minister is going to say publicly that he has had disagreement with the Housing Allocation Committee without specifying to what degree or about what, then the whole machinery begins to be suspicious in the public mind. And I do not think it is right to go into the thoughts of people, which I would imagine would be verifiable by the committee, in the first place, who are the ones who must act on reports received in the first place, if the committee does not enjoy the solidity which it should enjoy in the opinion of Honourable Members on this side of the House.

Mr Speaker, if Ministers that entirely support both the committee and the existing powers of the committee understanding of the committee, with Ministers who are prepared to give statutory importance to the committee as we intended to do in this Ordinance as a by-product when it was introduced, with an Opposition which is prepared to support this concept entirely, then there can be pure misgivings. I am sorry to say that Honourable Members opposite have not in their time in office contributed to the standing of the Housing Allocation Committee. If anything they have cast doubts, more so the Honourable Mr Abecasis than Mr Zammit, but unfortunately Mr Zammit has to my mind also . . .

MR SPEAKER:

No, no, I had hoped you would have cut short your speech, but we are not going to discuss the relations between the Ministers and the Committee.

HON M D XIBERRAS:

Therefore, Mr Speaker, we will not be able to support this approach to the settlement of the problem.

Of course we must keep an open mind to the extent of listening to further explanations which Honourable Members opposite may give, but on paper as it stands, and that is how the law is usually read by posterity, by different people that must use it, we cannot support that approach to solving what undoubtedly is a responsibility of the Government, to ensure that the purpose of the law is upheld in the Courts. There might very well be other ways of doing it, we are prepared to look at them, and if we think of some other approach ourselves, we shall bring it forward at the appropriate stage.

Mr Speaker, in respect of clause 4, I don't think there is serious disagreement, except that my Honourable and Learned Friend I believe will be doing some research on this and he might have certain objections to it.

Let us go to another point, Mr Speaker, in respect of the tenancy agreement. I think this is a move in the right direction. In other words, who is to be the tenant of the House, who is entitled to live in the house, that conditions can tenancies be passed over to other members of the family on certain conditions. In principle we agree with this. The problem here obviously is that of people moving into a particular Government dwelling who are not related or have nothing to do with the tenant at the particular time in the expectation that that tenant is going to move away from his or her house, and then, having lived there for a while, for 6 months, then they come into the house. They inherit the house as it were. Now there can be abuses of this kind but again we are treading on very moveable ground, we have to be careful as to how it is done because there can be cases of genuine dependants, not related by family ties, and one must be very careful to give the necessary discretion to the Housing Authority so that in bona fide cases innocent people are not hit over the heads with this legislation.

That on principle I would agree with but it is something again which will need to be studied a bit further.

The one about the damage in the leaking pipe I think requires further examination as well. I am thinking of the general context as presented to the House before, that is, of an unscrupulous Housing Authority. Let us assume that a Housing Manager could under the guise of a leaky pipe or some sort of pretext enter a house which he would normally be forbidden to do and ascertaining whether there is evidence of personal occupation or there is no evidence of personal occupation. Now in the normal course of events I would agree with this proposal because we do not want Government property damaged or a hazard encouraged or allowed to carry on unnoticed. But as the Attorney-General says, under the Fire Brigade Ordinance I think the Fire Brigade do have powers to enter premises in order to safeguard properties and in order to safeguard lives. I think that if I were to examine the Fire Brigade Ordinance, which we have just passed with that specific purpose in mind, if that is sufficient then I do not think it would be an imposition on the Fire Brigade to allow them to do this job, and keep the Housing Authority out of it because the Housing Authority have a vested interest in acquiring a flat for re-allocation and we should not give them powers that are too broad if other people can exercise these powers. Fire Brigade would not come into the picture except that there is some evidence when people are worried about this. The Housing Manager may be worried at any particular time that the flat is empty and therefore he has the temptation to use this in order to investigate any particular flat.

Mr Speaker, I think my Honourable and Learned Friend will be able to deal with some of the other points, so to sum up that is the position. I think we are treading on moveable ground, we do not disagree with the intentions of the Government in this, which is the implementation of our original purpose in the principal ordinance, but there are certain measures which are made specific, very explicit in the amending Bill which give rise to some concern to Honourable Members on this side.

MON H J ZAMMIT:

Mr Speaker, Sir, may I say that I not only sympathise with but I share the views of the Leader of the Opposition particularly in the mechanics of the amendments, or the fulfilment of the intention, but let me try and assure the Leader of the Opposition that the cases he has mentioned do not certainly within my mind fall within this particular category of what we are trying to achieve. Mr Speaker, firstly let me say that like the Honourable the Attorney-General who opened the speech by saying that he wasn't here in 1972, and I wasn't here in 1971 when this was enacted by the previous Administration and looking at Hansards I think that what this side of the House, then in opposition, were really clamouring about was the fact that there was ultimately no right of appeal to the Magistrates. That is the way I deduced it, the main thing was that there was not ultimately the right of appeal to a Court of First Instance.

Now, as the law was drafted way back in 1972, Sir, we have found and the Honourable the Attorney-General referred to a particular case, that the Court ruled that there was Animus Revertendi, which means that a dwelling could be completely vacant for an unspecified period of time and providing the tenant could establish that he had furniture there with the intention of subsequently returning, there was absolutely nothing that we could do about it. In fact, Mr Speaker, I think the Honourable and Learned the Attorney-General did point out that in one particular case, I think Members opposite may know of, we lost. Now, I am not going to dwell on the matters on which I think there seems to be common agreement, even if in principle. On the question of right of entry, I do agree with the Honourable the Leader of the Opposition, that if you had an unscrupulous Housing Manager, or an unscrupulous Housing Allocation Committee the powers could be abused, but that certainly in my mind doesn't exist. I know he was generalising but if one dwells on that, Sir, then we can think of an unscrupulous judge, or an unscrupulous magistrate, or an unscrupulous something else. Of course invariably the power must be vested upon an individual, and I am sure that if he is found to be unscrupulous he wouldn't be in that particular post for very very long. But I am not going to labour on that . . .

MR SPEAKER:

I don't think we ought to because it could indirectly cast aspersions on . . .

HON H J ZAMMITT:

Exactly, I do not think it was meant as such by the Honourable the Leader of the Opposition.

HON M D XIBERRAS:

Mr Speaker, if the Honourable Member will give way. It was not in the very least. What I am saying is that it is bad law as a general proposition to allow persons certain powers which might be abused. I am not saying that anybody . . .

HON H J ZAMMITT:

I agree with that, Sir, I agree that if this was so then of course the danger is there but I was trying to say that there could be unscrupulous anythings, and eventually in life it must fall upon the shoulders of an individual to make the ultimate decision. The good thing about this, Mr Speaker, is that ultimately the dispossession would obviously have to go to court, and, therefore, no matter how unscrupulous the individual might be there would be this safeguard. I think the Leader of the Opposition was not really making a point, I think there is agreement in principle there, and, therefore, I am not going to press that other than saying that of course again the whole idea of obtaining the right of entry could be for the imminent occasion, ie for instance in Varyl Begg where we all know that the conduit and the drainage etc necessarily goes in through the ground floor tenancies, and there we have experienced certain matters which are being investigated by the contractors but there have been occasions when the ground floor flats, have suffered some damage. The right of entry by the Housing Manager or any person authorised by the Housing Manager, was purely to alay damage, whether it be a sewer or what have you, But certainly I do not think that the Housing Manager would be empowered to use this particular right of entry in an unoccupied flat. This would be that the tenants happen to be playing bingo somewhere when this emergency arises. It would not be used, or at least I hope it would not be used under any other guise but that of the emergency.

MR SPEAKER:

I think we are getting into dangerous ground when we are qualifying the

use to which a legislation will be put to. Perhaps I am talking out of turn but I am afraid that it is I think rather dangerous for legislators to qualify their legislation before it is even passed.

HON H J ZAMMITT:

Mr Speaker, that is what it is envisaged, what can be done out of the two clauses.

Now, Mr Speaker, I think that the main argument by the Leader of the Opposition of course dwelt on the 270 days and the remaining days. Well of course this goes back to the case at issue that I mentioned in which we had a court ruling on this animus revertendi. There is absolutely, Mr Speaker, and I hope the Attorney-General will clear this, not only for the Opposition's satisfaction but of course but I equally want to be satisfied, that it is not intended certainly not in my view to dispossess the householder who is not living in the tenancy for 270 days if his immediate family, the family composition as in the tenancy agreement, happen to be there. The whole object of the whole idea of this piece of legislation is to be able to recover the house which is completely and utterly vacant. It does not mean, as the Leader of the Opposition mentioned, that it would mean any outsider, any different relative coming to live there and say I am now the tenant, that is not so, but what I do . . .

HON M D XIBERRAS:

Mr Speaker, this is not what I said. I appreciate the Honourable Member's point, but in respect of this point I said that the tenancy would then have to be passed to somebody else in the family.

HON H J ZAMMITT:

Well yes, Sir, not necessarily, because, Mr Speaker, there is a case for instance of an individual being in the Merchant Navy, or the Royal Navy for that matter, and being away for a 3 year tour, but his wife, his son or his immediate family, the family that were included in the tenancy agreement when that person was offered the accommodation, would of course be allowed to stay there. I would say, and I firmly support, that it certainly should not include that, and that it should include anybody dwelling or living in the residence as if the tenant had died in the case of somebody being away. The whole object of this certainly is that. In my mind, as Minister for Housing, I would not allow a person to be dispossessed. My whole idea, and this is where I think there is common agreement, is that what I do not want to have is a house being vacant, being unoccupied by anybody, that I cannot afford, nor can I afford a person to have a house and - there

are several people that are in this position, Mr Speaker - who can afford to live in the Costa del Sol and come here for as little as a month a year. That certainly not at Government expense, they have a house if they want to but ^{at} their own expense, by buying one.

That is the object of the whole piece of legislation, Mr Speaker, I think the Attorney-General of course will bring out the finer points and this is precisely why the Honourable the Attorney-General has moved this and not me, Mr Speaker.

HON ATTORNEY-GENERAL:

Mr Speaker could I be allowed to bend the rules, because there is one matter . . .

MR SPEAKER:

There is one particular person I think who wants to speak.

HON ATTORNEY-GENERAL:

I accept that as the Bill stands the persons included in the tenancy agreement could not occupy if he were away and in Committee Stage an amendment will be brought to cover that point.

HON P J ISOLA:

I am glad that has been said because that is one of the serious objections to the Bill.

Mr Speaker, we certainly endorse the last remarks made by the Minister for Housing that people should not be allowed to spend eleven months of the year in the Costa del Sol and then have a Government flat at public expense subsidised in Gibraltar to come back for the wintery months or whatever it is, on that we agree. On the other hand you have got to be careful that in trying to hit that sort of chap you do not injure a lot of other people as well and this is the problem with this Bill.

When the Landlord and Tenant Ordinance was passed, a general assurance was given that Government tenants would be given the same protection as was given to private tenants. Of course the Housing (Special Powers)(Amendment) Ordinance . . . moved away from that assurance and we must be very careful how far we move away from that. We agree that vacant Government accommodation, because there is such a demand for housing and so forth, people should not be allowed to enjoy vacant

Government property until such time as they feel they want to fill it, and to that extent we agree with the Housing (Special Powers) Ordinance, and we think it is necessary.

Where we get worried, Mr Speaker, is in the in-roads that are made by this latest piece of legislation because of a difficult court decision. The Minister spoke about the needs to establish *animus revertendi*, as an example, but once the chap established that he intended to go back then he was in personal occupation. Whether that decision was right or not I don't know. I do not know whether it was tested in a higher court. I think it might have been, but anyway there it is. I would think that it is necessary not to shift away the test of personal occupation from the Courts to the Allocation Committee, which is what this law seeks to do by giving us a time limit. I would have thought that it was possible to define personal occupation by saying words to the effect that a person is not substantially in occupation, that in effect the house in question is not his home by reason of the fact that he spends a very substantial amount of time away from it in any year. Words to that effect I think would help a court to judge the circumstances, to hear the tenant, to hear the landlord and come to a just conclusion. I think once you start talking about so many days in a year you get into difficulties and I think that once you get into difficulties you start defining what sleeping is, it causes you to make rules, people having to go to the Housing Manager to get permission to sleep away from a Government flat for any particular day. It will get you into tremendous difficulties, Mr Speaker, apart from putting the burden of proof, which I notice has slipped in, in clause 5 of the Bill, the burden of proof on the tenant to show that he has been in personal occupation for 270 days or more.

Well, how does the tenant prove that he has been in personal occupation. Does he prove it by swearing that he has been there and is that sufficient? Or would the magistrate require a certificate from somebody, or would the magistrate say, "Well, if you were away from the house for five days in 1976, where is your permission from the Housing Manager?" This puts, Mr Speaker, an enormous burden on Government tenants, an enormous burden on Government tenants purely and simply to catch the few. I am a little worried about this because you will recollect the case we had here of the Government teacher who went on a Commonwealth Scholarship to Canada, and he hasn't come back yet, I hear. We have had that case, Mr Speaker, now I know that it was the policy of successive Governments that when people are away on a scholarship, or training, or University or what you will, did not face dispossession as a rule. I do not want to go into the merits of it but because of a dispute between a Teacher and the Minister of Education we suddenly see that a notice has been given under the Housing (Special Powers) Ordinance, to evict that person. I don't think that when the Housing (Special Powers) Ordinance was put to the House there was any intention in the Government's mind, and they

in
 were/Opposition then, that people who leave Gibraltar for purpose of training or for getting further education should be liable to be thrown out of their houses under the provisions of this Ordinance.

Now, this particular Bill and the rules that are put alongside it to enforce it goes further now because if you look at the rules that it is proposed to pass with this Bill, it says; "A person shall be deemed to be in personal occupation of premises notwithstanding that he does not sleep on such premises on any day that his reason for his not sleeping there is that he is on Government duty whether inside or outside Gibraltar, he is on a course approved by Government inside or outside Gibraltar, or prevent from personal occupation by circumstances beyond his control," which I suppose is meant to cover every other eventuality. Why should a person who goes to England on a course or on Government duty be deemed to be in personal occupation and the person who goes on a course because his company sends him to train for 6 months is not deemed to be. But why should he have to go to the Government for approval. Supposing the Government says well I don't approve, there is no need for you to go for your employers for 6 months to Tangier. You will jolly well leave your house, and we will give you one when you come back. Why should Government be in a position to approve or not approve that, this to my mind is unfair.

Why should Government, why should a civil servant have priority over another citizen, for Government accommodation. And then he has to go to a course, why should the Government have to approve a course if the Government are not paying for it. These are the problems we get into when we start talking about 270 days and then, Mr Speaker, what happens to nightwatchmen. I suppose they sleep during the day. I don't know whether it is day or night. I suppose day in the interpretation ordinance it includes days because if it does not we are all out of our **houses**.

Then of course we have been told that there is going to be an amendment, so that the tenant could be away in England and the family left behind. And then there is this provision in the Bill they must be able to be in personal occupation for 270 or more days in any such year. That is a strange one. Is the Government going to say, "I have reason to believe he is not going to be able to be in possession for 270 days." Why? "Because I hear he has got a job in England or he has got a ticket one way or things like that," but, Mr Speaker, these are the problems we get into when we start defining personal occupation too much by reference to days, I would think that if you made a definition of personal occupation not limited to days but just a general definition and let the courts still decide this point, but put more restraints on the definition of the court. More restraints on the definition of personal occupation and then you become more flexible and then it is possible for somebody who has only been away for a month for the Government in a clear case to take it to Court. But I think that by doing this 270 days business you are infringing

I think quite an important principle and that is the principle that when somebody goes to court the person who seeks to get something, in the criminal case for example the Crown has to prove that the man is guilty beyond reasonable doubt or whatever it is; in a civil case the person who takes the other chap to court has to prove his case, but here, in a thing that is so vital to the individual, and that is the right to his home, the individual has to justify he has been there for 270 days. Now the sort of chap who has a scheme in mind, the sort of chap you want to get will probably have that evidence. The chap who won't have it is the ordinary person who perhaps has gone to the Costa del Sol for 3 months, transgresses the rules by a few days and all he can say to the court is, "Well, I swear I have been here, here are my telephone bills and so on," but may not be able to prove in a way put by the Ordinance.

I am worried with the infringements there are here on the liberty of the subject and the serious infringement on the assurances given in this House, that Government tenants shall have the same protection as they would have by private landlords. If we try to pass this sort of legislation in respect of private landlords, my goodness, I tremble to think what would happen to tenants of private landlords. But of course Government must be a very good landlord. But then, Mr Speaker, there are a lot of people here who do not come in with these definitions and this business that somebody has to sleep in a room as long as the Housing Manager has approved it in writing, I think is taking this thing a bit far. Mr Speaker, that a Government tenant who may have to be out of Gibraltar 4 months in a year, in any one year, (a) because he takes 6 weeks holiday, I don't know what holidays they take in Gibraltar, I don't know whether it is 4 or 6 weeks, he may be on sick leave, should have to go along to the Housing Manager because he may transgress the 270 days, or out of caution or out of a precaution do it. I think it is the wrong way to approach it, I think the temptation on the Housing Department to prosecute is much stronger if you have got this business.

I do not know how urgent this is but I think the Government should consider withdrawing this Bill, giving it more thought, and trying to make a general definition that would give the courts discretion to meet the spirit of what we all agree with, and that is to get the unscrupulous chap to give up his accommodation badly needed to other people. The only other point, Mr Speaker, this point of entering a house, and that is that under subsection (2) it says: "The Housing Manager should do as little damage as is reasonably possible, and if the tenant is not present, on leaving the premises ensure it is properly secured." Well I would have thought that if he is allowed to go in doing as little damage as is reasonably possible he should also have the obligation to put the damage right afterwards. If the tenant is playing Bingo or something and there is nobody in the house, why should the tenant have to pay for the damage that the Housing Manager may cause in entering. If the purpose is to abate a

nuisance then I should think that if he does damage he should repair it, the Housing Manager.

My friend has made the point already and I do not want to repeat it all. Of course it is giving him powers that are not given to private landlords for instance. I don't know how far that is necessary under this particular Ordinance at all, but the general opposition to the Bill, Mr Speaker, is that it does tend to give the Housing Department in the Government very sweeping powers. It does tend to infringe upon the rights of tenants and it does tend to put I think an unreasonable burden on tenants who have to be away for 270 or more days in the year, and of course it distinguishes between Government civil servants and servants of other companies, which I think is wrong in principle. I think if anybody is away for reasons of business of employment or so forth he should be entitled to put the same defence as the Government servant can put up. I mean if a policeman can put it up, I do not see why John Citizen in Main Street working for somebody shouldn't be able to put it up as well.

We certainly object to the rules as they are proposed and of course we will oppose them, and I think all this comes from trying to define everything too much. I personally think that what you ought to do is to define "personal occupation" in such a way as will enable a court to come to a reasonable conclusion, but I think courts have proved themselves to be reasonable usually in these matters, so I think in this form we will have to oppose it, Mr Speaker.

MR SPEAKER:

I will call on the mover now to reply.

HON ATTORNEY-GENERAL:

Mr Speaker, I have listened with considerable interest to the comments of the members of the Opposition and if I may say so without being unduly offensive, it did seem to me to be rather woolly. The Honourable the Leader of the Opposition said further time was needed to examine. I would point out that this Bill has been published for six weeks and there has been plenty of time. The Honourable and Learned Peter Isola advanced very ingenious theories of the definition of "personal occupation" which could be perhaps thought up. I can assure him that this was an approach which I had considered when asked to draft the legislation and after giving it very much thought I came to the conclusion that it was not practical. He has said that it should be easy, he has waved his arms in a very ingenious way, if I may put it that way, but he has not come forward with any suggestions, and there have been some six weeks where if really the Opposition thought that this was a bad measure and if there was power to decide, it could

have been done. And for that reason Government did give this very considerable thought and decided that the only practical solution is the 270 days. It does not state categorically that it is entirely perfect, but it is satisfied that it is the best that can be done in the circumstances.

Now, there are certain points I would like to clear up, the sort of distinction between Government servants on a course and other persons on a course. Civil servants have benefitted said the Honourable Member Mr Peter Isola: that is not so. It is the course that has to be approved by Government. If it is a Government course, then of course certainly it will be approved. If Shell or some other firm sends one of their employees there is no reason whatsoever why that course should not be approved by Government, but if we are going to insist on making the best use of our housing facilities there must be a provision which will prevent the unscrupulous tenant going off on some course, or what he calls a course, in order to avoid being deemed **not** to be in "personal occupation".

The point raised by the Honourable and Learned Mr Peter Isola, "will not be able to be in occupation," and he suggested that the Government might know that the man is going to be away, going on a job, therefore, they could move. That is not so because in those circumstances he will not be able to be in personal occupation. This means that where a person has already spent more than 90 days out of the house and, therefore, in any event because there are only another 200 days to go, cannot go for 270 days, then of course you haven't got to wait till the end of the year and say, "X" was out of Gibraltar for more than 95 days, you can as soon as he has been up for that period and therefore cannot complete the 270 in a year, you can take the necessary action.

Now, there is one matter I think with respect to the Honourable Minister, where he was not entirely correct on the question of entry. He suggested it couldn't be done if the tenant was away from Gibraltar, only if perhaps the tenant was playing Bingo or sitting in the House of Assembly. That is not so of course. It would be ridiculous to say that if you had a burst pipe in the flat of a tenant who is away on a course, away on duty, you couldn't go in but you could go in if he was playing Bingo.

HON H J ZAMMITT:

Let me assure the Honourable Attorney-General that if I said that I apologise. I said in answer to the Leader of the Opposition that there was no intention of abusing this right of entry as I understood the Leader of the Opposition to have said that the Housing Manager or the Housing Authority could take advantage of entering a flat under this guise to see if the flat was in possession or not. What I did want to say, Sir, was that this power was for use in cases of emergency where

there could be a burst pipe when the tenant was not there, he was playing Bingo, but it could equally mean that the tenant could be away from Gibraltar.

HON M D XIBERRAS:

I think the point has been made already but the thing is that the law is concerned with good intentions or otherwise, it gives certain powers and the abuse of this power is not being considered, if the law allows the possibility of abuse. I am not accusing the Minister or anybody else. Mr Speaker, whilst I am on my feet could I ask the Attorney-General whether he is going to deal with the points I made for the principle contained on the rights of entry of the manager, couldn't the Fire Brigade be called in on these occasions, and there is one other point that he hasn't answered.

HON ATTORNEY-GENERAL:

I think with respect to the Leader of the Opposition that is not a valid point. If the Housing Manager were to be unscrupulous and he hasn't got the power himself all he does is to call the Fire Brigade, he can be present and if it is purely for the purpose of obtaining information then he could do so whether he went in himself or if the Fire Brigade went in. And to call out the Fire Brigade to avoid the unnecessary - I don't know how many fire engines there are at the moment - but to call out the Fire Brigade to stop a small leak could be unnecessary imposition, but I do feel that the right of entry is a reasonable one to prevent damage.

HON M D XIBERRAS:

The other point, Mr Speaker, if the Honourable Member will give way, would the Government intend to circularise all tenants, government tenants, advising them of the responsibilities under this Ordinance, because the burden of course is on the tenant.

HON ATTORNEY-GENERAL:

Yes, I think this is so. I think probably if all tenancy agreements - this is of course a matter for the Minister - all tenancy agreements the requirements of the Ordinance would be brought to the attention of the tenants concerned. I think there is provision actually in the Ordinance at the moment for terms to be put in the tenancy agreement, certainly in the First Schedule, that sets out certain regulations, but Government is not seeking to dispossess people, if Government wishes to be unscrupulous it could use the Landlord and Tenant

Ordinance to terminate tenancies. It is not bound by the second part of the Landlord and Tenant Ordinance, it could terminate them if it wished to do so. It doesn't wish to do so, it only wishes to terminate a tenancy in the proper circumstances.

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

The Hon A J Canepa
 The Hon Lt. Col. J L Hoare
 The Hon A P Montegriffo
 The Hon A W Serfaty
 The Hon H J Zammit
 The Hon J K Havers
 The Hon A Collings

The following Honourable Members voted against:

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

The following Honourable Members were absent from the Chamber:

The Hon I Abecasis
 The Hon J Bossano
 The Hon L Devincenzi
 The Hon M K Featherstone
 The Hon Sir Joshua Hassan
 The Hon W M Isola

The Bill was read a second time.

HON ATTORNEY-GENERAL;

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

This was agreed to.

THE SAVINGS BANK (AMENDMENT) ORDINANCE 1976

The Honourable the Attorney-General moved that a Bill for an Ordinance to amend the Savings Bank Ordinance (Chapter 142) be read a first time.

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

The Bill was read a first time.

HON ATTORNEY-GENERAL:

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

Under the provisions of the Savings Bank Ordinance as it stands at the moment, where an account has remained dormant, that is that there have been no payment in and no withdrawals for a period of twenty years and is less than £1 the account may be closed and the money transferred to general revenue. The money is not lost to the depositor or to his successors testamentally, or if he is intestate it could always be claimed and the Accountant General is bound to pay out.

Now there are at present some 11,000 accounts in the Post Office Savings Bank. These accounts, each and every one, has to be checked monthly. Of those 11,000 account 4,400 approximately at the present time have not been touched for 7 or more years. They have lain dormant. No payments out, no payments in. The figure is divided up, 3,700 are accounts of less than £1, and the other 700 are accounts of between £1 and £25.

What the Bill does, therefore, is after 7 years it enables the account to be closed after appropriate notice has been given, it hasn't been dealt with at all and it is under £25, and the amount is transferred to general revenue. But again, and this is maintained, the depositor or the successor does not loose the right to that money. This is in the opinion of Government a justified measure.

Now, there is one very important new factor. At the present when an account is closed, or before it is closed, a notice goes up in the Post Office and a notice in the Gazette. In future, not only will there be a notice in the Post Office and a notice in the Gazette, but where the account is between £1 and £25 a notice must be sent to the person

who is shown as the account holder at his last known address, which of course will be the address in the deposit book, and it will only be six months after that notice that the account can be closed and the transfer made. That has a two fold benefit,

Firstly, it will have the effect of reminding the depositor that he has got money so that he can either go and collect it or at least deal with the account so that it doesn't close; and secondly, and I think this is extremely important, it will if the depositor is dead show the next-of-kin that there is money to which they are entitled. He may have died, the next-of-kin is completely unaware that there is a small sum in the Savings Bank, but this new procedure will be of inestimable benefit in some cases, it will give the knowledge that there is a right to claim this money. And lastly I will stress the point again: by closing an account and transferring the money to revenue we are not depriving the depositor or the successor of the right to that money, they can still claim it and then it has to be paid out of the fund to the person entitled to the money.

Mr Speaker, I commend the Bill to this House.

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

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

The Bill was read a second time.

HON ATTORNEY-GENERAL:

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

This was agreed to,

THE ENDANGERED SPECIED (IMPORTS AND EXPORTS) ORDINANCE, 1976

The Honourable the

/ Attorney-General moved that a Bill for an Ordinance to restrict the importation and exportation of certain animals, plants and items; to restrict the movement after importation of certain live animals; and for connected purposes, be read a first time.

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

The Bill was read a first time.

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to move that this Bill be now read a second time. As those members of the House who have looked at the Explanatory Memorandum will be aware that the Bill gives the power in Gibraltar to implement the Convention on International Trade in endangered Species of Wild Fauna and Flora. This was signed in Washington on behalf of the United Kingdom in 1973.

There is a world wide interest in the protection of, for the benefit of the Honourable and Gallant Major opposite, animals and plants, and we have been encouraged by Her Majesty's Government to extend the Bill to Gibraltar. And we have in fact followed the original Bill which was published and taken to the House of Lords in the United Kingdom, although I understand that the Bill itself may be amended before it goes to the House of Commons and it may be necessary here at a later stage, the next Government, to introduce commensurate amendments here.

Now, there are obviously one or two points of concern. All the flora and fauna are given their latin names. This is so both in the Convention and in the English legislation. This is because that is the world wide terminology. In the case of fauna it is generally possible to give an English equivalent, but not always.

MR SPEAKER:

I was going to ask, and I know that ignorance of the law is no excuse, but is ignorance of latin a valid defence if someone said he did not understand the specie that he was . . .

HON ATTORNEY-GENERAL:

I think that is unlikely, Mr Speaker, but we have the advantage here that advice will be given by two or three young men in Gibraltar who are extremely concerned and interested and knowledgeable in this subject. They will be the scientific advisers and certainly they will be able to help on this question of advising whether a particular animal comes within one of these categories.

In the case of flowers, I enquired from England as to whether they would be able to supply me with a list of the English names, and they said 'No, there are no English names of these particular flowers'. Surprising but nevertheless true. Now if there is one thing, I hope Mr Speaker, you will not rule me out of order because it is not strictly relevant to this Bill, and that is the Bill does nothing really to protect our own flora and fauna. With one exception, and that is of the barbary apes, there is nothing in Gibraltar which comes within the terms of this particular Bill, but I am hoping to produce for the next Government legislation which will in fact protect our own flora and fauna of certain species. Birds at the moment are protected, but there is no animal protected in Gibraltar, no butterflies, no flowers. I think any Government would be only too sympathetic to introduce such legislation, and moves are already afoot, to put forward ideas to Government for legislation which of course will be side by side with this particular legislation.

Mr Speaker, I commend the Bill to this House.

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

HON A P MONTEGRIFFO:

Mr Speaker, I would like to thank the Honourable the Attorney-General for his very clear exposition of what is quite a difficult Bill to follow, sometimes I wonder whether a hippopotamus or whatever it is called, it makes any difference who bites which, but I see it is a very clear exposition and I am sure that not even Felix Rodriguez de la Fuente of "Hombres, la tierra y los macacos", who appears on Spanish Television occasionally could have done better.

HON M D XIBERRAS:

Mr Speaker, of course we welcome the Bill. Even though I was reputed to be something of a latin scholar, I am finding difficulty in following this list of animals, flora, fauna and so forth and I have one particular

question to ask of the Attorney-General, and that is whether the gibbits is excluded?

HON A J CANEPA:

Before the Honourable and Learned Attorney-General exercises his rights to reply, Mr Speaker, I would like him to inform the House in view of the fact that he says that this Bill was modelled entirely on one introduced in the House of Lords, whether unless we get a unilateral declaration of independence, whether the barbery apes were consulted in the drafting of this Bill.

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

The Bill was read a second time.

HON ATTORNEY-GENERAL:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of this Bill be taken at a later stage of this meeting, tonight if all members of the House would agree.

This was agreed to.

THE PENSIONS (AMENDMENT) ORDINANCE 1976.

The Honourable the Financial and Development Secretary moved that a Bill for an Ordinance to amend the Pensions Ordinance (Chapter 121) be read a first time.

Mr Speaker put the question which was resolved in the affirmative

The Bill was read a first time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to move that the Bill be now read a second time. Sir, the object of this Bill is to ensure as far as it is possible to do so, consistent and equal treatment of the pensions of permanent and pensionable officers of the Overseas Civil Service. As I am sure the House is aware all officers designated under the various Overseas Service Agreements receive an inducement allowance. The inducement allowance, which incorporates at present an element in respect of cost of living which is dependent upon the territories in which the officer is serving, is determined by and paid by the British Government. Historically, however, there have been some difference between one territory and another in the treatment of inducement allowance for pensions purposes, and if I may with the indulgence of the Chair and the House, I would like to read and quote from the communication which we have been sent from the Ministry of Overseas Development:

"Since Overseas Service Aid Agreements were first introduced in 1961 inducement allowances have been fully pensionable in some territories, partly pensionable in others and not pensionable at all in others. In the Falkland Islands for example no part of the inducement allowance has been pensionable, whereas in the Western Pacific Territories and the Seychelles, the supplement has been fully pensionable and has been grossed up for the value of a notional local income tax payment. That grossing up has resulted in what has come to be known as gross notional pensionable emoluments. The result is today therefore that officers who are serving in some dependant territories are earning pensions at a rate which is considerably lower than those their colleagues on otherwise equal and generally applicable terms of service are earning in other Territories. And to some extent this disparity has been wide because, as I explained, there is an element of cost of living allowance in the inducement allowances which have hitherto been paid and that has varied. Moreover, it has also been increased in some Territories in different proportions to the increases awarded in others. So as I say the situation which we are faced with, or which Her Majesty's Government is faced with today, is that two otherwise equal officers in the same service have been earning and are earning pensions at different rates, one higher and one lower."

It is against this background, Sir, that the Ministry of Overseas Development has been examining the pensionable emoluments in officers serving in the Overseas Civil Service, and has been considering the means by which the present unequal treatment and the consequential disparity in ultimate pensions can be removed.

The outcome is a formula which this Bill, Sir, is designed to make it possible to apply in Gibraltar in respect of those permanent and pensionable officers of the Overseas Civil Service who are serving in Gibraltar.

The formula, Sir, has two basic constituents or elements. The first is that Her Majesty's Government will deduce an equivalent salary in the UK net of notional facts. Second, Her Majesty's Government will deduce an inducement allowance excluding any elements of cost of living. Now this means, Sir, that in future the existing procedure whereby inducement allowances are based, or at least I should say, are reviewed on a biennial basis which takes into account variation since the previous review in the cost of living in respect of the Territory in which the officer is serving will be discontinued. And the inducement allowance, if I have understood what we have been informed by Her Majesty's Government, will be a constant and will be irrespective of where the officer is serving.

The varial will still be a cost of living allowance, but, in computing the officer's pension in future, that cost of living allowance will be disregarded, and the pension in future will be based on, one, UK equivalent salary net of notional tax plus the inducement allowance. In this way, Sir, Her Majesty's Government believes that they will achieve a much greater degree of uniformity and certainly equality of treatment as between one Territory and another in respect of the Overseas Civil Service officers who are serving in them. It is going to mean, although I mention this as an aside, it is going to mean in some territories, notably in the Western Pacific for example, that certain officers in relation to pension increment based on service will have certain mark time arrangements. Now those do not concern us.

Sir, the substance of this is incorporated, if Honourable Members will refer to page 141 - I think it is the easiest way to refer to it - page 141 of the Bill before the House and under - the second little (b) that appears rather more than half way down the page, which defines pensionable emoluments in respect of public service of designated officers under the Government of Gibraltar, and they include (1) the equivalent United Kingdom salary, and (2) inducement elements, but does not include any other emoluments or allowances whatsoever.

Sir, the remaining changes are to some extent consequential in that it is necessary of course to include new definitions.

There is one other point I think I might mention and that is that by adopting this new formula the pensions of those officers concerned will of course benefit by the fact that since they are United Kingdom related they will be subject to the regular updating which occurs in the United Kingdom as a result of the United Kingdom Pensions Increase Act.

Now, Sir, there is obviously one question in the minds of all members: what is this going to cost the Gibraltar Government? And here I am obliged to say that it is in the absence of any specific case in which calculations can be made, and no officer is at present affected, no officer has in fact retired since the 1st of January, 1974, when this

new formula comes into effect, it is impossible to be categorical that there is no financial effect. However, it can be said with complete certainty that if there are any local financial effects, and on my reading and consideration of it I think it is possible that they could be to our advantage rather than to our disadvantage, but either way it is quite certain that they will be completely negligible, both in relation to any individual officer who may in the future be affected and because I am advised that there are only four officers at present serving in Gibraltar to whom the new arrangement will obviously apply in relation to any total cost. I commend the Bill to the House and beg to move.

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

HON M D XIBERRAS:

Mr Speaker, there are general considerations in this Bill that I for one would not find in principle to my liking and Honourable Members on this side of the House will express misgivings about the whole inducement allowance system and obviously pensionability because of the effect it could have had, and I agree that this effect is less now, on the level of salaries generally for the higher civil servants. Perhaps it is opposite that this Bill should have been introduced after the Chief Minister read a statement on Morgan. I would not describe them as misgiving, but my general ill disposition to the Bill arises not about the particular provisions of it but rather centre around the system, which makes of course inducement allowances and their pensionability necessary in a place like Gibraltar which after all is a part of Europe and where standards as Honourable Members opposite know, should be more or less those applicable in Britain. I appreciate, however, that standardisation from Her Majesty's Government's point of view is a good idea, but I would like to know just out of curiosity whether the theoretical effect of this would be to increase the pension of our own civil servants, and by that I mean the UK recruited civil servants working in Gibraltar or otherwise.

The formula is rather complicated and I would not dare follow it or criticise it in any detail, but I do notice that salary is obviously a very important part of it, and, therefore, what I have had to say I think is a legitimate question as regards the general level of salaries of the higher civil servants in Gibraltar.

I was puzzled by the word "deduced" especially when used next to the word "induced". Does the word "deduced" mean "assumed" in that context, does it mean that, is the salaries assumed or is it the real salary that is taken into account: and the cost of living allowance,

how does it apply generally to Gibraltar.

Could the Honourable the Financial and Development Secretary give us some information about that.

My general reservations about this are of a generally ideological nature, on the specific I don't think that people coming to work here should have to have all these extra provisions in order to make their work sufficiently remunerative, I think that people should come here and should be able to work for roughly the same salary and pension conditions as they would work for in the United Kingdom. But it is a long tradition of the Overseas Civil Service which is of worldwide application, I just hope that when it does go Gibraltar will be one of the first places in which it is no longer applied.

Perhaps the Honourable the Financial and Development Secretary could answer those questions, if he considers them relevant.

MR SPEAKER:

Right, if the mover would like to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I think that the Honourable the Leader of the Opposition's third point is perhaps best answered, I think he probably realises this, that first of all the Overseas Civil Service is a dying cadre. Each year the number gets fewer. Secondly, it is a service which is general throughout - or was general throughout - the Dependant Territories and the terms and conditions although, there were some minor variations, in basic essentials, the essential terms and conditions were the same all over, and consequently, therefore, you had or you could have had a situation in which an officer let us say in East or West Africa could be transferred and basically the emolument would be put together and structured in the same way. Now, he said what would be its effect on the, or could it have had effect on the local civil service. I don't quite know how he comes to that.

HON M D XIBERRAS:

What I mentioned was Overseas Civil Servants working in Gibraltar.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

That it could have had an effect on that?

HON M D XIBERRAS:

Up or down.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I see. If it had come in before, I take it that he means. As far as I know this could have, and I think my Honourable and Learned Friend will confirm this, I think we have had in a completely different connection, we have had what I may call a warning that in some cases the new arrangements could be a reduction of the quantum of inducement, but I am not sure about that.

However, as far as I can see I don't really see the connection between the point that the Honourable the Leader of the Opposition was trying to make because these people are after all is said and done recruited by and paid by the British Government less, in terms of their overall salary, what the local level of salaries is. The original thing was that the officer would receive the local salary and over and above that, an inducement allowance, which would be composed of the two elements, the inducement part and a cost of living part. And then what is proposed now is that so far as his pension is concerned, only his pension is going to be related to a UK notional salary, net of notional tax, plus an inducement, for pension purposes, and this is purely to try and get as much consistency and equality of treatment for pension purposes of officers serving in a variety of Territories to previous emoluments have for pension purposes been variable.

The Honourable the Leader of the Opposition also said what really did I mean by "deduce". I haven't got the Oxford English Dictionary by me but I think I meant precisely what "deduce" means, which is I think more or less a computed assumption.

Thirdly he asked me about COLA and I am afraid, Mr Speaker, I do not have any details, no detail has been supplied to us in relation to this problem of what Her Majesty's Government considers should be the cost of living element.

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to give notice that if possible the Committee Stage and Third Reading of the Bill be taken at a later stage, today.

This was agreed to.

THE SUPPLEMENTARY APPROPRIATION (1976-1977) ORDINANCE, 1976

The Honourable the Financial and Development Secretary moved that a Bill for an Ordinance to apply further sums of money to the service of the year ending on the 31st March, 1977, be read a first time.

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

The Bill was read a first time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

Sir, this Bill seeks to appropriate out of the Consolidated Fund the sums necessary to meet the expenditure approved by this House earlier in this meeting and to apply those sums to the purposes set out in the Schedule as read with the Schedule of Supplementary Estimates which were before the House.

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

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

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken if possible at a later stage tonight.

MR SPEAKER:

I am not putting it because I intend, with due deference to every-one, and unless there is an inclination to the contrary, to recess immediately after the Committee Stage until tomorrow morning.

HON A P MONTEGRIFFO:

I thought that perhaps those Bills that have been given approval for a third reading, those that the Opposition have agreed to, I suggest with your leave that they could be taken through the Committee Stage and Third Reading now.

MR SPEAKER:

Well I understand that there has been some understanding arrived at between . . .

HON A P MONTEGRIFFO:

Well, yes, that stands.

MR SPEAKER:

Yes, precisely, and that, therefore, there is no immediacy for time now.

HON A P MONTEGRIFFO:

No, but the more we take off our shoulders the better. It will only take about 10 minutes.

MR SPEAKER:

Well there are a fair amount of amendments on the Committee Stage.

HON A P MONTEGRIFFO:

Not on the Bills that were approved this morning. We are not touching the Miscellaneous one because I appreciate that there are members who want to put some amendments there.

MR SPEAKER:

Well let us put it the other way round, because I do not want to go off too late tonight, no Bill subsequent to the first objection that we receive to the reading being taken today will be taken today.

HON M D XIBERRAS:

Well I might as well make a comment. I was waiting for you to put the question as to whether all members agree that this particular one . . .

MR SPEAKER:

Well, do all members agree that the Committee Stage and Third Reading of this Bill should be taken at a later stage of this meeting should this fall today?

HON M D XIBERRAS:

I was going to rise on that occasion, Mr Speaker, and I do so now. I should explain that the Chief Minister said that he would make some sort of statement before we left as regards the settlement that has been reached on our differences . . .

HON A P MONTEGRIFFO:

He has not yet come into the Chamber.

HON M D XIBERRAS:

I am saying that this is the result to normality in which we consider each Bill on its merits as to whether we should agree or not that the Committee Stage should be taken the same day, is of course as I have informed the Chief Minister conditional on the statement being made, I have no reason to suppose . . .

MR SPEAKER:

Yes, but I think the whole thing is completely and utterly academic because we are not going to **take any of** these Bills today, whatever happens. And that is what I am saying.

HON M D XIBERRAS:

I was wondering whether the Honourable Member who is deputising for the Chief Minister could make that statement now. I don't know whether he knows about it.

HON A P MONTEGRIFFO:

No, the Chief Minister is still outside . . .

MR SPEAKER:

I have been given an intimation by the Chief Minister, if I am allowed to say so, that we should perhaps go through the Second Reading of the Bills and then recess until tomorrow morning. To be quite honest it is ten minutes past seven o'clock and we have still got one more Bill. Unless there is a very good reason I do not intend to stay later than a quarter to eight tonight, because I think we had a long day yesterday and there is no obvious reason why we should go much further.

HON A P MONTEGRIFFO:

My idea, Sir, was not to get through the Committee Stage and Third Reading any of the controvertial Bills.

MR SPEAKER:

But that I understand.

HON A P MONTEGRIFFO:

Only the four or five that the Opposition gave approval to. That was all.

HON M D XIBERRAS:

Yes, but we have an objection to that in view of what the Chief Minister has told me that there will be a resumption of the meeting at a later date, and that would allow us to move the motions which might be tabled then.

MR SPEAKER:

Fair enough.

HON M D XIBERRAS:

This is the position. I do not know whether the Members opposite were aware of this or the Chair was aware of this.

MR SPEAKER:

I was aware of this and this is why I was intending to recess immediately after the Second Readings.

HON A P MONTEGRIFFO:

I was not aware of this but I am sure that any undertaking that the Chief Minister has made to the Leader of the Opposition he will honour.

HON M D XIBERRAS:

Of course. I thought you might have communicated it now.

MR SPEAKER:

Right, next Bill, then.

THE IMPORTS AND EXPORTS (AMENDMENT)(No.2) ORDINANCE, 1976.

The Honourable the Financial and Development Secretary moved that a Bill for an Ordinance to amend the Imports and Exports Ordinance (Chapter 75) be read a first time.

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

The Bill was read a first time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

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

The Imports and Exports (Amendment) Bill which this House passed into law in January failed to cover two small but important points. The first is that it made no provision for the entry procedure which is enshrined in the amending Ordinance to be applied to all imports, it made no provision for the entry procedure to be applied to goods arriving by post. There is no provision in the Ordinance as amended regarding entry forms for imports coming through the postal services as opposed to arriving by air or ship and classified under the general heading of cargo.

Now, the first point of course there is that clearly the object and certainly the intention of the new re-entry system does not affect and it was never intended to affect, and should not affect, ordinary private parcels arriving for individuals through the post. But clearly trade goods, goods which are imported as import for trade purposes and purposes which are similar to the purposes for which goods are imported by air or sea should be regarded as coming within the new system. The Bill, therefore, seeks to do two things, it seeks to separate the ordinary private parcels received by anybody and to deal with those as they always have been, that is to say, they will be assessed on the basis of the customs declaration affixed to the parcel by the sender and will be available to the consignee as at present from the Post Office in the normal way. In the case, however, of trade goods imported for trade purposes, commercial parcels and this sort of thing, the importer will be required to file an entry form in the same way, in exactly the same manner and subject to the same conditions as if the import had arrived by air or by sea.

The second amendment relates to the transit shed. The Ordinance, that is the principal Ordinance now, it wasn't touched in the amending Ordinance in January, the principal Ordinance provides for the Transit Shed and it further provides that that approval should be subject to conditions. Now quite clearly if the system is not to ^{be} completely bogged down, there must be an incentive, or some incentive some urging, on the part of importers to move goods through the Transit Shed, and it is quite logical therefore that any regulations made governing the use and operation of the Transit Shed should be capable of imposing charges.

Unfortunately, however, the legal advice that the Government has received is that this cannot be done under Section 26, which is the section under which the regulations would be made. It is, therefore, necessary, and this is done in clause 3 of the Bill, to amend Section 26 to provide that such regulations may in fact be made relative to the charges to be imposed.

The fourth amendment is consequential and it is simply to amend the Schedule to the Licensing and Fees Ordinance to specify the hours of attending in the Transit Shed and to provide in respect of the Licensing and Fees Ordinance that outside those hours the overtime fees of the Revenue Staff can be collected.

Sir, I commend the Bill to the House and beg to move.

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

HON M D XIBERRAS:

Mr Speaker, the Honourable Member's explanation of the first of these modifications or extra powers that are being given did not include an explanation of the need for this. I think it is fair that the House when voting extra powers should also hear why it is necessary that the Government should have these extra powers. They are by no means draconian, I appreciate that, because I imagine that all parcels coming through the post can be opened and the Revenue does have the authority to open up the parcels in order to charge duty. But would the Honourable Member explain to what different considerations the parcels that will now be treated the same of those coming by air or by sea, will be subject and why it is necessary for this to happen. And would the Honourable Member also give an assurance that it is not intended to have extra powers of confiscation of goods which the House is not aware that there might or might not be a need for.

As regards the other two provisions, on the Transit Shed of course I think the Government should have a right to levy a charge there, I think they should have it in order to fulfil the purpose of the Transit Shed, but would the Honourable the Financial and Development Secretary say what sort of a fee he has in mind. I think that it is only fair that in voting the powers we should also know at present what sort of a fee he intends to impose.

The last one, the hours. I thought this already existed, the hours for the purposes of overtime and so forth. Is there in fact a change in the hours and if there is no change why has he found it necessary to include them or to have legislation on this, subject to those questions being answered, we will support the Bill.

HON ATTORNEY-GENERAL:

Mr Speaker, I will take the last point first, the hours are exactly the same as they are at present. They only apply to Government Stores, they do not apply to Transit Sheds, and all we are doing is putting into the Schedule of the Licensing and Fees Ordinance the mention of Transit Sheds so that they fall into line with Government Stores. There is no other difference whatsoever.

HON M XIBERRAS:

Would the Hon Member give way. I believe these hours are the same as those that apply at the Revenue proper. Now has the Government considered that the Transit Shed may be subject to different considerations, that there might be a need for longer hours here.

HON ATTORNEY-GENERAL:

The point is this. Additional fees are payable for overtime, and, therefore, these specify the normal hours, not the hours on which the Transit Sheds may be opened but what are deemed to be the normal hours of Transit Sheds.

HON M XIBERRAS:

My point is, Mr Speaker, is the Government satisfied that it is reasonable, in view of the difficulties that there might be in removing things from the Transit Sheds, and there are, I think, some extra difficulties involved in my experience does the Government think that it is reasonable to ask people to pay overtime outside these hours?

MR SPEAKER:

We mustn't have question time now as we seem to be having.

HON ATTORNEY-GENERAL:

I understand in fact this is part of the agreement with the Revenue Staff. If I could go back to the Section 8, there are no fresh powers being given to Revenue Officers in respect of parcels coming by air. The second clause 8(1) is virtually the same as Section 8 at the present, the only difference is that we have put into Section 8 a reference, that it doesn't apply to goods

imported in the way of trade. So no more powers have been given but what we do want to do is to have a universal form of entry for goods imported whether they come by air, whether they come by sea or whether they come through the post. It is the new clause 8(2) which is really the new provision in this Bill and that is where the requirements are made on a trader bringing goods by way of trade through the post, the return he is required to make. And the reason for this is basically to build up reasonable statistics and to have a uniform method of assessing duties.

MR SPEAKER:

I will call on the mover to reply now.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, first of all the needs: there are two needs. First of all because the trade goods are the kind of goods, the imports, which must be classified specifically if we are to have an accurate picture of our total imports in any one year. Second, and it is almost a corollary, if that were not so there would of course be an inevitably diversion of ordinary trade goods through the postal services, with the probability, I would think, a quite strong probability, that you would very soon ^{completely} overload the postal facilities, simply because they would not be treated as any other trade goods if this amendment was not carried out. So those are the two basic reasons for separating private packages from essential trade goods.

I think my Hon and Learned Colleague has given the assurance regarding forfeiture in relation to private packages coming through the post. There has been no change and that exists in the present law at the moment.

Now the other thing is that the Hon the Leader of the Opposition asked me about the fees. No fees have finally ^{been} decided and here I think I must say that we are still in the process of meeting representatives of the traders and other interested parties. We are having as it were a forum of discussion because we have said all along that the success of the pre entry system which is a very widely used system, the success does depend upon the consideration of all parties, good will on the part of the trade, and we feel it is absolutely essential therefore to carry the trade with us in these matters. So we are some way and the Government has not fixed the date for introducing the new system, but we are still some way off. It is not going to be introduced next month. We want to make certain that when we go ahead everybody is mentally conditioned to operating and we have ironed out all the snags, we have answered the queries, and we have satisfied as far as we can within the terms of law, the questions which we have been asked and are continually being asked by those who are going to be at the receiving end, shall we say, of the pre-entry system.

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

The Bill was held a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, Sir, I beg to give notice that if possible the Committee Stage and Third Reading of this Bill should be taken tonight.

MR SPEAKER:

I hate to disappoint the Hon Minister but I don't think it is going to be possible, I think now that it is 7.30 we would only in any event be able to take four bills which are short and we are only going to gain 5 or 6 minutes in so doing, so we shall recess now until tomorrow morning at 10.30. For the convenience of members perhaps I would say that tomorrow we will be meeting from 10.30 to 1.00 and we will not be meeting in the afternoon. At 1 o'clock we will be recessing until the following morning at 10.30. I say this in case members have other plans and meetings to attend.

HON CHIEF MINISTER:

As far as the early afternoon is concerned it is a professional matter in which one member of the Opposition and myself are concerned in court, but I would be prepared to carry on sitting at 5 or 6, but I think there were other people who have commitments but that is all.

MR SPEAKER:

I have a commitment later on, I could of course.....

HON M XIBERRAS:

Mr Speaker, the only reason I ask is that obviously some times it is convenient for one and some times for the other. The merits of any particular case of course are accepted.

MR SPEAKER:

Anyway it is one of the others might be different next time.

HON CHIEF MINISTER:

Of course the Leader of the Opposition might have known that, but anyhow.

MR SPEAKER:

Right, we will then recess until tomorrow morning at 10.30.

The House recessed at 7.25 p.m.

THURSDAY THE 1st JULY 1976.

The House resumed at 10.30 a.m.

MR SPEAKER:

I will remind the House that we managed to finish the First and Second Readings of all Bills yesterday evening, so we will now proceed with the Committee Stage of the Bills in the order paper.

HON ATTORNEY-GENERAL:

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

The Miscellaneous (Amendments) Bill, 1976;
 The Food and Drugs (Amendment) Bill, 1976;
 The Group Practice Medical Scheme (Amendment) Bill, 1976;
 The Education (Amendment) Bill, 1976;
 The Employment Injuries Insurance (Amendment) Bill 1976;
 The Social Insurance (Amendment) Bill 1976;
 The Non-Contributory Social Insurance Benefit and Unemployment Insurance (Amendment) Bill, 1976;
 The Elderly Persons (Non-Contribution) Pensions (Amendment) Bill, 1976;
 The Traffic (Amendment) Bill 1976;
 The Savings Bank (Amendment) Bill, 1976;
 The Endangered Species (Imports and Exports) Bill, 1976;
 The Pensions (Amendment) Bill, 1976;
 The Supplementary Appropriation (1976-77) Bill, 1976;
 The Imports and Exports (Amendment)(No.2) Bill, 1976;

The House went into Committee.

The Miscellaneous Amendments Bill, 1976;

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

Clause 3

MR CHAIRMAN: There is an amendment to clause 3.

HON P J ISOLA:

Mr Chairman, I want to move an amendment that clause 3 of the Bill be amended by the addition of the words "in any case in which a person or body of persons on whose recommendations the member has been appointed indicate to the Governor that such member no longer enjoys the confidence of that person or body of persons", immediately after the words "at any time" where the same appears at the end of the above clause.

The purpose of this amendment is to ensure that a member of a committee should not be subject to removal at any time except in the situation where the person or body of persons of whom that person is a nominee no longer have any confidence in him. The idea is that the question of removal is still a matter for discretion for the Governor but the removal of a member of a committee, especially of the committee indicated in this Bill, should not be open during the period of office of a member of a committee at the whim of the Governor. I am not saying that he would just do it that way, but the way the Bill is at the moment drafted the Governor would be able to remove any member of a committee at any time from any of these committees. In this way we preserve the independence of committees to the extent that they do a period office, but in the event of members in the Committee no longer enjoying the confidence of those who have nominated them, gives the Governor in that particular instance, and in that particular instance only, power to remove the member.

I notice that there is another amendment, I don't know whether I should deal with this, another amendment where it allows any authority, I presume the authority means that the Governor has consulted anybody, it allows them to make representations to the Governor regarding this appointment at any time. But of course that would to a certain extent meet the point, but on the other hand it leaves completely open the discretion of the Governor to terminate the appointment of any member of any committee, of the committees mentioned in the Bill. I think that is a very very wide power being given to the Governor, to the Governor or to the Minister, and I think it should be restricted. This question of removal of members at any time should be restricted to the situation that brought about these amendments to the Bill. I commend the amendment to this Committee.

Mr Chairman then proposed the amendment.

HON CHIEF MINISTER:

Mr Chairman, I would like to state to the House that some time before notice of this amendment was given, and in fact I think it was shortly after the last meeting, the Hon Mr Bossano came along to discuss a proposed amendment of which he had given notice then and on the strength of which I had said we would leave the Committee Stage for this meeting. The suggestions dealing with this matter which he has brought I don't think the working was acceptable to the Attorney-General. Now it was also pointed out that we agreed with the principle that there should be power to remove even in cases where there is no power to remove now, there were about 20 Ordinances in which there is no power to remove now at all, and that in order to comply with not only this particular amendment but with the spirit of the idea that anybody who is appointed by or on the nomination of a representative body, and who had ceased to represent that body or failed to attend or something happened to him, that there would be power vested in the Governor, but a discretionary power and not a mandatory power on the Governor to be able to dismiss this person and appoint somebody else.

In order to cover everyone of the cases on the same principle it was suggested by the Attorney-General that this could be done better by an amendment to the Interpretation and General Clauses Ordinance. It seems to me that the merits of both matters should be considered at the same time rather than to be at cross purposes because the spirit of the amendment is the same. I would like also to hear Hon Members on this matter generally once the Attorney-General explains the legalities of the matter which I leave to him.

I hope that I have given sufficient information to make the House aware that we are at idem on the purpose behind the request of the GTC, and to some extent behind the proposed amendment, but that in all the circumstances it covers a much wider range of committees and meets more the requirement which gave rise to this controversy.

HON ATTORNEY-GENERAL:

Mr Chairman, Government cannot accept the amendment proposed by the Hon and Learned Mr Peter Isola. I will start off by reminding members that the general provisions is that contained in the Interpretation and General Provisions Ordinance, that the authority with power to appoint has got power to terminate his appointment unless a provision to the contrary appears. So that is the basic provision: power to do so unless a contrary intention appears. That is considered reasonable and fair.

In Gibraltar there are at the moment some 26 Boards and Committees to which appointments are made. In 20 cases there is no provision to the contrary so there is an automatic power to remove for any reason governed by the Interpretation and General Provisions Ordinance. In only 6 cases, and these are the ones mentioned in this Bill, is there in which a contrary intention appears.

Now, I think that at the Second Reading a suggestion was made that this power might be exercised wrongfully. As far as I am aware in the four years I have been here there has never been any suggestion at any time that a power to remove has been wrongly exercised.

Now, let us look at this particular amendment which the Hon Member has put forward. There are in this particular committee two representatives of employers, two of workers, one representative of the Director, and an independant member. Now the amendment, as proposed by the Hon Mr Peter Isola, would not relate to the independant member. What is to happen if having been appointed for this specific period, which is 5 years, he for some reason refuses to attend, or let us say he becomes mentally unsound, or he is convicted of an offence which makes it quite clear that he is not a proper person to sit on a committee. In those circumstances there would be absolutely no power to remove, and surely in those circumstances quite clearly he should be removed and replaced by a proper person.

Now, I would imagine that if you had a representative of employees appointed by the Governor on the recommendations shall we say of the Gibraltar Trades Council, if that person failed to attend I have no doubt that the Trades Council, being a responsible body, would make a recommendation to the Governor themselves. Or let us say if he had to go to a mental institution, they would make representations. But nothing could happen in the case of an independent member. I think we must stick to the general principle that these matters are dealt with in a proper sensible way and that there must be a general discretion to terminate an appointment in the discretion of the appointing authority, whether it be for non-attendance, conviction of a crime, loss of confidence, mental instability. I do not think we can possibly name all the cases, however carefully one thinks something else might crop up and for that reason rather than try and specify them all and we have a general provision relating to all the 26, let us leave this particular Bill as it is, and bearing in mind that I am going to move an amendment which I shall also mention at this stage, that if a person has been appointed after consultation with a particular body, that body or a similar body, because that body itself may cease to be representative of employees or employers, may make representations to the Governor.

HON J BOSSANO:

Mr Chairman, I think the Hon and Learned the Attorney-General has got a valid point as regards the need to apply the same treatment to all Government Boards and not just the specific ones that are here in this particular amendment Ordinance, but I feel that the wording of the amendment proposed by the Hon Mr Peter Isola is perhaps more indicative of what is required. I think the wording of the Hon the Attorney-General's amendment which says: "May make representations to the Governor regarding such appointment", perhaps legally means the same thing but certainly to me as a layman it is not as clear cut an indication that as far as people who are appointed to Boards after consulting specific bodies are concerned they are not there to express personal opinion. It is not just a question of somebody going mentally ill or failing to attend meetings; certainly from the point of view of the Gibraltar Trades Council the attitude taken by the Gibraltar Trades Council is that appointees to Government bodies are there to put forward the policy of the executive committee of the Trades Council and are required to report back to that Executive Committee and to furnish copies of minutes and so on. If he expounded a policy in committee which is contrary to Trades Council policy then the Trades Council would wish to remove that person because the person is not doing the job that he should be doing as far as the Trades Council is concerned, although he may be doing an eminently good job from the point of view of the Government.

So I think certainly as far as the Trades Council is concerned, and we have been I think the ones who have been most consistent on a change of this type being introduced into the law, we see the representatives on Government bodies as delegates of the Trades Council who have got very little freedom in the decisions that they take. They have to work within a policy that is given to them by the Executive of the Trades Council, and I feel that the wording of the amendment

moved at this stage, which makes reference to the person no longer enjoying the confidence, reflects more accurately the freedom that the Trades Council would wish to enjoy in asking for people to be removed than that perhaps in the Hon and Learned the Attorney-General's amendment, I also think that whatever amendment is finally agreed to should make it quite clear that the representations to the Governor regarding the appointment are intended with a view to the person being replaced. I mean, that should appear.

I feel that the amendment would be more appropriate perhaps in the Interpretation and General Clauses Ordinance because we would like to have standard treatment in all Government Boards where we are represented rather than have to a situation applying in some Board and not applying in others, and I also think that there is a valid argument in independants perhaps not doing a good job and the Government or the Governor wanting to remove the independant, but the danger there is of course that perhaps what the Administration may think is not a good job may be seen differently in other quarters, and I think giving just a blanket power to remove opens the door, I am not saying it will happen, but it may open the door to a particularly awkward customer being removed because he is awkward.

HON P J ISOLA:

Mr Chairman, I would like to add to that. I should imagine the reasons why the six particular Boards which are specifically excluded by the Ordinances in question was because they are very important ones and it was thought desirable that people who were appointed should be able to stay in the Board should be able to be independant in their judgement.

Now, I appreciate the points made by the Hon and Learned the Attorney-General but the problem is that, alright, a man may go crazy and you want to remove him because he has got an unbalanced mind, or has become unbalanced, but equally a man may be absolutely sane and you may still want to remove him for other reasons, and this particular Bill gives that power. That is the objection to it. This Bill revokes the policy followed in regard to these 6 Ordinances, which was that people should be appointed for a definite time and should not be subject to removal and thus be able to exercise independance of judgement. If the people who have been appointed have been appointed on consultation with a Union or a Board, then clearly there should be provision that once these people do not enjoy their confidence they should be removed. But in the case of independents, so long as you have independents in committees, I think the principle applied must be that they should be able to exercise independent judgement without fear of being represented against, quietly, secretly, by other people, and the Governor having the power to remove them from these offices.

If the Hon and Learned the Attorney-General were to add an amendment to say that in particular circumstances in these committees a man could be removed then one would go along with it, but to give blanket authority in effect could mean the end of independent members on Boards. It may be a good thing, I don't know, but if that is what is intended I suppose this is a good way of doing it, but I don't think I could agree to withdrawing the amendment, Mr Chairman, because I think the purpose of introducing these amendments was in order to make provision for what my amendment makes provision, and I think anything else, if there is a problem in other areas, then I think it should be met by amending legislation at the appropriate time. But at one stroke of the pen to give the governor powers to remove anybody at any time literally for any reason is a matter which we cannot go along with.

HON CHIEF MINISTER:

I just want to say that it was the intention and it was in that spirit that this draft prepared by the Attorney-General came to this House, that the idea was that representations should be made in order to be able to have somebody removed, and though the Attorney-General says it is unacceptable to have these restraining powers on the appointing authority, I think perhaps it would make the point clearer in the legislation if the words were added at the end of the proposed second amendment, that is to say "whereby in making any appointment an authority has consulted anybody, whether by reason of a statutory requirement so to do or not, such body or any similar body may at any time thereafter make representations to the Governor regarding such appointment with a view to a substitute being appointed."

MR CHAIRMAN:

Is that going to be the subject of an amendment.

HON CHIEF MINISTER:

Yes, Mr Chairman, I propose an amendment by adding these words at the end of the Attorney-General's amendment. That would make it quite clear, though there is still a discretion that a representation saying: "You as the Governor or you as the Minister asked us to appoint a representative of the GTC, and now he has ceased to be a member, we ask you to replace him." It does not give them statutory powers but it points out that they have been asked, without seeing that that person's appointment should be terminated, and somebody else should be substituted in his place. That will keep the discretion open, but it is pretty clear and I hope that that will be acceptable. When it comes to the Attorney-General's amendment, the words "with a view to a substitute being appointed." will be moved.

MR CHAIRMAN:

An undertaking is being given that if Mr Isola's amendment is withdrawn the other one will get through. That is how I understand it. What has Mr Isola got to say about it.

HON P J ISOLA:

I propose to proceed with my amendment.

Mr Chairman then put the question in the terms of the amendment and on a vote being taken the following Hon Members voted in favour:

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

The following Hon Member voted against:

Hon I Abecasis
 Hon J Bossano
 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 H J Zammit
 Hon J K Havers
 Hon A Collings

The amendment was accordingly defeated.
 Clause 3 stood part of the Bill.

HON ATTORNEY-GENERAL:

Mr Chairman, I apologise to the House for this, I have failed to point out a typographical error in clause 2 of the Bill, and I would like to move that clause 2 be amended by the addition after the word "employment" appearing four lines from the bottom of the words "was insurable employment", so that this would read: "made under the erroneous belief that his employment was insurable employment be subject".

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

Clause 2 as amended stood part of the Bill.

Clause 4

HON M XIBERRAS:

Mr Chairman, we are going to vote against Clause 4.

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

Hon I Abecasis
Hon J Bossano
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 H J Zammitt
Hon J K Havers
Hon A Collings

The following Hon Members voted against:

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

Clause 4 stood part of the Bill.

Clause 5 and 6 were agreed to and stood part of the Bill.

Clauses 7 to 10

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

Hon I Abecasis
Hon J Bossano
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 H J Zammitt
Hon J K Havers
Hon A Collings

The following Hon Members voted against:

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

Clauses 7 to 10 stood part of the Bill.

New Clause 11

HON ATTORNEY GENERAL:

Mr Chairman I beg to move that a new clause be added, to be numbered clause 11, as follows:

"Amendment
 of Cap.79.

11. Section 43 of the Interpretation and General Clauses Ordinance is amended as follows:

- (i) by numbering the existing section as subsection (1) thereof; and
- (ii) by the addition of a new subsection (2) as follows -

"(2) Where in making nay appointment an authority has consulted anybody, whether by reasons of a statutory requirements so to do or not, such body or any similar body, may at an any time thereafter make representations to the Governor regarding such appointment."

Mr Chairman, I think the matter has been aired and it would be wasting the time of this House if I explained again why we were proposing this amendment.

HON A J CANEPA:

Mr Chairman, I believe the Chief Minister intended to move a further amendment that would have the effect of adding a few words at the end, and he has asked me to do so on his behalf.

MRCHAIRMAN:

Well, I will propose the question and then we will deal with that.

Mr Chairman then proposed the question.

HON A J CANEPA:

Mr Chairman I beg to move that the clause be further amended by the addition of the words "appointment" in the last line of the words "with a view to a substitute being appointed".

Mr Chairman then proposed the question in the terms of the amendment to the amendment.

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

Mr Chairman then put the question in the terms of the Hon the Attorney-General's amendment, as amended, which was resolved in the affirmative.

New Clause 11, as amended, stood part of the Bill.

MR CHAIRMAN;

I understand that there is now a new clause which Mr Bossano wishes to add to the Bill, if he so wishes to move.

HON J BOSSANO:

Mr Speaker, I beg to move that a new clause to be numbered Clause 12 be added to the Bill as follows:

"Amendment of Ordinance 5 of 1973.	12. Section 67(1) of the Medical and Health Ordinance 1973 is amended as follows:-
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- i. by the deletion of the "six" in the first line of subsection (f) and the substitution of the word "five" therefor;
- ii. by the addition of a new subsection (g) as follows:

"(g) two other persons appointed by the Governor one of whom shall be a nurse and the other appointed after consultation with the Gibraltar Trades Council."

Mr Speaker, there perhaps I could explain what the first part of the amendment does, the reduction and the reason for the reduction in the number, and that is that under Section 67 (1) (f) six persons are appointed by the Governor, not being persons in full or part-time employment under the Crown in respect of its Government of Gibraltar. Now, in fact out of those six persons at present, one is appointed after consultation with the Gibraltar Trades Council but there is no requirement to do so. So that by reducing the number under that section to five I am in fact removing from the six the person who is already appointed after consultation with the Trades Council, and I am making the consultation a statutory requirement in the next subsection. Another reason of course for doing this rather than simply amending subsection (f), is that as I have just read out the six persons appointed under this subsection cannot be in the employment, either part time or full time, of the Government of Gibraltar, and the Trades Council would not be willing to accept a limitation of its power to seek as its nominee the person who is considered most competent regardless of where that person works. And I also inform the House that in fact the person who has been representing the Trades Council for the last 3 years is working in the Gibraltar Government and apparently nobody has noticed. That is by the bye, but we might as well legalise the situation, Mr Speaker.

The following subsections increase the number by one and introduces this element of a requirement for consultation with the Gibraltar Trades Council, which I am saying is already happening, but which the Trades Council would like to see as a statutory obligation, and makes it possible for that person to be employed anywhere.

The other thing which is new is that the extra person

the Board should be a nurse, and this is something that has come about because of the nurses themselves, the Nursing Section of the TGWU brought the matter up at the level of the Branch, subsequently at the District, and it was brought to the Trades Council and I was asked to bring it to the House on this occasion because they feel that they can make a useful contribution to the work of the Board but they do not want to do this at the expense of the normal nominee of the Trades Council, The choices that were open to us was that the Trades Council, in order to give the opportunity to a nurse to make a contribution on the Board, which we think is very valuable and important, the only way we could have done it with the law as it stands, was to have imposed on ourselves a restriction whereby we would only nominate a nurse as a representative of the Trades Council. This we feel is not a good thing because we feel that in addition to the expertise of the nurses it is important to have an ordinary working person whose experience of the hospital will likely be either as a patient or through having somebody close to him or her who is a patient, and we feel that the Trades Council representative essentially should be the voice of the patient, that is how we see it. In addition to that we feel that a nurse would add to the usefulness of the Board. It already has quite a number of experts, we feel that an expert from further down the hierarchy would improve things considerably and in fact we have on many occasions where the Trades Council has had occasion to discuss matters concerning the Board brought into the discussion and the nurses themselves to advise us. We feel that the Management Committee would gain from the contributions that a nurse could make and I strongly urge the Government, Mr Speaker, to accept the amendment. It has the support of the nurses themselves and the Gibraltar Trades Council.

Mr Speaker then proposed the question.

HON A P MONTEGRIFFO

Mr Speaker, I have got a certain sympathy with the words expressed by the Honourable Mr Bossano, if only because I believe that the more people in the different grades are brought together the better the understanding between them, and better the lines of communication. This amendment was sprung on me only yesterday, it was the first time I heard about it, and I am not fully aware what repercussions would arise as a result of having a nurse as a member of the Board. Probably the doctors would also

ask for representation. I am not saying, no, I do not want to say, no, but I would like to consider the matter further myself with the administration, because the Board of Management as such is what the word says, it manages. The executive element, if I can describe it so, that is the Matron the Administrator and the Director of Medical and Health Services, generally seek the advise of the Board, the other members are the ones who go round as the watchdogs of the patients, and if I may say so of the nurses, and it might place in an awkward position a nurse who is a member of the Board if he or she comes across a patient who would like to lodge a complaint against a nurse and would not dare to do so because she happens to be the nurse involved. I am not closing the door, I would like to give more consideration to this and see whether this occurs in the UK, and I give the solemn undertaking to the Honourable Member that although I accept that there may not be time to legalise the position because of the dissolution of the House, if it is possible and if it is acceptable, and it were to be practicable, to nominate a nurse as an observer, for which powers exist, and then when the next Government comes into office the law can be amended.

I think he will appreciate that while I am in sympathy with his suggestion I think I do need a little more time to contact the administration and see how Boards work in the UK etc., etc. I will not close the door completely and I will see what I can do between now and the time we leave office.

I will repeat that if I can find a way of doing so he or she will be appointed as an observer and then the next Government will inevitably have to legalise the position since this will be a fait accompli with which it will be faced. I hope he will accept the sincerity with which I am saying this and will withdraw his amendment.

HON J BOSSANO

I cannot withdraw the amendment because the Honourable Member has only dealt with one part of the amendment, the other things that I have mentioned are that at the moment one of the six is appointed after consultation with the Gibraltar Trades Council, and he does not say that it has to be after consultation with the Trades Council, it just says six other persons, and the Trades Council would like to see the fact that they are being consulted enshrined in the law. And also the section where reference is made

to the six appointees says that they cannot be employed in the Gibraltar Government and the person who has been representing the Gibraltar Trades Council for the last 3 years is employed in the Gibraltar Government and either we have to remove him or legalise his position.

HON A P MONTEGRIFFO

When this Ordinance was passed I gave an undertaking, because the same point was raised by Mr Bossano, that we would always and at all times ask the GTC to nominate a member to the Board, that undertaking was given. If the Honourable Member feels that the undertaking is not enough then I would not mind amending that part to ease his mind. As far as my mind is concerned I will stand by what I said.

The other point of course is the tricky one which has concerned the minds of all the people in the corridors of wisdom, including the Honourable Minister.

I would hate to see Mr Drago leave the Board. Quite frankly he is one of the most valuable members of the Board, and I say this quite openly and frankly. How we can get round that one, perhaps the Attorney-General can give us advice on that.

HON J BOSSANO

Perhaps the Attorney-General will comment on what I have to say, Mr Speaker, that the member appointed by the Trades Council could be an employee of the Gibraltar Government, that is also part of my amendment. And that is something that I meant to discuss. I do not know the reason, Mr Speaker, why it was thought necessary initially that none of the six persons appointed by the Governor should be neither in the full nor part time employment of the Gibraltar Government. I cannot understand why it should be so, but if it is something that the Government wants then my proposal is that they should do it with the five for which the Trades Council has no responsibility. I do not think it is right that, after all probably something like a third of the Trades Council is in the employment of the Gibraltar Government and I do not think it is right that the Trades Council should be asked to nominate and have to choose from 2/3rd of its members and exclude the other third. Because as Mr Montegriffo has said, Mr Drago is doing a useful job there and when we seek

to nominate people we try to find the person that we think will make the most valuable contribution because what we want to do is to play a useful role in the Boards where we are nominated otherwise there is no point in being there.

HON A P MONTEGRIFFO

As far as nurses are concerned I have explained my position and the action I intend to take; as far as the other point he raises is concerned I do not know whether the amendment he has brought covering the member of the Trades Council is sufficient. If not, Government is prepared to amend that part in order that the GTC Member need not be prohibited from belonging to the Board by virtue of being an employee of the Government.

HON ATTORNEY-GENERAL

Mr Chairman, I think the amendment proposed by the Honourable Member at this stage does not do away with it.

It is a pity, Government is, as has been said, sympathetic, but it has come to us 3 months after the Bill was published; if it had come to our notice before attention could have been given to it. What I would suggest is this; that Government will give consideration to both points raised by the Honourable Member, the question of Mr Drago being in Government employment does not make invalid any of the decisions or functions of the Board. Perhaps a blind eye could be turned on this one and then consideration given as to how this is going to be done. The thing we do want to do is to draft an amendment just at this point and there could be a further amendment later in the year. We have been given no time to consider this, let the status quo remain, and then consideration could be given as to how to meet the views expressed in this House this morning.

HON J BOSSANO

I am very surprised, Mr Speaker, to hear the Honourable and Learned the Attorney-General suggest that we should turn a blind eye to something which is prohibited by law. I can not say that I can support that in spite of the fact that I am not generally identified as the strongest advocate of law and order. I believe very strongly, Mr Speaker, that either we change the law or we prevent the law being broken

but we do not turn blind eyes on breaches of the law, otherwise, really it puts in doubt the whole position in the House of Assembly, I think.

I feel that the Government could accept my amendment, which after all, Mr Speaker, all it does by adding a new subsection is it removes the appointee of the Trades Council from this limitation. By reducing the number of people who cannot be employees of the Gibraltar Government from six to five the limitation continues to apply to the other five. By saying in addition that one person shall be appointed after consultation with Gibraltar Trades Council, the limitation included in subsection (f) would not apply, and that is all that is needed. If the Government feels that that is not enough then let this be considered as an interim solution until they come back to the House and then the Honourable the Attorney-General, who has got more expertise in these matters

MR SPEAKER

What you are proposing is that the subclause (2) should be deleted and that the amendment should read -

"Section 67 (1) of the Medical and Health Ordinance, 1975, is amended as follows -

By the deletion of the word "six" in the first line of subsection (f) and the substitution of the word "five" therefor."

and that is it.

HON J BOSSANO

No. Then the next subsection should read: "One other person shall be appointed by the Governor after consultation with the Gibraltar Trades Council", and that person would not be limited to being in the Gibraltar Government.

HON M D XIBERRAS

Mr Speaker, could we hear what the Government's views are on this?

MR SPEAKER

They have been given.

HON CHIEF MINISTER

/says,

This thing has been discovered now, it is obvious that in practice there has been no inhibition and we are quite happy to make it in such a way. Whether, as the Honourable Mr Bossano, this is strict enough or not, it certainly brings out a conflict. But if there is a conflict surely, Mr Speaker, the interpretation is that the words should have had their natural meaning and that the GTC must appoint whosoever they like.

MR SPEAKER

In other words, (g) would read "one other person appointed by the Governor after consultation with the Gibraltar Trades Council."

HON J BOSSANO

Will somebody else move another amendment to this, Mr Chairman, or do I do it myself?

HON M D XIBERRAS

It seems to me that the main objection was that of being a Government employee

HON CHIEF MINISTER

No.

HON M D XIBERRAS

It seems to me, I said

MR CHAIRMAN

I think it was the embarrassing position, Mr Montegriffo said, of finding a nurse being a member of a committee

where her particular performance might be discussed. Is that right Mr Montegriffo?

HON A P MONTEGRIFFO

That is right, I said that I would look further into the question of representations of nurses and that if I find a precedent for this in other Boards of Management I would appoint the nurse as an observer, for which there is power, and the position would be legalised after the next Government comes to office.

HON J BOSSANO

Minister

Is the Honourable saying that there is power somewhere in the Ordinance to appoint an observer and if he finds it is possible to do so will appoint an observer until the next meeting of the House when the law can be changed. Is that the situation?

HON A P MONTEGRIFFO

That is quite right. What I said was that if I could find any precedents on which I can base myself to appoint a nurse to the Board of Management I will certainly do it. As there is no provision at the moment in the law, I will appoint the nurses as an observer and then the next Government can legalise the position. That is what I am saying.

HON M D XIBERRAS

Do I have it right, after having listened to the Minister for Medical Services, that he is saying that a nurse should not be nominated to this because her performance might be discussed in the Board. Is that the argument? It would be embarrassing for her performance to be discussed in the Board?

HON A P MONTEGRIFFO

I have made my position quite clear.

HON M D XIBERRAS

Well, if it is that, Mr Chairman, are there any doctors

on the Board?

HON A P MONTEGRIFFO

No.

HON M D XIBERRAS

No? And the Director of Medical and Health Services is not on the Board? The Chief Public Health Inspector is not on the Board? Does the Minister not believe in participation? Is worker participation not done in many hospitals in the United Kingdom? And the Minister feels that he cannot accept this. Is that the argument?

MR CHAIRMAN

I will get the Chief Minister to propose an amendment to the amendment. I would suggest that the amendment to the amendment should read that "Subclause (2) should be deleted and substituted by a new sub-clause to read as follows -

"by the addition of a new subsection (g) as follows -

(g) One other person appointed by the Governor after consultation with the Gibraltar Trades Council."

HON CHIEF MINISTER

Yes, Mr Chairman, you have interpreted my proposed amendment.

MR CHAIRMAN

I will then propose the question

HON J BOSSANO

Mr Chairman, is there any possibility of the Government going some way towards meeting me on the nurse, I would like them to do it, apart from what he has said already. Now, I think that perhaps if we disassociate the question of the nurse from the question of the appointee of the Trades

council it would be a better thing, and I think a possibility that the Government might like to consider is that the question of the nurse should be a permissible clause rather than a requirement, in which case it could either be done or not done as they think fit.

HON A P MONTEGRIFFO

No, Mr Speaker, if it is established she should be there, not a question of permissiveness.. I do not know whether in other Boards of Management, for example Board of Government of England, this is acceptable; there may be some good reason why this should not be done even if it is done in Great Britain, I do not believe in integration. And since I do not believe in intergration I do not necessarily have to follow the practice in the UK. If there are no reasons then I can probably advance good reasons why he should be in our Board of Management, whatever happens in the UK, but I want time to consider it. That is all, I am not saying, no, I am leaving the door quite open.

Mr Chairman then put the question in the terms of the amendment to the amendment, which was resolved in the affirmative.

Mr Chairman then put the question in the terms of the Hon J Bossano's amendment, as amended, which was resolved in the affirmative.

New Clause 12 was agreed to and stood part of the Bill.

MR CHAIRMAN Mr Bossano I understand that you have another amendment.
P N J BOSSANO

Mr Speaker, I beg to move that a new clause to be numbered Clause 13 be added to the Bill as follows:-

Amendment to Cap 139 13. Section 28 C(2) of the Regulation of Wages and Conditions of Employment Ordinance is amended by the addition of a new subsection as follows :-

(e) was that the continued employment of the employee would be in contravention of a union membership agreement."

Mr Chairman, the object of the amendment is to introduce into the law a valid reason for dismissing an employee, namely that the employee has broken a contractual obligation which he has in respect of his employment. One could say that this is specifically designed to protect employers from having to bear the burden of unfair dismissal in cases where the dismissals are completely justified, where individuals break an agreement which binds them to belong to a particular organisation which is responsible for all the improvements that they enjoy in their conditions of service and so on.

You will see that in this one, Mr Speaker, I am not in fact particularly concerned about the interests of trade unions, it is employers really that I am looking after. (laughter).

I had given the Government notice of my intention to move this amendment and they had indicated that I could not look forward to their support in this matter, but I thought perhaps if they understood clearly that it was the employers that we were looking after that it might influence their thinking.

The situation is, Mr Chairman, that previous to the passing of this law the position in Gibraltar was that union membership agreements existed, that there were a number of firms in the private sector where new entrants were required to be members of the Union holding the negotiating rights as a condition of employment. Now, this was the same in Gibraltar as it was in the United Kingdom, and it was a Conservative Government in the United Kingdom, that made what was previously legal, illegal, and it was the Gibraltar Labour Party, contrary to what Labour Parties all over the world feel on this matter, who did it in Gibraltar. When it was initially in fact I stood up in the House and voiced objections and the Honourable Minister for Labour and Social Security told me that it was being done in UK, that I was an intergrationist, that I was following UK in other things and I did not want to follow it on this one, and that he would keep the situation under review depending on what happened in UK.

We know what happened in UK, the Tories got booted out and Labour came in and they did the right thing. Of course here we are going to an election in 3 months' time, Mr Speaker. The law as it stands now, and perhaps the Attorney-General might help to explain to the House whether my interpretation is correct or not, is that an employee is protected from a dismissal notwithstanding the fact that he may join a firm where there is a union membership agreement, he may be

informed that to work in that particular firm he has to join the union which negotiates the wages and conditions, he agreed to do this and then after he is employed he resigns from the Union. Now he is then in breach of his contract of employment, and in any case if he is retained the employer would then be in breach of the union membership agreement, which is envisaged as applying in the same way that it applies most widely, which is a less rigid way than is being done in UK. In the UK union membership agreements are being implemented for existing employees: I myself feel that this is too harsh a treatment, I do not think one should go along to a company that already has people employed in it, and regardless of the years of service that they have rendered to that company say to them, "Look, you either kick these people out or else." I think that is the wrong attitude, one should not force people to joining unions in this way and put them on the bread line. It is being done in the UK, I can understand feelings on it, people in the UK perhaps feel much more strongly about the importance of a closed shop than we do in Gibraltar, but the reason that I am bringing this amendment is because the way we are thinking about it in the Trade Union Movement, and this has been made clear to the Government in the forum of the JIC, is that we are thinking of what is known as a union shop - not a closed shop - and this is a post entry union membership agreement.

This is for example applied in a lot of places, this is to be found in the United States and in Canada and in a lot of places that are far from identified with the socialist camp. And there, at the specified date when the agreement is intended to come into force, the people who are already in the Union on that date then come under the terms of the agreement, and those who are already employed but are not in the union do not come under the terms of the agreement, and those who join the firm subsequent to that date are informed prior to taking up employment that if they do not want to join the Union that has got to negotiate their wages and conditions then they cannot be employed there.

Now, this to me seems to be as fair as requiring people who benefit from social insurance to contribute to social insurance, or who benefit from the services that the State provides to contribute to income tax. And I think it is fair when somebody comes along and expects to gain all the benefits of union membership and not bear the responsibility of being a member of a union it is in fact passing the buck to his workmates. I have yet in fact to come across any of those people who claim to feel on principle that they do not belong to the union. I have get to come across one

individual who feels on principle that he should not belong to a Union and also feels on principle that he shouldn't get the wage increase that the union struggles to obtain.

We have had very recently in the public sector the situation for example, Mr Chairman, where the Union has succeeded in convincing the employers after long and protracted negotiations, that the minimum wage for a labourer should be not 72% of the UK rate but £25, and all the people who are not union members are going to collect the £25. All the people who do not believe in Unions are not going to say, "Well, since Scamp recommended £23.40 and I do not believe in Unions, and the extra £1.60 was obtained by the Union, I do not want the £1.60, I only want what the employers have offered, not what the Unions have managed to obtain through long hours of negotiations and arguments."

Now, the Unions can only do it because members contribute to the machinery, the officers we have that have got to be paid and so on. The people are only being asked to contribute equally to what is going to benefit them and that is the reason why it is important that people should join a Union and it would be preferable that people should join it freely. We have made insurance compulsory in Gibraltar very recently and I remember when I was trying to convince the Honourable Member, also at the beginning of his term of office, that there should be compulsory insurance, he told me that we should not compel people. Regrettably one needs to compel people because there are people who do not respond to calls to altruism, and that is why we make people pay tax, we make people pay insurance and we make people do a lot of things that if they were given free choice they would not do, because society requires regrettably a certain amount of discipline in order to work, and it requires it in this field as much as in any other one.

The position—as I understand it at the moment, and I may be wrong and I would like the Attorney-General perhaps to give us an indication whether I am wrong or not because if I am wrong then perhaps there may be no need to put this element of protection for employers in the law, because you see, Mr Chairman, the employers are going to need this element of protection since the Union is going to be pressing ahead with, it is the Union policy, it has been for a long time, the Union has been holding back in the hope of avoiding any situation of confrontation because we believe in maintaining industrial peace, but of course the Union has got an obligation to its members and the union will be pushing ahead with the signing of union membership agree-

ments and this may regrettably mean that I may end up in Moorish Castle because it does say here that Union Officials who are involved in bringing pressure to bear on an employer in respect of a persons refusal to join a union are guilty of an unfair industrial practice. The unfair industrial practice notion comes straight out of the Tory Industrial Relations Act which caused so much conflict in the United Kingdom.

So what I am telling the Government, Mr Chairman, is that the Union feels that the right it enjoyed prior to this law, which was taken away by this law, should be given back to it. I am telling the Government, and in particular the Minister for Labour because I know that he feels strongly on this matter, that the way we see this working is in terms of what is known as a union shop, a post entry union membership agreement, which is found not just in the United Kingdom but in very many other countries, where people are informed when they apply for a job that in that particular place they are expected to join the Union as a condition of employment, and that if they do not want to join the Union then they will have to look for employment elsewhere. And I can tell him that this in fact, this post entry closed shop is at the moment being discussed in the Ministry of Defence in the United Kingdom for the Home Dockyard, and shall certainly be pressing for its introduction in the Gibraltar Dockyard at the same time as in the United Kingdom. And then perhaps the Gibraltar Dockyard will find itself in the situation of saying that this is against the policy of the Government of Gibraltar.

I received minutes only last week of the JCC negotiations in the matter in the United Kingdom, it is being taken up at ministerial level and the matter is progressing satisfactorily there. So we are quite optimistic of being able to do the same in MOD in Gibraltar in the not too distant future.

But certainly in the private sector we will be pressing ahead with the Union membership agreements such as existed previously, some four years ago, and when we do that we may come foul of the law, and I think the advice of the Attorney-General here would be very valuable to me because I would not like to be involved in breaking the law. As I have already indicated that I do not like breaking laws in the context of the Board, Mr Chairman, and the same applies to this. This is why I prefer to convince the Government to make the law more liberal and to make it possible - after all we are not saying here that there has to be a Union

membership agreement, I am not asking the Government to legislate to make people join any Union, all I am saying is that it should be possible for an employer and a Union freely to agree that in future anybody joining the firm should become a member of the Union.

Many employers are sympathetic to this because they would rather deal with a body that represents all their labour force than to deal with a body that only represents some of it and they do not know how the other half feels on a number of issues, because it makes it more efficient. If for example we have negotiations where an employer makes a pay offer or anything like that, the Union calls a meeting of the employees of the firm who are Union members, obviously, because otherwise it would not be a legal Union meeting, and it is the Union members who decide for the entire firm whether what is being offered is acceptable or not, and it is preferable that the Union members and the employees should be one and the same thing, because then everybody will participate in that decision and will not be excluded from the decision by virtue of the fact that they are not members of the Union. So there are advantages for everybody being in a Union which employers see, indeed which I believe the Government itself as an employer sees, because the Government itself has reiterated in numerable occasions to the Trade Union Movement that they believe that people should join a Union, and they believe in encouraging them to join the Union. I think if they accepted my amendment, Mr Chairman, this is the best encouragement they could give.

Mr Chairman then proposed the question.

HON A J CANEPA

Mr Chairman, the amendment proposed by Mr Bossano will, as he has indicated, have the effect of introducing a closed shop. I am not aware, Mr Speaker, that four years ago such closed shop agreements existed. In fact when I took the draft Bill to the Labour Advisory Board, where there were six representatives of trade unions, no one there made the point that there were closed shop agreements in existence. The point was made that it would be very difficult for a Union and an employer to enter into a closed shop agreement in the future, but no one presented any evidence, I do not think any of them had any knowledge of the fact, that there were existing closed shop agreements, and I certainly myself did not have any evidence that four years ago there were in fact closed shop agreements.

HON J BOSSANO

It was in fact signed by Mr Mor when he was Resident Officer of the Transport and General Workers Union in 1956 in Stevedoring, and it was still in existence in 1972.

HON A J CANEPA

But of course in 1972 Mr Mor already had nothing to do with the Transport and General Workers Union, and those who took over from him were not as well informed apparently.

As I said, Mr Chairman, it will have the effect of bringing in the closed shop under whatever shape or form it is. As the Honourable Member has indicated Union pressure would immediately be brought to bear for the Official Employers and the larger private employers to enter into such agreements, and possibly for non-Union members to be dismissed. At the same time or maybe even before, one may assume that pressure would be exerted by the Union on employees, so that if they did not join there would be intimations that unless they joined the Union they would be dismissed, they would lose their employment and their means of livelihood.

Already, Mr Chairman, without any legal provision there are intimations that people will not get the Scamp increases unless they join Unions, and of course there is a ready number of people who seek the security and the assurance of joining - better be safe than sorry - even though there is no legal backing to that. Nevertheless, workers do take such a step of joining just to be on the safe side.

Mr Chairman, the amendment which the Honourable Member seeks to introduce is a very substantial one. It is a very fundamental matter which to my mind should not be brought in in a Miscellaneous Amendments Bill. At the last meeting of a House of Assembly, I have no reason to believe that the idea of the closed shop commands public support in Gibraltar. I do not think it does. It could be put to the test, it can be made an election issue in the forthcoming elections, and then whoever is elected on that ticket has a mandate to introduce the closed shop in Gibraltar.

I can understand the undoubted desire of Trade Unions to have this as a provision in the law, I can understand that, and I can associate myself with the concern which the Honourable Members opposite have - I say associate only - for employers.

Mr Chairman, what the Honourable Member seeks could effectively deprive a person of the right to work unless he joins a particular Union. The circumstances of Gibraltar are not as they are in the United Kingdom. The scope for employment in Gibraltar is very, very much more limited; an individual is not able to move from one area of the country to another where perhaps closed shop agreements do not exist. An individual in Gibraltar does not have the same choice in joining a Union for which there is provision in such Union membership agreements in the United Kingdom, where there may be six or seven Unions which are parties to the agreement and which a worker can join. In Gibraltar that is not the case. As far as industrials are concerned there is no choice, there is one Union and no other; as far as teachers are concerned, there is one Union and no other. And in fact Mr Chairman, talking of teachers, the stage could even be reached where the Government as an employer would train a teacher and then subsequently be unable to employ him because it is not his wish to join the Gibraltar Teachers Association. I would go further, an individual would have a contractual obligation to return to Gibraltar, he is bonded to teach for 3 years but if he does not wish to join the Gibraltar Teachers Association the Government cannot employ him or must dismiss him, and where does the Government stand in any attempt which is then made in the courts to recover the public funds that have been expended in training that individual so there is a great deal, there is much more to this than meets the eye and the Government cannot accept this amendment.

HON

HON ATTORNEY-GENERAL

Mr Chairman, there are only two legal points which the Honourable Member raised: I would confirm that in my opinion if an employee agreed before taking up work to join or not to join the Union and then changed his mind thereafter, in my opinion he could not for that reason be dismissed. The second point, I think the Honourable Member envisaged that he might pay a visit to Moorish Castle: to my understanding, if he persuaded an employer to terminate the employment of an employee, although an unfair industrial practice under our legislation, does not render the person exercising the persuasion liable to imprisonment but merely renders the body on behalf of whom he is acting, liable to contribute to the compensation which may be payable to the employee for the unfair dismissal.

Now, that of course has been in our legislation for three years.

HON M D XIBERRAS

Mr Chairman, there was a time in Gibraltar when perhaps the greatest closed shop was the AACR/GCL. Mr Chairman, I was just making a brief introduction. Mr Chairman, I notice that the Chief Minister has not yet intervened in this and I usually see him calming the Minister for Labour when he takes the stand on matters of principle such as this one undoubtedly is. I admire Mr Canepa for the stand that he has taken, whether one shares it or does not. I do not admire the Chief Minister when he speaks following Mr Canepa, and

MR CHAIRMAN

We had a long discussion in the second reading of the Bill, let us come down to the particular merits of this amendment. No, no, I am being very firm. We are talking not about the general principles but about the particular clause and we will stick to it.

HON M D XIBERRAS

Mr Canepa was surprised that the Miscellaneous Amendments Bill should contain a matter of such substance and of such principle. Mr Chairman, I entirely agree with him. It is a matter of great substance and great principle because it is the basis of Union power in other places, as the Honourable Mr Bossano has explained, and the effects for better or for worse in Gibraltar are going to be quite serious in other directions. Therefore, Mr Chairman, I would not like to be constrained to making few comments on a matter of such substance.

The Minister for Labour has spoken about the size of Gibraltar and my comments as regards the AACR might be applicable there. From time to time we have had influences of this sort and it has been, the Honourable Mr Canepa talked about teachers and employment, there was a time when one almost had to belong to the AACR because

MR CHAIRMAN

No, I am going to call you to order. What we are discussing is whether by legislation this should be made compulsory, and that is all. Whether we should legislate on this particular point we are not discussing whether any particular entity of its own free will decided that this....

should be done in that particular way. Let us be very clear on the matter.

HON J BOSSANO

Mr Chairman, as I understand it one would presumably find a closed shop obliging people to belong to a political party. That is not contrary to the Government's view because it only applies to trade unions.

MR CHAIRMAN

References have now been made twice to the AACR, and the AACR or any other association did not do anything previous to this as the result of any legislation. Where there was any legislation in this House for the purpose of enabling them to do what they wanted to do. That is my only reference, let us be very clear on that point.

HON M D XIBERRAS

Mr Chairman, I am just talking about the general effect of closed shop situations, which the Honourable Mr Canepa referred to.

MR CHAIRMAN

The General effect of closed shops situation brought about by legislation. We must be very clear on that one.

HON M D XIBERRAS

I am sure you do, Mr Chairman, but the closed shop, to my understanding, is not "imposed" by this legislation, it is "allowed" by this legislation.

MR CHAIRMAN

Fair enough.

HON M D XIBERRAS

I am glad, Mr Chairman, that that point is relevant.

It is allowed by this legislation in the same way may I add as co-operative and allowed by other legislation, but by this one is not bound by the terms of legislation on our statute books to form co-operatives. It is a right which people have and which people can exercise or not exercise as they wish. It may be up to the Government of the day as an employer to decide whether it should have a closed shop agreement with a particular union or whether it should have as Government a closed shop agreement with more than one union covering various aspects of employment. This will be the case if the Government decides to have closed shops agreements with the Gibraltar Teachers Association and the Transport and General Workers Union for certain branches of Government employees.

The Attorney-General has not told us so far whether he considers that it would be an unconstitutional restriction on the freedom of the individual to make him subject to the possibility of conditions being imposed upon him whereby if he does not belong to a Union he would be dismissed and this would not count for unfair dismissal. I think this point needs to be cleared because when one talks about the freedom of the individual one also needs to talk about those freedoms that are established in our Constitution. The House is entitled to a view from the Attorney-General lest the public think that we are acting contrary to our constitution and that we are depriving an individual of a right which he has by virtue of such constitution.

If Mr Bossano is to be believed, even though the present constitution was not in existence - I beg your pardon, it was in existence - when the Stevedoring Company had a closed shop agreement with the Transport and General Workers Union up to 1972, and even though there is a possibility that a situation similar to that of Mr Drago in the hospital might have arisen, in other words the Attorney-General or the Government of the day - which happened to be us - were not aware of the unconstitutionality of the position, it seems clear, Mr Chairman, that this right is accepted even in capitalist countries such as America, where labour relations appear to be sometimes improved by the existence of closed shop agreements. Certainly in practice closed shop agreements do exist in various firms in Gibraltar where all members of the firm belong to a particular union and no one is allowed to take up employment there unless he is a member of a particular union.

May I, however, point out a converse situation. There was a time to my certain knowledge where one big firm in Gibraltar would not recruit anybody who belonged to a union.

I do not know whether one calls that an open shop, but it is certainly the reverse of the closed shop. Someone in my family was kicked out of a particular place because he happened to belong to a particular union.

MR SPEAKER

Mr Xiberras you are wandering from the point

HON M D XIBERRAS

With all due respect, Mr Speaker I do not think I am.

MR CHAIRMAN

Let me finish and then you can beg my respect. What we are talking about is not whether there should be closed shops but whether ~~ways~~ there is a closed shop this should be a reason for dismissal and you are departing from the point ~~at~~ issue, with due respect to you.

So let us come down to earth.

HON M D XIBERRAS

Mr Chairman, I was simply following the comments of Mr Bossanc who explained why a closed shop was necessary - and I did not hear of any allegation of irrelevance there - and I was also answering comments from Mr Canepa which ranged rather broadly.

I think we are talking, Mr Chairman, really about the desirability of closed shops, whatever the motion before the House. That is what we are talking about and it is a sufficiently broad issue for Honourable Members in this committee stage as it happens to be able to range freely.

Mr Chairman, we have not heard many arguments against the closed shop by virtue of the size of Gibraltar, of permitting this. We all know the dangers in a small community, we know the dangers which were exemplified by Broken Hill, that place in Australia: we had a film recently on television. Mr Chairman, the dangers are undoubtedly there but the dangers have always existed, because of our size, of domination by one or another. I would have liked to have seen the Government being more consistent in its stand, in its belief that there is a danger of the Unions taking over or taking over the function almost of Government, the Honourable Mr Canepa said this was a very small community and everyone had to belong to a particular union, by which I imagine he meant the Transport and General Workers Union

HON A J CANEPA

I was quite explicit in what I said. I said that industrial employees would only be able to belong to one trade union and I also said that teachers for instance would only be able to join the Gibraltar Teachers Association. I was not speculating, I was quite definite in what I am saying.

HON M D XIBERRAS

There are teachers who belong to ACTSS, I believe.

HON A J CANEPA

alright they belong to ACTSS, but if there was a union agreement with the Gibraltar Teachers Association they would not be able to belong to ACTSS.

HON M D XIBERRAS

It does not have to be the Gibraltar Teachers Association either, the agreement could be made with whoever the Department of Education feels.

HON A J CANEPA

The Department of Education feel

HON M D XIBERRAS

Yes.

HON A J CANEPA

Or the Unions feel? Or the Union that has got the negotiating rights feels?

HON M D XIBERRAS

Mr Chairman, the Honourable Member if he is in next time should consult his Chief Minister as to what is his policy in these matters. If the Chief Minister wants to co-operate with that particular Union, the Transport and General Workers Union, then the Chief Minister or the Government of the day must decide to form this closed shop agreement with the Transport and General Workers Union. If he is intent on real co-operation he need not surrender to the Union, but he can state a view. He does not have to give in every time. It is legitimate to us to

deprive people of the right to form these closed shops with impunity, without incurring anybody in any legal trouble. I would suggest that if it is done in other places - I am an integrationist as the Honourable Mr Montegriffo knows, but of course in England they have had the Conservative Government doing one thing and the Labour Government doing another.

I would say that in the future certainly there will be closed shop agreements in most countries, I do not know whether France has one or whether it is legal here or there, but certainly in most countries there is and the only consideration which weighs against me is the size of Gibraltar. Therefore, Mr Chairman, I am well disposed to this amendment, but I would like to hear further, I would like to hear the Chief Minister speak on it, I would like to hear his views on it, how he feels. I would like some replies from the Honourable and Learned the Attorney-General. And then I might contribute further, Mr Chairman, and we shall decide how we are to vote.

HON A J CANEPA

Mr Chairman, I would be very interested to hear the views of other members of the Opposition particularly those who are not present in the House.

MR CHAIRMAN

Well, are there any other contributors?

HON J BOSSANO

There was something I wanted to say before having the right to reply: can I do that or not?

MR SPEAKER

Yes.

HON J BOSSANO

I am sorry, Mr Chairman, that the Chief Minister has not in fact indicated how he feels on this matter because the Honourable Minister for Labour has said this could always be made an election issue. He feels that public opinion is on this side and I do not know if his view is shared

HON A J CANEPA

I have my doubts as to whether it is on the Honourable Mr Bossano or on the Honourable Mr Xiberras' side, and I think that the proximity of an election is a wonderful opportunity to consult the electorate on this. If public opinion is in favour of a closed shop agreement, then let it be brought in by all means. I bow to the views of the majority.

HON J BOSSANO

I do not quite know what he means, Mr Chairman, because, although this has been brought in under the Miscellaneous Amendments Ordinance in fact it is something for which the Trade Union Movement has been pressing almost throughout the time that the Government has been in office, and at one stage the Honourable Member's position was that as long as he was Minister for Labour he would not have a union membership agreement in Gibraltar. Certainly if that is the case I would certainly like him to say that at election time so that trade unionists know what they are risking if they vote for him. If in fact what he is saying now is something slightly different, that if he finds that public opinion is in favour of the idea he will be prepared to support it even if he was Minister for Labour, then it changes the situation of course. I do not know which of the two he is saying now, but at one stage the choice that he gave trade unionists was either him or union membership agreement. Unpopular though he may be with the trade union movement I think really the pressure would be overwhelming.

But I am telling him, Mr Chairman, that in any case something that he persistently failed to answer is the fact that he may have consulted the Labour Advisory Board when he drafted this law, I do not know what degree of resistance he met there.

HON A J CANEPA

They were not happy about this. I referred the matter to Council of Ministers as Chairman of the Board and I reported back, and Council of Ministers did not go along with the suggestion of the trade union representative. The point that I made earlier this morning was in connection to existing agreements at the time.

HON J BOSSANO

Well, I can tell the Honourable Member not only that the existing agreement was there at the time, but that in fact it continued in existence after the law was passed. My interpretation of the law at the time was that in fact the passing of the law did not make the union membership agreement invalid it just made it unenforceable for practical reasons, that is that if the employer had chosen to enforce the agreement he would have been running foul of the law. Now as I understand it there is absolutely nothing now to stop any union signing a union membership agreement. The Government has not outlawed union membership agreements, all that it has done is it has placed a penalty on anybody trying to implement the requirements of the agreement, a penalty which did not exist before this law was passed, because if there is a union membership agreement and somebody comes along and signs a contract with an employer saying "I accept employment as a labourer and I understand that my accepting that employment is conditional on my joining the Transport and General Workers Union, and that if I leave the Transport and General Workers Union I have to give up my employment", and he signs that and he gets a job and after a year has gone by - we can get him chucked out before the year because this only applies Oh no, it would be less. In fact after a week, Mr Chairman, on the unfair dismissal it is after a week - after a week the man says "I have changed my mind, I do not want to pay 30p every week" and he packs up the union and the employer says, "I am sorry but you agreed a week ago to join the union when you joined the firm and everybody else here is in the union except you and I am afraid you have to go". And the man says, "No, if I have to go I can claim compensation up to £3,300 for unfair dismissal".

That is what this law has done to union membership agreements. Before this law was passed the employee could not do that. Now I am saying that the law took away a right that the trade union movement enjoyed up to the passing of the law and I would like to see the Government as its final act before leaving office reinstating the position restoring the status quo as it was in 1972. That is what I am asking for, Mr Chairman. If the Honourable Member has got misgivings about this being used to pressure existing employees, which is something with which I do not agree, I would be quite prepared to amend my proposal so that it reads as post-entry union membership agreement. A post-entry union membership agreement is by definition an agreement which you have to enter into before you take up

employment and not one which can be imposed on an existing employee. This is to set his mind at rest about pressurising people, which I think would be wrong, who might be 20 years with a firm, who might feel strongly about being a union member and he should not be forced either to joining unions or give up the security of 20 years of employment.

I think this is totally immoral, it is not a view shared by all trade unionists I may say, it is not the view in the United Kingdom but I think that if ^{he} is worried about it we could make it a post entry union membership agreement, and all that this would do as I said, Mr Chairman, is to restore the situation we had before. I am also telling the Government, and I think it is fair to tell them, that the union movement intends to press ahead with union membership agreements and then I hope that the Government will not turn a blind eye to the situation because I think that if they feel so strongly that this is a matter of principle then they should in fact prosecute people who feel that they are exercising rights that was theirs before the AACR came into power; was taken away by the AACR and are not being restored by the AACR.

HON A J CANEPA

Mr Speaker, I am fully aware of the fact that the unions are pressing for such agreements, I do read minutes of JIC and this is a matter which has been discussed recently in JIC and I am aware of the fact that there has been correspondence between the Honourable Mr Bossano and the Industrial Relations Officer on the matter. So let us make that absolutely clear. I know what is going on.

Mr Chairman, I know that there are in Gibraltar individuals who object to a closed shop, who do not wish to belong to trade unions, and such views have been expressed publicly in the press in the last 2 or 3 years. I have got evidence to that effect. And it is my view, Mr Chairman, that the right of the individual is overriding, it is more important than the rights of the trade union. An individual, per se, in my view, has got more rights than another individual just because the other one happens to be a trade union member, and the constitution protects people as individuals and not as trade union members. And the rights which an individual has to employment, to seek work, to earn a living, and not to be dismissed because he happens to object, in some cases it could be to belong, to a particular trade union, that right, Mr Chairman, I think cannot be impinged upon. It is the overriding factor.

HON J BOSSANO

The Honourable Member has said that that right was given to individuals by his Government. The right was not there before this was passed.

I was not there and in fact when the Transport and General Workers Union was affiliated to this political party the Transport and General Workers Union have not qualms about signing union membership agreements. We have got in the union old files like Mr Mor's who was a member of the party.

HON A J CANEPA

Mr Speaker, I think we are twisting the whole purpose of the unfair dismissal provisions. It was a positive step. It was brought in to protect an individual from unfair dismissal, not to have him kicked out.

HON CHIEF MINISTER

Mr Speaker, I am very encouraged and honoured to feel that temporary absence due to other businesses gave the indication that I was trying to keep out and I am not going to do that like other Honourable Members opposite who do not appear to be very visible this morning at this particular time. The point is, Mr Chairman, that the Minister for Labour expressed the view of the Government in a province which is entirely his own, and after 4 years in office, with a few days more than 4 years on the 22 of June - I am glad to see one of them coming in - we are still united: the same 8 people, the same united, and we still speak with one voice. Whether it be the voice of the Minister for Labour, or the Minister for Medical Services, in his province, or the voice of the Minister of Trade, that is the Government, and the Government speaks united. And I am delighted today, after 4 years of office, our full 4 years of office which I said we would carry, I am delighted to be able to say that what the Minister for Labour has said has my full support because it is the collective view of the Government.

Now, that does not in any way mean that the matter is not a serious matter and that we have to look at it in the broad way. Now if the Honourable Mr Bossano accuses the Government of introducing something that has taken away the rights that were there before, then I accuse him of aiding and abetting and procuring that legislation because he was the one who urged us also to bring the

unfair dismissal legislation which he welcomed when we brought it in.

HON J BOSSANO

I objected to this part of the legislation when it was brought in. It is in Hansards. The Honourable Member opposite said that it was actually the same as in UK and that they would review the situation when it was reviewed in UK, when the miners kicked out the Tories and then Labour Government came in with a commitment to the TUC to put matters right. I have raised it on a number of occasions with the so called Gibraltar Labour Party and they apparently still feel the same way as the Tories did in England and they get the same bloody treatment.

MR SPEAKER

Ah, ah. I am sure the Member has been carried away by the situation, but he did use a word which I think he did not intend to use. Will you withdraw it.

HON J BOSSANO

Of course, I withdraw it.

HON CHIEF MINISTER

I can understand the Honourable Member getting excited and I apologise to him if I have misquoted his attitude. I was doing it in an honest belief of what had happened, so I withdraw that. I am not using this advocacy, I thought clearly that he had welcomed the thing, I am now reminded by what he has said and I apologise in respect of that.

Nevertheless the overriding right of the individual to us at this stage and in this way has to have preference. That does not mean that we will not have to take a stand for the election or for any other important matter when the matter is decided in a broad way, but what we do not like is that matters - and I shall have occasion to mention that in other respects later on. What we do not like is matters that are of great importance generally should be tucked away - I do not say in order to pass unnoticed - but opportunities should be taken very cleverly, I must give credit to the Honourable Member of

making the very best of this membership of this House, to advocate the Trade Union Movement to which he is such a devotee, but as far as the Government is concerned, it has a much wider responsibility and must look at the matters in a broader sense. It is that which we propose to do, and it is because of that that at this stage we cannot go with the amendment.

HON ATTORNEY-GENERAL

My last contribution, Mr Chairman. The charge which is thrown against this Government that it introduced legislation which prevented an employer dismissing an employee because he was not a member of the Union. It also introduced legislation which prohibited an employer dismissing an employee because he was a member of the Union; you cannot have it both ways.

HON M D XIBERRAS

The Honourable and Learned Member might have to change his general approach to this when he moves from Gibraltar, this is the anomaly of the situation, he will have to accept closed shops agreement, or the possibility of them, when he moves over to England. This is the anomaly, and, therefore, Honourable Members may very well have principles which I respect. I am very glad of the categorical statement of the Chief Minister on this matter because it is a matter of principle and an important matter. However, his assurance may well turn to other things that happened with parity and so forth.

Mr Chairman, the Government has still not given enough consideration I feel to the question of rights. Now, can the Attorney-General, I will put a direct question to him, is it against the Constitution for a man to dismiss an employee because he does not belong to a Union; let me put it this way, if this law was passed would it be unconstitutional? May I ask the Attorney-General, Mr Chairman?

MR SPEAKER

Make

I am telling you. The legislature has the power to/ laws; it is up to the individual to challenge them in a court of law.

HON M D XIBERRAS

I am very grateful for your opinion but I am asking the Attorney-General.

MR CHAIRMAN

No, with due respect to you, I am making a ruling, I am not giving an opinion. I am making a ruling that the right of the legislature to legislate cannot be inhibited. The right of the individual to question the legality of the law as against the Constitution exists.

HON M D XIBERRAS

Mr Chairman, I am asking for a simple opinion from the Attorney-General whether this is in fact. I think the Attorney-General has certain obligations

MR CHAIRMAN

I will allow you to ask the Attorney-General whether if in his opinion a law to this effect is passed an individual would have a right to a court of law.

HON M D XIBERRAS

This is what I have said and we do not need a lecture from the Chief Minister either.

HON ATTORNEY-GENERAL

I do not think that if this law were passed it would be unconstitutional. The Constitution as the Honourable Member knows is a complicated document but certainly my preliminary view is that it would not be unconstitutional.

MR CHAIRMAN

We must be very clear on this one. I understand the Attorney-General is saying that if someone challenged the law in court it would be held to be unconstitutional. This is as far as the Attorney-General is entitled to go.

HON ATTORNEY-GENERAL

I have said that if this law were passed and it were challenged in a court of law

MR CHAIRMAN

In a court of law.

HON ATTORNEY-GENERAL

Certainly it could be challenged in a court of law, certainly, but my opinion is that it would not be held to be ultra vires to the constitution.

HON M D XIBERRAS

That is all I wanted, Mr Chairman. I wanted an opinion from the Honourable and Learned the Attorney-General because a lot has been said about human rights. Now the Honourable Mr Bossano has said quite clearly that this situation was allowed before and that we have had the closed shop agreement and that it was only a change in the law which had made the possibility of implementation subject to legal remedy.

Mr Chairman, I feel that the Honourable the Minister for Labour may have thrown in a red herring here as regards consultations with the Labour Advisory Board. Now would the Honourable Member explain to the House, after all the Labour Advisory Board is an important organ of consultation, would he explain to the House in what terms he put the problem to the Labour Advisory Board and how the Labour Advisory Board reacted, and who were the members at the time.

MR CHAIRMAN

No, no. That is completely and utterly out.

HON M D XIBERRAS

Very well, Mr Chairman, could the Honourable Member say on what terms, because I want to know really whether he said, "Look are you in favour of a closed shop in the Government, or are you in favour of the"

MR CHAIRMAN

No, no, no. The Minister has made a statement for which he is responsible, and it has got to be accepted.

HON M D XIBERRAS

Mr Chairman, the Minister has made a statement but I want to know in what terms he put it to the Labour Advisory Board. Surely I am entitled to that, Mr Chairman, without being ruled out of order.

MR CHAIRMAN

No, you are not, and I am ruling you out of order.

HON M D XIBERRAS

I am not entitled to ask the Minister for Labour on what terms?

MR CHAIRMAN

No, not on this particular issue.

HON M D XIBERRAS

Why not, Mr Chairman, may I ask?

MR CHAIRMAN

We are in committee, we are asking for a specific piece of legislation and it is irrelevant.

HON M D XIBERRAS

The Honourable Minister for Labour has advanced as an argument against it that the Labour Board was not happy.

MR CHAIRMAN

And that statement must be accepted.

HON M D XIBERRAS

Yes, I entirely accept it, Mr Chairman, but I want to know, having great respect for the Labour Advisory Board, what it was that the Labour Advisory Board had to say about this matter.

MR CHAIRMAN

That is another matter.

HON M D XIBERRAS

And what was the question asked of the Labour Advisory Board?

MR CHAIRMAN

You were asking as to who said what, and that is irrelevant.

HON M D XIBERRAS

I am asking two questions, now instead of one.

MR CHAIRMAN

No, you are asking one because the other one is out of order.

HON M D XIBERRAS

Mr Chairman, is it your ruling that I cannot ask the Minister for Labour what was the proposition on which he consulted the Labour Advisory Board?

MR CHAIRMAN

No, that you can ask.

HON M D XIBERRAS

That is what I asked!

MR CHAIRMAN

No, with due respect to the Leader of the Opposition, he will read Hansard in due course and he will realise that that is not what he asked. He can ask that one.

HON M D XIBERRAS

I asked, Mr Chairman

MR CHAIRMAN

Let us leave it at that. Order, order. We know what you have asked and if the Minister wishes to answer he can do so.

HON A J CANEPA

I have already told the House twice this morning what it was. I do not propose to repeat myself. Let the Honourable the Leader of the Opposition consult Hansard when it comes out and he will be informed as to exactly what I said about the proceedings in the Labour Advisory Board.

HON J BOSSANO

Mr Chairman, could I ask the Honourable Member whether the representative at the time was the representative of the Trades Council that was on the Labour Advisory Board, and also whether the views of the Minister and of the Union representatives were recorded in minutes of the Board.

HON A J CANEPA

There are - or there were because the Board is defunct - six Trade Union representatives on the Board nominated by the Gibraltar Trades Council.

MR CHAIRMAN

Right, I will put the question which is that a new clause

HON MAJOR R J PELIZA

Mr Chairman, before you put the question. As usual the Chief Minister jumped to conclusions earlier about the position of two of my friends in this House who, he literally said were staying away from

MR

No, no, Major Peliza, let me say in answer to an allegation made against him, he said, "I may have been away but there were two members also away". He has not made allegations

HON MAJOR R J PELIZA

There was a very strong insinuation when he carried on, Mr Chairman, if you will remember, about the unity of the Government and everybody being present, and I think that that is very much an insinuation that my two friends on this side of the House were away at the time because they were not prepared to face the situation. I have no doubt, and of course the Chief Minister knows that what I am saying is absolutely true. I have no doubt about that, but as usual perhaps

if he wanted to use the kind of duplicity that he is always playing around with. But I think if he has a sense of political honour he would stand up and perhaps even apologise

MR CHAIRMAN

Order, order. I will not have an insinuation that someone in this House is lacking in political honesty. That I will not have.

HON CHIEF MINISTER

Mr Chairman, I was accused of not expressing my views several times when I was telephoned on urgent business and I came here and I said that I was here but I did not see other members on the opposite side, that was the comment and I stand by it.

HON M D XIBERRAS

I think my Honourable Friend, Mr Chairman, need not worry about these things because the statements of the Chief Minister as regards the unity of this Government are paper thin. Everybody knows about the Minister for Public Works wrangling with everybody else, and of course everybody knows about that, but the Honourable Colonel Hoare is to be congratulated.

Cries of shame, shame.

MR CHAIRMAN

Order.

HON M D XIBERRAS

Thank you, Mr Chairman, I was just about to congratulate the Honourable Colonel Hoare.

MR CHAIRMAN

No, no, now you are abusing my liberality.

HON LT COL J L HOARE

May I say that whatever I do I do with my conscience,
but we are still eight on this side!!

(Hear, hear)

MR SPEAKER

Gentlemen, I am sure that this is a forecast of things
to come elsewhere than in the House of Assembly!

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

The Honourable Miss C Anes
The Honourable J Bossano
The Honourable L Devicenzi
The Honourable P J Isola
The Honourable W M Isola
The Honourable Major R J Peliza
The Honourable M D Xiberras

The following Honourable Members voted against:

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

The amendment was accordingly defeated.

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

THE FOOD AND DRUGS (AMENDMENT) BILL 1976.

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

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